

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER CRISTINA GARCIA, CHAIR

**MONDAY, FEBRUARY 7, 2022  
2:30 PM, STATE CAPITOL – ROOM 437**

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*All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://www.assembly.ca.gov/todaysevents>. We encourage the public to provide written testimony before the hearing. Please send your written testimony to: [BudgetSub5@asm.ca.gov](mailto:BudgetSub5@asm.ca.gov). Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.*

*The Capitol will be open for attendance of this hearing. Any member of the public attending a hearing in the Capitol will need to wear a mask at all times while in the building.*

*A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: [877-692-8957](tel:877-692-8957), access code: [131 54 37](tel:1315437)*

ITEMS TO BE HEARD		
ITEM	DESCRIPTION	PAGE
<b>7870</b>	<b>CALIFORNIA VICTIM COMPENSATION BOARD</b>	<b>3</b>
ISSUE 1	PANEL DISCUSSION ON VICTIMS' SERVICES AND FEDERAL APPROPRIATION AND BENEFIT ADJUSTMENT BUDGET CHANGE PROPOSAL	3
<b>8120</b>	<b>COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING</b>	<b>14</b>
ISSUE 2	PEACE OFFICER CERTIFICATION	14
ISSUE 3	OFFICER WELLNESS	17

**Non-Discussion Items**

ITEM	DESCRIPTION	PAGE
<b>8140</b>	<b>STATE PUBLIC DEFENDER</b>	<b>20</b>
ISSUE 4	SUPPORT GENERAL WORKLOAD	20
<b>8830</b>	<b>CALIFORNIA LAW REVISION COMMISSION</b>	<b>20</b>
ISSUE 5	DATA AND RESEARCH FUNDING	20
<b>7870</b>	<b>CALIFORNIA VICTIM COMPENSATION BOARD</b>	<b>20</b>
ISSUE 6	VARIOUS BUDGET PROPOSALS	20

**7870 CALIFORNIA VICTIMS COMPENSATION BOARD (CAL VCB)****ISSUE 1: PANEL DISCUSSION ON VICTIMS' SERVICES AND FEDERAL APPROPRIATION AND BENEFIT ADJUSTMENT BUDGET CHANGE PROPOSAL**

The Subcommittee will hear a panel discussion on victims' services and support, including; (1) an overview of CalVCB's mission, functions, funding, and an overview of their budget proposal related to the federal appropriation and benefit limit adjustment; (2) recommendations related to improving state programs for crime victims by the Legislative Analyst's Office; and, (3) recommendations from subject matter experts.

**PANELISTS**

(Listed in Speaking Order)

- Lynda Gledhill, Executive Officer, CalVCB
- Sarah Keck, Deputy Executive Officer, CalVCB
- Jessica Peters, Legislative Analyst's Office
- Tinisch Hollins, Californians for Safety and Justice
- Dr. Gena Castro Rodriguez, Assistant Professor, University of San Francisco
- Dr. Alicia Bocellari, Director, National Alliance of Trauma Recovery Centers

\*Department of Finance is available for questions from members.

**BACKGROUND**

State victims programs are currently served across four state departments with the majority of grants and programs residing in the Victim's Compensation Board (CalVCB) and the Office of Emergency Services (OES). The other two entities are the California Department of Corrections and Rehabilitation (which handles restitution collection and notification) and the Department of Justice (victim assistance and information services). The primary focus of this hearing is to review the duties and functions of the CalVCB and its Victim Compensation Program.

**History of CalVCB.** California created the nation's first victim compensation program in 1965. The Department of Social Welfare administered the program until the Board of Control took responsibility in 1967. In 2001, the state renamed the Board of Control the "Victim Compensation and Government Claims Board" (VCGCB) to reflect its increasing roles and responsibilities more accurately. VCGCB oversaw the California Victim Compensation Program, the Revenue Recovery Program and the Government Claims Program. In 2016, the Department of General Services assumed responsibility for the Government Claims Program. The state renamed VCGCB the California Victim Compensation Board. CalVCB is a three member board comprised of the Secretary of the Government Operations Agency, the State Controller, and a public member appointed by the Governor. Board members set policy for the organization and make decisions on matters, including appeals for victim compensation and claims of persons erroneously convicted of felonies. CalVCB administers the Victim Compensation Program which

