



Office of the Attorney General of Guam

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Hon. Leevin Taitano Camacho

Attorney General of Guam

January 10, 2020

OAG Request for Proposal No. 001-2020
RFP-001-2020 Victim Information Management System
Responses to Questions submitted by Data Management Resources
on December 27, 2019

DMR Question:

1. With regard to current business processes for the OAG VSC and the OAG CICP, does the Attorney General have existing written Standard Operating Procedures (SOPs) for these sections? If so, can these SOPs be supplied to participating offeror's?

OAG Response:

See Attachments:

Attachment A - SOP, Victim Service Center

Attachment B – SOP, Criminal Injuries Compensation Commission

Attachment C – Operational Rules and Regulations, Criminal Injuries
Compensation Commission

DMR Question:

2. With regard to RFP statement that the system must be able to “integrate data external to OAG, such as data originating from external agencies, “what type of data integration is required or expected? Is this system-to-system automation, or is a date import/export process in a standard format acceptable?

OAG Response:

No to external data at this time. However, the proposed system should have the capability to integrate external data in the future if the OAG determines that function is necessary.

DMR Question:

3. As per RFP, “As appropriate, all equipment and software developed under awards that result from this solicitation must be compliant with DOJ information technology interface standards, including the National Criminal Intelligence Sharing Plan, the Global Justice XML Data Model, and the Law Enforcement Information Sharing Plan. A list of additional standards can be found at the OJP Standards Clearinghouse. “Can the OAG be more specific as to what processes of the software system are required to meet specific standards mentioned or referred in OJP Standards Clearinghouse? Many of the numerous standard defined are not directly relevant to a VMIS, so it would be implausible to expect vendor certification of a proposal that meets all standards.

OAG Response:

The entire system must be compliant as the standards were established by the grant.

DMR Question:

4. With regard to data conversion from the existing FileMaker Pro database:
 - a. What is the current size of the database to be migrated?
 - b. How many records must be migrated?
 - c. Please provide the file layouts for the data to be migrated.

OAG Response:

	VSC	CICC	Restitution	PSU	Total
Records	18,525.00	168.00	624.00	3,131.00	22,448.00
Fields	89.00	19.00	105.00	22.00	235.00
Size (MB)	131.00	4.40	2.60	5.76	143.76

* The numbers above are based on information as of January 2, 2020.

DMR Question:

5. How many users will need access to the system?
 - a. What is the total maximum number of concurrent users at any one time?

OAG Response:

20 users

DMR Question:

6. With regard to web access, is external access from outside of the OAG network to be restricted to OAG employees only? Or, will the system be required to provide secured access to authorized public users (public internet access)?

OAG Response:

Yes – strictly for OAG employees.

DMR Question:

7. Is the 12-month timeline to install and implement the software, inclusive of data conversion, an absolute? Given the scope of the project and reasonable budget constraints, this timeline may be unrealistic. Is a phased approach to implementation acceptable?

OAG Response:

Yes. Each potential vendor must submit a proposed implementation schedule as part of their proposal.

DMR Question:

8. We respectfully request an extension in the RFP submission deadline.

OAG Response:

Yes, two weeks. February 7, 2020. (**Please see Amendment #1**)

DMR Question:

9. We respectfully request a pre-proposal conference to discuss the RFP and the OAG's needs prior to proposal submission.

OAG Response:

No, time is of the essence. All questions and answers are to be in writing.

DMR Question:

10. We respectfully request an extension in deadline to formally submit questions.

OAG Response:

No.

Respectfully,

Tianna J. Sarrosa
Procurement Official

OFFICE OF THE ATTORNEY GENERAL VICTIM SERVICE CENTER



Standard Operating Procedures for Victim Advocate Services and Assistance, Internal Intake Process and File Management Procedures

The Office of the Attorney General of Guam is committed to expand support services to victims of crime in our island. Our goal is help victims in our community cope and deal with the aftermath of victimization and to help make their participation in the criminal justice system less burdensome.

Advocates are tasked to assist victims with the following services:

- Providing information on victims' rights and protections;
- Providing information on the criminal justice process;
- Providing emotional support for victims;
- Assisting victims with applications for the Criminal Injuries Compensation Program;
- Providing information and referrals for counseling and other services;
- Providing emergency assistance, safety planning and ongoing support;

I. CREATION OF VICTIM SERVICE CENTER FILES:

Advocates and Administrative Staff assigned to the Victim Service Center will be required to utilize hard copy files for daily operational function of the VSC Unit;

All files are strictly for the use of the Advocates only; Files are not to be reviewed by anyone outside the VSC unit. Information contained in this file fall under the protection of the Victim Advocate Privilege Law (6 G.C.A. §9102);

All information in the current database are to be transposed into a file and will serve only as a hard copy component for the unit. Advocates are required to maintain these files in a professional manner and such files are to be utilized for operational function during normal course of business;

At no time are these files to be taken outside of the Victim Service Center office without permission or knowledge of OAG Management; Only under special circumstance (e.g. Court Order, Subpoena Duces-Tecum) Unit Supervisor will be assigned to create or develop a process to ensure that all files are returned;

The Victim Service Center files and its content are considered to be the property of the Office of the Attorney General, Government of Guam;

All files that are created will be assigned a Victim Service Center number and case file; VSC Unit case files are to contain:

- A. VICTIM ADVOCATE PRIVILEGE FORM:** Pursuant to Victim and Crime Victim Advocate Communication Law 6 G.C.A. §9102, Advocates are mandated to inform all victims of the Victim Advocate Privilege Law and are required to obtain consent from **all** victims in order to disclose any information exchanged from Advocate and victim to any persons outside the Victim Service Center;
- i. Form should be completed and a copy placed in the VSC file for reference at all times;
 - ii. Advocates and VSC administrative staff are to ensure that victims understand the Victim Advocate Privilege form prior to him/her executing the form;
 - iii. Victims will not be permitted to execute the Victim Advocate Privilege form if (a) they do not understand the form (b) have any language barriers (c) appear to be under duress or (d) appear to be inebriated. At such time, the Advocate or VSC administrative staff will be required to seek further assistance from the Unit Supervisor;

[Index 1: Written Consent Form, Script,]

B. VICTIM IMPACT STATEMENTS: Advocates are to assist victims in writing and preparing Victim Impact Statements. These statements are submitted to the Judge so that they may better understand the impact and burdens placed on the victims as a direct result of the crime. The statement will be used by the Judge in determining the acceptance of a Plea Agreement, when considering the amount of time Defendant will serve in incarceration and for all other conditions that may be imposed on the Defendant(s).

- i. Advocates are to determine whether a victim would like to write a statement on their own or if they would be requesting assistance of an Advocate;
- ii. If a victim has a hard time understanding or communicating with VSC staff and personnel, Advocates are to inquire with the victim on whether they feel more comfortable with the assistance of an interpreter. At such time Advocates are required to coordinate interpreter services through the VSC Unit Supervisor;
- iii. Advocates are to inform victims that they have the option of writing their statement or they can appear before the Judge and may verbally state their position at the time of Sentencing or the acceptance of the Plea Agreement;
- iv. Advocates are to inform all victims at time of Sentencing they will have the option of expressing their position to the Judge or they may address the Defendant directly. In cases of a first degree felony matters such as murder, manslaughter, or any case where there was a loss of life or serious bodily injury, often times Judges will allow extended family members of the victim(s) to address the Defendant. (Such as Spouses, Children, Parents, Grandparents, and Siblings).

[Index 2: Victim Impact Statement Form, Guidelines, Script]

C. VICTIM INTAKE FORMS:

- i. Victims will be asked to complete a Victim Intake Form. If the victim needs help with filling out of the form, VSC staff are required to assist; Intake forms must be completed in its entirety and all contact information must be up-to-date;
- ii. A hard copy of all the information obtained is to be recorded in the log book provided;
- iii. VSC staff are to ensure that the information in the log book and the Victim Intake Form coincide;

- iv. VSC staff are to refer victim(s) to Advocates for further assessment of services;
- v. The Advocate assigned to assist the victim(s) or guardian(s) of the victim(s), will be responsible to complete the disposition portion located on the bottom of the Victim Intake Form;

[Index 3: VSC File Intake Form; VSC Advocate Intake Form]