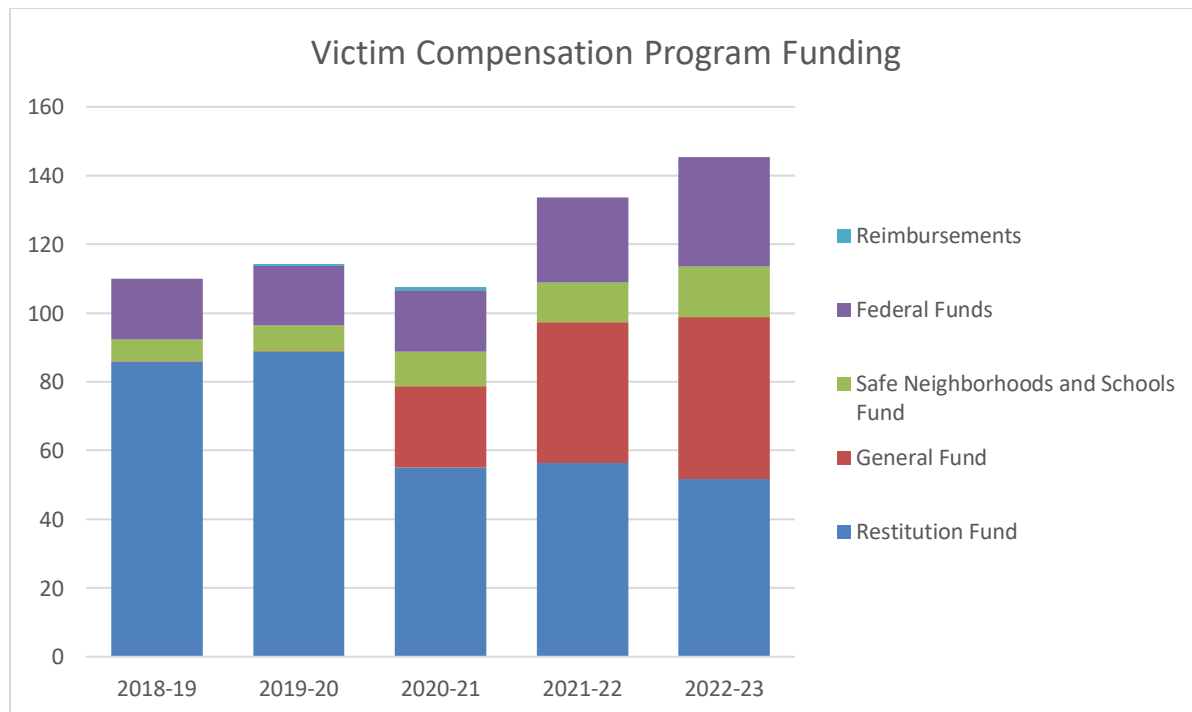
utilizes a reimbursement model for certain expenses to victims who have suffered physical, or the threat of physical injury, related to violent crime. CalVCB also administers the Restitution Recovery Program, the Good Samaritan Program and the Missing Children Reward Program.

**Victim Compensation Program.** CalVCB is supported by the Restitution Fund and federal Victim of Crime Act (VOCA) grant funds. Restitution Fund monies are used as a match to draw down federal funds under the VOCA grant program. The Victim Compensation Program and process is described below:

#### Funding for the Victim Compensation Program (in millions)

Fund Source	2018-19	2019-20	2020-21	2021-22	2022-23
Restitution Fund	85.764	88.727	54.996	56.334	51.655
General Fund	0.134	0.138	23.636	40.94	47.175
Safe Neighborhoods and Schools Fund (Proposition 47)	6.413	7.596	10.15	11.583	14.696
Federal Funds	17.599	17.283	17.783	24.82	31.804
Reimbursements	0	0.543	0.951	0	0
<b>Total</b>	<b>109.91</b>	<b>114.287</b>	<b>107.516</b>	<b>133.677</b>	<b>145.33</b>

Source: LAO



Source: LAO

**Process for Application.** Applicants may apply online, use a paper application, or seek assistance at a County Victim Witness Assistance Center. CalVCB's website also indicates that advocates are available to help applicants to complete an application, find emergency shelter, file a temporary restraining order, and find other resources. Eligible applicants are:

- CA residents, even if the crime occurred out of state

- Non-residents who are victimized in California
- Specific members of the victim's family or person in close relationship to the victim
- Any individual who assumes the obligation of paying a deceased victim's medical, burial, or crime scene clean up expenses

Applications must be filed within seven years of the crime, seven years after the direct victim turns 18, or seven years from when the crime could have been discovered, whichever is later. If the application is based on specified crimes involving sex with a minor, the applicant may file at any time prior to their 28<sup>th</sup> birthday. Application extensions may be granted under certain circumstances if a "late filing consideration" form is submitted with their application. These circumstances are; (1) the prosecutor recommends the extension based on the applicant's cooperation with law enforcement and the prosecutor to catch and prosecute the accused; (2) the victim or derivative victim experiences additional pecuniary loss during the prosecution or in the punishment of the accused; or, (3) a delay in reporting due to the nature of the crime. Recommendations to approve or deny a claim is generally made within 90 days of receiving the application.

Currently, CalVCB provides materials in 13 languages as required by state law. They have in-house Spanish speakers and have contracts with interpretation and translation service providers. CalVCB's website is also integrated with Google Translate so that each page can be automatically translated.

The types of expenses that applicants may apply for are:

- Crime scene clean up
- Funeral and burial expenses
- Home or vehicle modifications for victims who became disabled
- Income loss
- Medical and dental treatment
- Mental health services
- Relocation
- Residential Security

**Compensation Claims from 2018-2021.** This table provide historical data on application claims processed by the CalVCB.

	2018	2019	2020	2021
<b>Claims Received</b>	53,400	54,491	43,337	39,718
<b>Total Payments</b>	\$61,570,330.34	\$61,814,544.52	\$55,138,750.74	\$47,226,240.02
<b>Claims Allowed</b>	51,881	47,097	42,393	32,649
<b>Claims Denied</b>	5,046	4,208	5,857	5,180

Source: Cal VCB. All claims are paid from the Restitution Fund.

Of the claims that were denied, the following table indicates the reasons for denial.

	2018	2019	2020	2021
<b>Total Claims Denied</b>	5,046	4,208	5,857	5,180
<b>Claims Denied, By Reason (Claims may be denied for multiple reasons)</b>				
<b>Not a Covered Crime</b>	2,021	1,761	2,107	1,736
<b>Lack of Preponderance of Evidence</b>	2,843	2,379	3,429	3,196
<b>Involvement</b>	934	735	745	713
<b>Lack of Cooperation with Board</b>	443	376	444	294
<b>Lack of Cooperation with Law Enforcement</b>	905	662	579	461
<b>Doesn't Meet Residency Requirements</b>	64	81	71	42
<b>Late Application</b>	216	166	133	120

Source: CalVCB

The following table shows the average length of time (in days) it takes for an applicant to be provided an answer regarding their application submission.