D. VICTIM NOTIFICATION OF HEARING FORM:

- i. Advocates are required submit information on victim contact and what type if any, contact or attempts to contact were made with victims. Information obtained is provided to Assigned Prosecutors and ultimately reported to the Judges in compliance with the Victim's Bill of Rights.
- ii. Notification of hearing forms are to be completed for every hearing that appears on court published calendar;
- iii. Advocates are to report if consent was established and permitted pursuant to the Victim Advocacy Privilege Law; [6 G.C.A. Ch. 9 §9102]
- iv. Advocates are to report on results of contact; (e.g. victim was contacted and informed, victim no longer resides at that number provided, victim is off island, victim's cell phone number provided is no longer in service, etc.);
- v. Advocates are to report on victim's position, request, issues, etc., (e.g. victim requesting for imposition of stay away order, victim is requesting contact, victim fears for his/her safety if defendant is released, etc.)
- vi. Advocates are to report if victim is requesting restitution and on amount requested;
- vii. Advocates are to report on if and when victims apply for compensation through the Criminal Injuries Compensation Program, eligibility status and award amounts;

[Index 4: Victim Notification of Hearing Form]

- E. VICTIM REFERRAL(S):** Advocates are to document and record any referrals made to government or non-government organizations at all times. Referrals or reference to referrals shall be placed in the Victim Service Center Files to properly track victim's history.

[Index 5: Victim Service Center Referral Form]

- F. VICTIM SAFETY PLAN:** At any stage of contact with victims, Advocates are to ensure that victims have a safety plan if they feel they are in danger from the Defendant or the Defendant's family. If a Defendant is attempting or has made contact with the victim, Advocates are to assist the victim and help the victims develop a safety plan. (e.g. identify who the victim should call if the defendant tries

to make contact with them; exchange contact numbers and identify alternate numbers for the victim to contact, identify when the victim should call 911, ensure the victim's cell phone is loaded with minutes and charged at all times, ensure that someone is with the victim at all times or inform family members of whereabouts, ensure that the current living arrangement of the victim and his/her family is safe, etc.)

- i. Court Hearings- Advocates are to coordinate with the Superior Court Marshals office to ensure that victim and victim's family is protected at the time of court testimony; Pursuant to the victim's bill of rights, if the victim expresses intimidation from the defendant or the defendant's family, Advocates must coordinate with the Superior Court Marshals Division for victims to be secured in a waiting area apart from the defendant and the defendant's family until they are released from having to testify and until such time they leave the Judiciary premises;
- ii. Protective Order/Restraining Order Assistance- Advocates are to assist victims who are requesting additional protection through the restraining order or order of protection process. Advocates will be required to help the victims by explaining the process of the Court and legal system and will provide transportation to and from Court hearings and legal appointments if needed.
- iii. Prisoner Escape- When Advocates become aware that a defendant who is incarcerated escaped from prison, they (Advocates) through the VSC Administrator and Unit Supervisor are to immediately contact the Chief Prosecutor and Chief Investigator to coordinate, arrange, and deploy a 24-hour protective detail for the victim. This protective detail is to remain for the duration that the defendant is at large. Advocates are to remain in constant communication with the victim until the defendant is in custody to ensure the victim's safety;

[Index 6: Victim Safety Plan; Map to Victim's Residence]

G. RESTITUTION SUMMARY: Advocates are to assist victims by compiling information, documents and receipts needed for restitution summary reports. Advocates must ensure that the documentation and receipts submitted are comprehensible. Additionally, Advocates may cross reference the billings, receipts

or any documentation submitted to ensure that dates are associated with the date of incident.

[Index 7: Restitution Summary]

H. VICTIM NOTES: Advocates will be responsible for documenting all victim contact and establishing a record of services for the VSC file;

- i. Each note will be labeled with the date and time;
- ii. Advocates are required to update the contact information at any time contact is made with the victim. Advocates are required to update the database and the Victim Service Center files with any new information received from a victim;
- iii. Advocates are to place their initials at the end of all victim notes and correspondence to identify who assisted the victim and/or their parent or guardian;

*****Advocates are to refrain from utilizing acronyms or abbreviations not authorized by the VSC Administrator or VSC Unit Supervisor. To maintain professionalism, the information recorded in the VSC files are to be written in a clear and comprehensible manner*****

II. COURTROOM ASSIGNMENT:

A. COURTROOM SUPPORT:

- i. At any stage of a Court hearing, if the victim is required to testify or appear before the Court where the Defendant may be present, a request to the Court can be made for an Advocate to physically be with the victims on the witness stand or in the courtroom as support. Advocates are **prohibited** from assisting victims by answering for them, in place of them, interpreting for them, writing or whispering to the victim during testimony. The comfort witness assistance is simply physical presence for the victim. The role of the Advocate's presence must be explained to victim(s) if they are requesting for that particular support.
- ii. Courtroom assigned advocates are to attend court hearings to gather information on behalf of victims and to communicate the outcome of the case. What has changed or altered during the hearing (e.g. Judge's ruling, defendant's custody status, lifting of stay away orders, change in court scheduling) Advocates have the duty to explain the processes and procedures of the courtroom operations and its function to victims;
- iii. Courtroom assigned advocates are required to attend court hearings to provide emotional support and to assist the victim in expressing his/her