	2018	2019	2020	2021
<b>Average Time for Approval</b>	61	54	56	32
<b>Average Time to Deny</b>	105	86	88	54

Source: Cal VCB

The next table shows the average time it takes for claimants to receive their actual benefits. CalVCB notes that claimants often submit bills well after their applications have been approved. The bill processing time below starts when CalVCB is in receipt of the approved application and the submitted bill.

<b>Average Bill Processing Time By Category (in days)</b>				
	2018	2019	2020	2021
<b>Crime Scene Cleanup</b>	43	33	21	16
<b>Dental</b>	49	48	61	42
<b>Funeral/Burial</b>	25	17	19	17
<b>Home Modification</b>	40	34	No Payments	1
<b>Income/Support Loss</b>	80	74	73	62
<b>Medical</b>	78	56	55	35
<b>Mental Health</b>	34	29	24	21
<b>Rehabilitation</b>	22	53	No Payments	No Payments
<b>Relocation</b>	40	31	38	34
<b>Residential Security</b>	53	40	39	28
<b>Vehicle Purchase/Mod</b>	35	22	35	50

Source: Cal VCB

And finally, the last table provides a summary of the unmet need due to maximum benefit restrictions. The three items in the chart below that are ***bolded and italicized*** represent categories that have statutory maximums set and are currently in the Governor's 2022-23 budget as proposals for increased maximums. Additional categories with statutory maximums include residential security and vehicle modification. The remaining categories are delineated by program for reporting purposes and reflect when a claimant has exceeded the overall \$70,000 lifetime benefit maximum across all benefit types. Income loss is not included in the table below as that amount cannot be calculated.

<b>Total Unmet Needs Due to Benefit Caps, By Category</b>				
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b><i>Crime Scene Cleanup</i></b>	<b><i>\$99,420.66</i></b>	<b><i>\$25,779.45</i></b>	<b><i>\$91,660.12</i></b>	<b><i>\$47,645.77</i></b>
Dental	\$0.00	\$0.00	\$94,456.00	\$103,611.75
<b><i>Funeral/Burial</i></b>	<b><i>\$2,981,932.68</i></b>	<b><i>\$2,940,356.44</i></b>	<b><i>\$4,134,788.14</i></b>	<b><i>\$6,582,997.55</i></b>
Home Modification	\$0.00	\$0.00	\$0.00	\$80,000.00
Medical	\$214,801.41	\$1,128,654.10	\$833,425.57	\$1,531,422.39
Mental Health	\$344,249.50	\$860,537.78	\$1,199,048.91	\$988,868.98
Rehabilitation	\$0.00	\$0.00	\$0.00	\$0.00
<b><i>Relocation</i></b>	<b><i>\$2,591,083.69</i></b>	<b><i>\$3,243,571.62</i></b>	<b><i>\$3,775,319.82</i></b>	<b><i>\$5,250,386.70</i></b>
Residential Security	\$191,237.86	\$265,188.77	\$372,177.69	\$397,916.85
Vehicle Purchase/Mod	\$134,764.40	\$217,892.78	\$347,610.19	\$194,388.38
<b>Total Unmet Needs</b>	<b>\$6,557,490.20</b>	<b>\$8,681,980.94</b>	<b>\$10,848,486.44</b>	<b>\$15,177,238.37</b>

Source: CalVCB

**Outreach and Public Information Strategies.** During the COVID-19 pandemic, CalVCB worked to improve its digital outreach, updated and translated publications that are mailed to organizations that assist victims/survivors. In May of 2021, CalVCB overhauled its website to create an easier interface that is also accessible on mobile devices. They also worked with law enforcement agencies and victim witness centers to provide resources to victims/survivors. CalVCB assesses the efficacy of these efforts based on the number



of contacts made and the resulting application trends. At this time, CalVCB has not used any user surveys to collect feedback from applicants who utilize the website and other services provided by the board.

### **Proposed Funding**

**Federal Appropriation and Benefit Limit Adjustment.** The Governor's Budget proposes \$7 million Federal Trust Fund in 2022-23 and ongoing to reflect the Federal Victims of Crime Act reimbursement rate increase from 60 percent to 75 percent as a result of the VOCA Fix to Sustain the Crime Victims Fund Act of 2021. CalVCB's primary funding source consists of revenue from restitution fines and orders, fees and penalty assessments levied on persons convicted of crimes in California. In addition CalVCB receives an annual grant from the federal Victims of Crime Act, which reimburses state compensation programs by matching a percentage of the annual amount paid to reimburse crime victims for losses they incur as a result of violent crime. The change to the VOCA formula results in an estimated \$7 million per year additional reimbursement for CalVCB. Over the last three years, CalVCB has processed an average of 49,180 applications per year and provided \$57.7 million in compensation to victims annually. There is a per claim statutory maximum of \$70,000, over the last five years CalVCB has awarded less than 1% of all claims at the maximum level. The additional federal funding will be used, in part, to support an increase in benefit limits for the following: crime scene cleanup costs (\$1,000 to \$1,700), funeral/burial costs (\$7,500 to \$12,800), and relocation claims (\$2,000 to \$3,400) to adjust for inflation since these limits were set in the early 2000's.

Crime Scene Clean-up Costs from \$1,000 to \$1,700: This benefit limitation was established 20 years ago and CalVCB receives approximately 40 requests for crime scene cleanup annually.

Funeral/Burial Costs from \$7,500 to \$12,800: The funeral and burial benefit was added in 1974 and the limit has not been increased since 2003. An average of 1,900 applicants per year received funeral/burial reimbursement. In California, the average cost for funerals/burials is approximately \$12,000.

Relocation Claims from \$2,000 to \$3,400: This benefit, which has not been changed since the year 2000, pays for moving costs such as the first and last month's rent, security, and pet deposits, moving trucks, temporary housing, utility deposits, etc. CalVCB receives an average of 3,600 requests for relocation reimbursement. In order to reimburse more than the \$2,000 benefit amount, CalVCB must meet statutory guidelines for unusual, dire and exceptional circumstances. The California Code of Regulations 649.17.1 defines unusual, dire, or exceptional circumstance requirements are when there is an ongoing credible threat of great bodily injury or permanent and substantial emotional disability. In most instances, the unusual, dire, or exceptional circumstances are not met due to their stringency. CalVCB estimates that this increase would enable 99 percent of claimants to have their relocation expenses fully covered.

<b>LEGISLATIVE ANALYST'S OFFICE (LAO)</b>
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**Background on Legislative Analyst Office's (LAO) 2015 Review of State Victim Programs.** As part of the 2015-16 Budget, the LAO published a report titled "Improving State Programs for Victims of Crime." The report included an evaluation of both CalVCB and the Office of Emergency Services. The findings of the report include:

1. **The programs run by CalVCB and OES lack coordination.** They generally do not collaborate, and they administer their programs independently with their own separate goals, processes, and subject matter expertise.
2. **The state is likely not maximizing the amount of federal matching funds that could be drawn down.** Currently, the draw down is based on the amount of qualifying CalVCB expenditures from the Restitution Fund, but it appears that some state expenditures in other victim programs also meet the eligibility of the federal funds.
3. **Many of the state victim grant programs appear duplicative and provide relatively small grants, reducing efficiency and effectiveness.** First, since state staff and other administrative resources are required for each program, less funding ends up being available to directly serve victims. Second, such an approach forces entities to apply for funding from multiple programs, which requires them to navigate through and keep track of the different rules and eligibility requirements of each program.
4. **Narrowly targeted grants undermine prioritization.** Having many small, narrowly targeted programs may not effectively prioritize the state's limited funding to assist victims. Such a structure can limit the flexibility to target resources to the areas of greatest need, which can change over time. By restricting each grant program to a relatively small subset of potential applicants, applicants who are providing services that could be deemed of a higher priority would not be considered for funding.

The recommendations from the 2015 LAO report included the following:

1. Shift non-victim programs from CalVCB to the Department of General Services as this will allow the reorganized CalVCB to focus on victim services. Additionally, in order to ensure that CalVCB is well positioned to focus on and administer only victim programs, we recommend changing the membership of the board by; (1) removing the Secretary of the Government Operations Agency and State Controller from the board; and, (2) adding board members with expertise in victim issues. We also recommend that the Legislature appoint some of the board members and specify that all appointed members serve fixed terms to increase their independence.
2. Require the new restructured board to develop a comprehensive strategy for the state's victim programs. The strategy should; (1) assess the appropriate number, scope, and priority of the state's existing victim grant programs; (2) consider ways to ensure that the state receives all eligible federal grant funds; (3) assess whether

there are more efficient ways to manage the CalVCB program; and, (4) establish a process for periodic evaluations of victim programs.

3. Shift all victim programs in OES to the restructured CalVCB as these programs were never consistent with OES's primary mission to plan and to coordinate the state's response to emergencies. This consolidation of programs would allow for better coordination among the state's largest victim programs.

**The LAO provides the following analysis and recommendation for the Governor's proposed 2022-23 Budget:**

***Victim Program Consolidation Not in the Budget.*** As part of the 2019-20 budget package, the Governor and Legislature agreed in concept to consolidate the victim services programs currently operated by CalVCB and OES into a new victim services department under the Government Operations Agency. In order to allow the Administration time to work out the details of the consolidation, the implementation of the new department was deferred until the 2020-21 budget when the Administration agreed to bring forward a detailed proposal. However, the Administration did not submit the proposal for consideration as part of the 2020-21 budget, citing the onset of the COVID-19 pandemic and OES's workload related to pandemic response as the reason for delaying the proposal. Notably, the pandemic did not prevent the Administration, however, from proposing to increase OES's responsibilities by transferring the Seismic Safety Commission to it as part of the 2020-21 budget.

The agreement to consolidate the programs under a new department was the result of multiple years of interest from the Legislature and legislative staff in making this change, including the 2015 report by our office which found inefficiencies and missed opportunities with the current structure of the programs being housed in two different departments. In our report, we recommended moving victim programs out of OES and consolidating them with CalVCB's programs. The same concerns that lead to our findings and recommendations in 2015 generally continue to apply today.

***LAO Recommendation.*** Given the agreement between the Legislature and the Administration as part of the 2019-20 budget, we want to highlight the continued absence of a proposal to create a new victims department that would consolidate the programs currently managed by OES and CalVCB. The Legislature may want to consider asking the Administration for an update on when the agreed upon consolidation plan will be provided for the Legislature's review.

<b>STAFF COMMENT</b>
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The Subcommittee is in receipt of information provided by Trauma Recovery Centers that illustrate some of the real life experiences of the victims/survivors they work with:

- A victim/survivor of a violent physical assault where he sustained a traumatic brain injury was unwilling to file a police report out of fear of reprisal and as a result was ineligible to apply for compensation.

- A victim/survivor who is a single mother of a young son was assaulted and left with significant injuries, including traumatic brain injury, was denied her compensation claim because the police report indicated “mutual combat” even though she was acting in self-defense.
- A derivative victim/survivor whose son was killed by police struggled with PTSD and depression. Due to her state of mind and previous experience with government entities, she did not believe that her application would be approved so she did not file.
- A monolingual Spanish speaking victim/survivor has had difficulty finding Spanish speaking therapists. New rules require that providers must first bill the insurance company and get a denial before going through a reimbursement process through CalVCB. As a result, many service providers will not take these clients. This victim/survivor faced the additional hurdle of finding a Spanish speaking therapist who was willing to be compensated in this manner. Additionally, he has been unable to relocate since he does not have the resources to pay the security deposit up front (and get reimbursed later).
- A monolingual Arabic speaking victim/survivor of physical assault who attempted to communicate with CalVCB was only provided information in English even after an advocate at the Trauma Recovery Center notified CalVCB regarding his language barrier.
- Several victims/survivors did not receive compensation for loss of income because they were unable to contact their former employer. They did not receive compensation due to the employers’ unresponsiveness despite having provided documentation regarding their employment status, wages earned and taxes paid.

**Excluded victim/survivors.** The challenges illustrated in the preceding vignettes indicate do not illustrate other gaps that exist within the state’s current victim compensation framework. Currently, California is one of only eight states that denies eligibility for victim compensation to people based on a past conviction or their status on probation or parole. This has a disproportionate impact on people of color, particularly Black and Latino men and their families who have higher rates of contact with the justice system and incarceration. Several states have recently passed legislation to eliminate these types of restrictions, including Ohio, Louisiana, and Missouri.

**Cooperation with Law Enforcement.** As illustrated above, the requirement to file police reports and/or cooperate with law enforcement investigation and prosecution can deter many victim/survivors from seeking support and compensation. They may fear retaliation, be unable to participate due to their trauma, or wish to seek alternative modes of holding the person accountable. Several states have recently introduced or passed legislation to expand the types of documentation that may be submitted as alternative to a police report, such as reports from other government agencies. California allows alternatives to police reports for certain victims/survivors (typically human trafficking, domestic violence, sexual assault) but not all victims/survivors. The federal VOCA Fix Act, which passed in July of 2021, clarified that states are not required under federal rules to deny victims/survivors compensation for noncooperation with law enforcement, providing the opportunity for

states to change their policies. Some states, like Hawaii and Vermont have already removed their cooperation requirement. Illinois changed its policy such that if a victim/survivor seeks medical care, this alone qualifies as cooperation.

**Compensation funded through fines and fees.** The Victim's Compensation Fund is funded by the Restitution Fund which is sourced from fines and fees. For several years now, the Legislature has worked to repeal certain fines and fees that disproportionately impact low-income Californians. As a result, revenue collected through fines and fees has diminished and has required General Fund backfill. At least eight states, including Illinois, Minnesota, and Massachusetts, rely entirely or primarily on general funds, not fines and fees. The Subcommittee may wish to explore funding options that provide a more stable and reliable funding stream for the victim compensation fund.

**Reimbursement Model and Limits on Compensation.** The data provided by Cal VCB shows that in the last several years, claims, due to limits, have not fully compensated victims/survivors for their loss and this number has grown steadily. The data also indicates that the funeral/burial services category is the largest portion of unmet need. The recent changes to VOCA and the reimbursement rate may address some of the shortfalls. In addition, loss of income, which may be a significant dollar amount, is not included in the data due to the difficulty in estimating this figure. In addition to these limits, the reimbursement model also causes significant challenges to individuals who have limited savings, are low income, or are dealing with loss of employment as a result of their injury. Costs for medical services, moving, and funeral services are significant and are needed in a timely manner. The Subcommittee may wish to explore replacing or altering the reimbursement model and reevaluating reimbursement limits (that are not limited by federal law) and include provisions for regular adjustments using the Consumer Price Index.

**Consolidation of victim services and programs.** Staff concurs with the LAO recommendation for the Subcommittee to seek an update on when the plan for consolidation will be completed. The plan was due as part of the Governor's 2019-2020 proposed budget, more than a year prior to the COVID-19 pandemic.

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**Staff Recommendation: Hold Open.**

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**8120 COMMISSION ON PEACE OFFICERS STANDARDS AND TRAINING**

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**ISSUE 2: PEACE OFFICER CERTIFICATION**

The Commission on Peace Officers Standards and Training (POST) will provide an overview of their budget proposal related Peace Officer Certification (SB 2).

**PANELISTS**

- Manny Alvarez, Executive Director
- Jessica Peters, Legislative Analyst's Office

\*Department of Finance is available for questions from members. POST staff are also available to provide additional subject matter expertise and technical support.

**Background**

POST is an 18-member commission responsible for overseeing standards and training for certain California peace officers, including city police and county sheriff's deputies. Specifically, POST is responsible for setting minimum selection and training standards, developing and running law enforcement training programs, improving law enforcement management practices, and reimbursing local law enforcement for training. About 600 law enforcement agencies employing roughly 90,000 peace officers participate in POST's programs and abide by the commission's minimum standards.

The Governor's January budget proposes a total of \$110.2 million to operate POST in 2022-23, including \$63 million from the General Fund, with most of the remainder coming from criminal fines and fees. This amount represents an increase of \$23.3 million (27 percent) from the revised 2021-22 level. The budget proposes a total of 263 positions for POST in 2022-23, an increase of 127 positions (93 percent) above the revised 2021-22 level.

**Proposed Funding**

**Peace Officer Certification (SB 2).** The Governor's Budget proposes \$22.7 million General Fund in 2022-23, \$20.6 million in 2023-24 and ongoing, and 127 positions to support implementation of Chapter 409, Statutes of 2021 (SB 2). SB 2 requires POST to establish the Peace Officer Standards Accountability Division (Division) within the Commission to review serious misconduct investigations conducted by law enforcement agencies, conduct follow up investigation if necessary, and make findings on matters that may lead to grounds for suspension or revocation of an individual's peace officer certification. SB 2 also requires the creation of a nine-member Peace Officer Standards Accountability Advisory Board (Advisory Board) no later than January 1, 2023 to make recommendations on peace officer decertification. Specifically, the budget change proposal includes the following:

- **Additional Staffing (\$19.5 Million).** The proposed budget includes 127 positions to staff the Peace Officer Standards and Accountability Division and provide POST with increased administrative staff. The positions for the new division include 51 decertification staff, 20 certification staff, 14 legal staff, 16 intake and disposition staff, 4 support staff, and a Deputy Director position to oversee the new division. The additional administrative staff include 6 human resources positions, 6 information technology positions, 5 positions for accounting and procurement, and 4 positions for communications and Public Records Act requests. In addition, the budget includes certain one-time and ongoing operating expenses to support these positions such as travel costs, startup equipment, storage for confidential information, and training.
- **Allegation Intake Software System (\$2 Million).** The budget includes \$2 million one-time and \$900,000 ongoing for POST to procure a software system to facilitate and manage the intake of allegations of serious misconduct submitted by law enforcement agencies, which will likely include lengthy supporting documentation, such as documents related to internal investigations. POST has already developed a system for accepting allegations of serious misconduct from the public.
- **Lease Costs (\$1 Million).** The budget includes \$1 million ongoing for POST to lease additional office space to accommodate the expanded workforce.
- **Peace Officer Standards Accountability Advisory Board Costs (\$179,000).** The budget includes \$158,000 ongoing and \$21,000 one-time to support the new Standards and Accountability Advisory Board for costs such as travel, per diem, and training for the board members.

<b>LEGISLATIVE ANALYST'S OFFICE (LAO)</b>
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The Legislative Analyst's Office provides the following analysis and recommendation:

It appears that POST staff have done a notable amount of research into how best to structure and implement the decertification program required by SB 2, such as by meeting with similar agencies in other states to review various models for administering similar programs. While these efforts are encouraging, we find that POST has not requested resources to implement certain aspects of SB 2 and could face implementation challenges. We describe these concerns below.

***Resources for Certain Aspects of SB 2 Implementation Not Requested.*** The proposal does not include the staffing necessary to address workload associated with the one-time surge in reports expected for allegations of serious misconduct occurring prior to January 1, 2023. This is because POST indicates that its workload estimates and staffing requests are based on assumptions only about ongoing workload. Moreover, POST has not provided estimates of the expected size of this one-time surge in workload. The Governor's proposal also does not include staffing for the one-time certification workload to issue proof of eligibility certificates to officers who do not have a basic certificate, including approximately 4,400 officers who are still in the probationary period

with their employing agency and 2,000 reserve officers who do not have a basic certificate. Without resources for this workload, it will be difficult for POST to fully implement the decertification program as envisioned by the Legislature, which could result in individuals who have engaged in serious misconduct serving as peace officers longer than they otherwise would.

***POST Faces Significant SB 2 Implementation Challenges.*** POST will likely face significant challenges implementing SB 2, primarily due to the fact that the commission's staffing will need to roughly double by January 1, 2023—only six months after receiving funding in the budget if the Governor's proposal is approved. This challenge is compounded by the fact that POST will first need to fill the requested human resources positions before having the capacity to scale up the hiring of a large number of staff, particularly staff for classifications it does not currently employ (such as the attorneys who will handle the cases when an officer contests a decertification). In addition, POST's current office space is insufficient to accommodate the proposed expansion in its workforce and POST has been informed by the Department of General Services that it will likely take a year or more to secure additional office space. It is unclear how POST will accommodate the increase in its staff in the meantime. Lastly, POST will need to procure an allegation intake software system to receive reports from law enforcement agencies and have the system operational by January 1, 2023. While it is feasible that POST can address these challenges, the Legislature will want to understand POST's implementation plans and any contingency plans that POST has to ensure it implements the SB 2 program on time. Effective implementation in the early stages of the program will be important for instilling public trust in the program and meeting program goals in a timely manner.

### **LAO Recommendation**

***Direct POST to Present Revised Proposal in Spring.*** We recommend that the Legislature direct POST to submit an updated proposal in the spring that addresses the above concerns. Specifically, the proposal should provide additional workload estimates on the number of reports POST anticipates receiving related to alleged serious misconduct occurring before January 1, 2023 and how POST plans to accommodate this one-time surge in workload, as well as the one-time workload to issue proof of eligibility certificates. Lastly, the revised proposal should include a plan for addressing the implementation challenges we have identified, such as how POST will hire sufficient staff and house them in its existing office space to implement SB 2 in a timely manner.

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**Staff Recommendation: Hold Open.**

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**ISSUE 3: OFFICER WELLNESS**

The Commission on Peace Officers Standards and Training (POST) will provide an overview of their budget proposal related to officer wellness.

**PANELISTS**

- Manny Alvarez, Executive Director, POST
- Jessica Peters, Legislative Analyst's Office

\*Department of Finance is available for questions from members. POST staff are also available to provide additional subject matter expertise and technical support.

**Background**

Law enforcement officers are at risk for mental illness, substance use disorder, family discord, financial problems and other issues that generally impact individuals in high stress occupations. In addition, they are exposed to factors specific to their profession—violent crimes and their aftermath, death and injuries to co-workers, and a general culture that does not encourage officers to seek out help, particularly mental health support or other counseling. Easy access to firearms can also exacerbate and create a dangerous environment for officers and their families. According to 2020 research<sup>1</sup> posted in the National Center for Biotechnology Information related to suicides in law enforcement, law enforcement personnel are more likely to die of suicide compared to other occupations. The rates were highest among Black males, Hispanic males, and females. A study of 298 police departments found that suicide rates are higher in smaller departments than larger ones.<sup>2</sup> State specific data is unavailable and is often incomplete as suicides are often unreported due to stigma. Furthermore, finding current data on other relevant issues, such as domestic violence and substance use disorder in the law enforcement community is either incomplete or largely unavailable.

POST's website currently provides training courses via its online course catalogue related to officer wellness. Some of the titles of the courses are "Wellness", "Advanced Wellness Programs," "Peer Counseling," and "Critical Incident Stress Debrief." The website also lists resource contacts of local law enforcement offices that have wellness units and in-house mental health units that are willing to provide information to other agencies. A few local law enforcement agencies have more robust wellness programs. The San Diego Police Department's Officer Wellness program is considered one of the top programs in the country which has a centralized unit devoted to officer wellness resources which include connecting employees with resources, provides trainings, manages their Peer Support Program, Police Chaplain Program, Alcohol/Substance Abuse Program, and psychological services. These programs and services are available to employees and their family members and they are located at San Diego Police Department's headquarters. Subsequent surveys to employees indicated a reduction in the stigma associated with seeking help and more than half of the employees had used the services.

<sup>1</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8056254/>

<sup>2</sup> Violanti JM, Mnatsakanova A, Burchfiel CM, Hartley TA, Andrew ME. (2012). Police suicide in small departments: A comparative analysis. *International Journal of EmergencyMental Health*, 14(3), 157-162.

The San Diego Police Department's program appears to be the exception and not the rule for most local law enforcement agencies in the state.

### **Proposed Funding**

**Officer Wellness.** The Governor's Budget proposes \$5 million one-time General Fund in 2022-23, to be used over three-years, to support the physical, mental, and emotional health of local law enforcement personnel through sustainable wellness programs, training, and research. POST proposes to use these funds to establish the Officer Wellness Program, through which it will partner with academia and other entities to develop an array of programs offered to law enforcement personnel. POST will leverage the academic partnership to evaluate implementation of these programs by analyzing program data and monitoring outcomes. POST proposes to:

- Develop podcast series focused on different aspects of mental, emotional, and physical health and directed at various levels of members within organizations.
- Develop short video or video series, which supports the recognition of the need for various wellness competencies, and how unhealthy individuals negatively impact themselves and those around them.
- Develop wellness and resilience capability and skills that are integrated into the basic training for peace officers and dispatchers.
- Develop a program of Agency Wellness Workshops, based on the existing POST Team Building Workshop Program.

<b>LEGISLATIVE ANALYST'S OFFICE (LAO)</b>
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The Legislative Analyst's Office provides the following analysis and recommendation:

The LAO notes that POST staff have indicated that many of the below questions cannot be answered until the program is more fully developed, which they indicate will take about 12 months. However, without answers to these questions, it is difficult for the Legislature to evaluate the merits of the proposal.

***Key Questions About Proposal Remain Unanswered.*** While the general concept of improving officer wellness has merit, the Administration has not been able to provide detailed information about the proposal at this time to determine whether the proposed program would in fact improve officer wellness. Specifically, the Administration has been unable to adequately respond to the following key questions:

***What Are the Primary Goals of the Program?*** While it is clear the program is intended to improve officer wellness, the more specific, primary goals of the program remain unclear. For example, POST has not provided information on the type of wellness—mental, physical, or emotional—the program is intended to improve.

***What Problem Would the Program Solve?*** POST has not identified what the highest-priority needs for improving officer wellness are or whether there are gaps in existing wellness programs offered by law enforcement agencies that it is attempting to fill.

***What Activities Would Be Funded?*** While the proposal identifies numerous potential activities, it is unclear whether the proposal would fund all of the listed activities or just some of them and how much funding would be allocated to each.

***What Outcomes Are Expected?*** POST has not described the outcomes it expects to achieve, such as the number of officers that it will reach or the number of trainings it intends to offer.

***How Will SB 2 Implementation Affect the Program?*** As discussed above, POST faces considerable SB 2 implementation challenges, including the need to roughly double its workforce by January 1, 2023. It is unclear how POST will be able to effectively implement SB 2 and the officer wellness program simultaneously.

### **LAO Recommendation**

**Direct POST to Provide Key Details Regarding Proposal.** While the proposed program could have some merit, given the significant unanswered questions about the proposal, it is difficult at this time to assess whether it would be effective at improving officer wellness. Accordingly, we recommend that the Legislature direct the Administration to provide sufficient details about how the program would be implemented. Until such information is provided, we recommend the Legislature withhold action on the Governor's proposal. If such information is provided demonstrating that the program is consistent with legislative priorities, would be likely to improve officer wellness, and would not interfere with the timely implementation of the SB 2 decertification program, we would recommend the Legislature approve the proposal. Otherwise, we would recommend the Legislature reject the proposal without prejudice to allow POST to more fully develop a proposal to improve officer wellness for consideration as part of the 2023-24 budget.

<b>STAFF COMMENT</b>
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Considering the SB 2 implementation concerns raised by the LAO, POST may not be in the best position to deploy the resources for officer wellness proposal at this time. The Subcommittee may wish to delay consideration of this proposal until the following fiscal year or consider alternative ways to utilize the proposed funding to advance officer wellness in the state. Some preliminary evaluations show the efficacy of situating centralized, accessible wellness programs for staff in the workplace to reduce the stigma of seeking help. The Subcommittee may wish to directly fund several pilot programs to develop more robust, comprehensive wellness programs that can be evaluated for efficacy and then replicated.

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**Staff Recommendation: Hold Open.**

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## NON-DISCUSSION ITEMS

The Subcommittee does not plan to have a presentation of the items in this section of the agenda but the Department of Finance and the Legislative Analyst's Office are available to answer questions from members. Public Comment may be provided on these items.

### 8140 OFFICE OF STATE PUBLIC DEFENDER

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#### ISSUE 4: SUPPORT GENERAL WORKLOAD

The Governor's Budget proposes \$442,000 ongoing General Fund and 3.5 positions to effectively manage OSPD's workload due to increased staff and additional responsibilities. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California through its Indigent Defense Improvement Division.

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**Staff Recommendation: Hold Open.**

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### 8830 CALIFORNIA LAW REVIEW COMMISSION

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#### ISSUE 5: DATA AND RESEARCH FUNDING

The Governor's Budget proposes \$1.77 million in reimbursements from the Office of the Legislative Counsel (with an offsetting one-time General Fund augmentation to that office's budget) in 2022-23 to fund three years of contract research activities, including secure data hosting, with the California Policy Lab (CPL), a research center based in the University of California system. The Committee and CPL's research partnership is currently supported entirely by outside philanthropic funding which will not continue indefinitely. State funding for this work is critical as it provides a stable funding source for the specialized, empirical support for the Subcommittee's recommendations.

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**Staff Recommendation: Hold Open.**

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### 7870 CALIFORNIA VICTIM COMPENSATION BOARD

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#### ISSUE 6: VARIOUS BUDGET PROPOSALS

**Erroneous Conviction (SB 446).** The Governor's Budget proposes \$535,000 General Fund and 2.0 positions in 2022-23 and \$471,000 in 2023-24 and ongoing, to implement Chapter 490, Statutes of 2021 (SB 446). SB 446 creates a procedure that reassigns the burden of proof for granting compensation to an erroneously convicted person under

Penal Code section 4900 when the underlying conviction was vacated. In Fiscal Year 2020-21, CalVCB was budgeted 0.6 of an Attorney III position for the administration of claims pursuant to Penal Code section 4900, at a cost of approximately \$136,000 per year. It is anticipated that the overall number of applications will increase from the current annual average of 27, as more claimants are encouraged to apply, the number of administrative hearings will increase, and the hearings themselves will increase in length and complexity. In addition, CalVCB may need to implement regulations for issuing subpoenas, as well as devise procedures for considering objections to those subpoenas and contempt proceedings, to ensure that necessary witnesses will appear at the hearing, all of which will require additional processing time by staff. Due to these factors, CalVCB's costs to administer Penal Code section 4900 proceedings would more than triple due to the additional workload, increase in the number of hearings and length of the hearings.

**Erroneous Conviction Compensation.** The Governor's Budget proposes \$7 million General Fund in 2022-23 and ongoing and statutory changes to make payments to erroneous conviction claims that are approved pursuant to Penal Code sections 4900 et seq. This proposal also includes provisional language that authorizes the Director of Finance to augment the appropriation if funds are insufficient to cover claims. Any person who, having been convicted of any felony and imprisoned in state prison or incarcerated in county jail pursuant to subdivision (h) of section Penal Code 1170 for that conviction, can demonstrate that the crime with which he or she was charged was either not committed at all or, if committed, was not committed by him or her, may present a claim for compensation in the amount of \$140 per day of incarceration served. The current process for obtaining approvals to issue payments related to PC 4900 claims requires CalVCB to make a recommendation to the Legislature that a General Fund appropriation be made to pay an erroneous conviction claim. The appropriation is then included in a claims bill that is introduced by the Chair of one of the Appropriations Committees. The bill must pass through the Appropriations Committee and Floor of each house before going to the Governor for signature. Claimants typically receive payment in the summer or fall of that legislative year. If a claim is approved by CalVCB in the fall or later of a given year, that claim will not be introduced in the Legislature until the following year. A claimant might not receive payment for nearly a full calendar year after the Board approval. This includes claimants who have obtained a finding of factual innocence and are entitled to expedited approval by CalVCB pursuant to Penal Code section 4902. Providing CalVCB with the funding and authorization to pay these claims would ensure that the claimants receive compensation for their injuries as quickly as possible and would alleviate administrative burdens and extensive delays imposed by the existing process. Over the past three fiscal years, CalVCB has approved 17 claims at a total appropriation of \$14.2 million, an average of \$4.3 million per year. In the 2021 Legislative Session, appropriations have been made for five claims with a sixth claim pending in the Legislature, at a total of \$6.84 million. This request includes funding at the higher end of what has been paid to claimants in a given fiscal year to avoid delays in processing claims due to current year budget augmentations.

**Staff Comment on the Proposals related to Erroneous Conviction.** The Assembly Appropriations Committee provided the following analysis regarding the costs to Cal VCB to implement this bill and the increased wrongful conviction compensation:

"Costs (General Fund (GF)) to Cal VCB of \$309,000 in 2021-2022 and \$471,000 annually thereafter in administrative costs for additional attorney positions to

handle the claims workload. Costs will also include GF allocations, possibly in the millions of dollars in increased wrongful conviction compensation, given this bill may expand the number of claims for payment based on wrongful convictions.”

**Information Technology Security and Systems Enhancements.** The Governor’s Budget proposes \$2.37 million Restitution Fund in 2022-23 and \$808,000 in 2023-24 and ongoing, to update information technology security systems and infrastructure. Specifically, the funding will be used to acquire and operate new security tools for access control and application security testing and to replace outdated information technology hardware infrastructure that has reached its supported end-of-life and/or is currently near capacity.

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**Staff Recommendation: Hold Open.**

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