- position to the Court in the event they are too afraid to address the Court, an attorney or any officer of the Court on their own;
- iv. Courtroom assigned Advocates are to inform the Court if the victim(s) require the assistance of an interpreter, or if disability accommodations or any other type of logistics are needed in the Courtroom and throughout the Judicial Complex;
 - v. Courtroom assigned Advocates are to ensure that victim's information is updated and current at all times. If a victim informs the Advocate or the Court during the hearing, that they have changed physical location, employment, contact numbers, etc. it is the obligation of the Advocate present at the hearing, to notate all changes and update the Victim Service Center file.

B. RESTITUTION COURT: Advocates are to attend restitution court hearings scheduled before the Magistrate Judge located at the Northern Court Satellite. Advocates are to follow up with the victim(s) on amounts received for restitution and reconcile accounting reports submitted by the Judiciary by monitoring the payments made to the victim(s) and ensure that he/she is fully compensated as ordered by the Court.

C. MAGISTRATE COURT ASSIGNMENT: A monthly schedule for the daily, weekend and holiday magistrate hearing coverage will be issued by the Unit Supervisor prior to every month. This task will be assigned and rotated amongst all Advocates in the unit, in addition to their daily operational duties. If Advocates are unable to work their magistrate assignment, due to a scheduling conflict, it is the responsibility of the Advocate to alternate their schedule with another Advocate, by agreement. The modified change in schedule must be approved by the Unit Supervisor at all times. Duties and tasks to include:

- i. Retrieve daily calendar;
- ii. Obtain contact information of the victim from the police report and initiate contact with victim or victims immediately;
- iii. Complete Victim Intake Sheet;
- iv. If necessary, fax or email referrals to Child Protective Services, Adult Protective Services or any other government or non-governmental agencies;
- v. For Family Violence cases, advocates are to immediately schedule appointments with victim(s) and the assigned FVC Prosecutors;
- vi. Provide Victim Intake Form to administrative personnel to immediately input into the database;
- vii. When Magistrate hearings are completed advocates are to contact the victim or victims to provide them with details on what occurred at the court hearing, the defendant's next appearance date, the defendant's custody status and if any stay away orders have been imposed;

- viii. Magistrate assigned Advocate is responsible to update the victim's file with the magistrate information and transfer the case to the courtroom assigned advocate to continue with advocacy services;

III. COLLATORAL DUTIES:

- A. **VICTIM TRANSPORTATION AND ACCOMPANIMENT:** Advocates are to provide transportation and accompaniment to victims for Court hearings, counseling appointments, forensic evaluations or examination appointments related to the trauma or incident. Advocates are to adhere to the OAG official vehicle policy.

*****At no time are Advocates or any employee assigned to the Victim Service Center authorized or permitted to utilize government official vehicles for personal errands or reasons*****

- B. **CRIMINAL INJURIES COMPENSATION PROGRAM APPLICATION ASSISTANCE:** Advocates are to assist victims with completing the Criminal Injuries Compensation Application. Advocates are to explain the program and all requirements to victims. Additionally, Advocates will serve as a liaison for victims by following up on the status of applications, hearing schedules, and if additional documentation is needed, etc. Advocates are required to submit the application timely to the CICP coordinator to ensure compliance with the statutory response date issued. To complete the application submission requirements are as follows:

- i. CICC application signed and completed; (any incomplete applications will not be processed and will delay the response date)
- ii. All supporting documentation submitted by victim such as medical billings and statements, receipts, death certificates, etc.
- iii. Copy of charging document or police report, indicating the defendant's name and case number. (e.g. magistrate complaint, indictment or complaint)
- iv. Copy of Judgment or Plea Agreement if any;
- v. Copy of the victim's restitution summary if any;
- vi. Copy of the victim's written consent for Victim Advocate Privilege;
- vii. Copy of the victim's valid identification;

[Index 8: CICC Application Checklist, CICC Application for Compensation, Criminal Injuries Compensation Program Information]

C. REPORT SUBMISSION AND COMPILING OF STATISTICAL DATA:

Advocates are required to submit individual statistics at the end of every quarter for federal grant report submission as required. (VOCA Victims of Crime Act and STOP-VAWA Stop Violence Against Women Act) Process as follows:

- i. Gather and compile information from daily magistrate intake sheets and/or the database;
- ii. Submit compiled information to unit supervisor no more than 5 days after the ending of each quarter;
- iii. Unit Supervisor will combine information from all advocates as a whole and prepare for submission to the assigned office program coordinator to prepare for reporting requirements;

D. PROPERTY RELEASE FROM GUAM POLICE DEPARTMENT:

In the event a victim is seeking to retrieve items or evidence that were seized by the Guam Police Department, Advocates are to assist victims with retrieving belongings as follows:

- i. Retrieve all information or documentation from the victim, such as police report number, court case number, copy of chain of custody if any, any documentation of proof of ownership etc.
- ii. Contact the Guam Police Department Property Division and confirm the items that are still in their possession;
- iii. Confer with the assigned Assistant Attorney General or the Chief Prosecutor for permission on releasing the items;

*****Advocates please be advised that it is under the complete discretion of the assigned Prosecutor or the Chief Prosecutor to approve or authorize the release of evidence. The Advocate must explain to the victim, that the assigned Prosecutor or the Chief Prosecutor may not permit the release of the evidence if it will impact the prosecution or investigation of the case. The Guam Police Department Property Division will not release any personal items of the victim(s) without their signature*****

- iv. If the release is approved, arrangements to pick up the items must be coordinated by the Advocate. If requested, Advocates are to provide transportation to and from the GPD Property Division for retrieval of items;

[Index 9: Guam Police Department Property Release Form]



Criminal Injuries Compensation Commission
Standard Operating Procedures for Application Submission,
Internal Review & Hearing Process

I. **SUBMISSION OF APPLICATION** (Exhibit A).

- A. Advocate or OAG employee to review for:
 - 1) completeness;
 - 2) to review for updated contact information;
 - 3) to ensure that the application is signed by the applicant;

- B. Page 1: of the Application is to be officially received, stamped and dated. The OAG employee is to issue a response deadline [20 days from date of submission, excluding weekend and holidays] on Page 1 and Page 3 of the Application. Page 1 will serve as the official acknowledgement receipt of the CICC Application. Applicants will be encouraged to hold on to Page 1 as it will be referred to when needed.

- C. Agency coordinator will be required to provide notification of eligibility or ineligibility to all applicants within twenty (20) business days from the day of filing. Agency coordinator will respond and conform to the deadline provided to the applicant at the time of submission [page 1 and page 3 of the CICC Application]

Response Deadline pursuant to Part VI Section 402(a) of the CICC Operational Rules and Regulations

**Incomplete applications should not be issued a response deadline.*

- D. Page 3: a CICC identification number will be issued to each application as an internal office reference by the agency coordinator. This number will be utilized and referenced throughout the course of the application process until disposition of the matter by the Commission. CICC identification number will be reflected on Page 1 and Page 3 of the Application.

II. **INTERNAL REVIEW AND SCREENING PROCESS:**

- A. Agency coordinator will be required to complete a case review worksheet; **(Exhibit B)** This worksheet will be serve as a summation of the applicant’s basic and statutory requirement assessment, compensation amounts requested by the applicant, status of the police report and/or court case and if any and recommendations made by the agency coordinator and CICC legal counsel;
- 1) **Statutory Eligibility/ Ineligibility** - Applicants are required by statute to submit application within eighteen (18) months of date of incident; Agency coordinator to assess date of incident and date of submission to accurately calculate if the applicant submission is in compliance with the statute;
- a. **Statutorily INELIGIBLE** - If the applicant does not meet the statutory requirement the agency coordinator will issue a letter to the applicant immediately; **(Exhibit C)** [Please note that any incomplete applications will be deemed INELIGIBLE. Letter will be issued stating that upon submission of the necessary information the agency coordinator will then re-evaluate for eligibility. *date of resubmitted completed applications will be used to recalculate the 18-month statutory requirement*] **(Exhibit D)**
- b. **Statutorily ELIGIBLE** - If the application meets the statutory requirements the agency coordinator will proceed to the next step and review the application for preliminary requirements;

Filing Limitation pursuant to Part III Section 303 of the CICC Operational Rules and Regulations

2. Preliminary Eligibility Requirements- Review the application for preliminary guidelines as follows:
- a. did the act or omission result in death or injury to the victim;
- b. did the act or omission occur on Guam;
- c. did the act or omission result from a violent crime pursuant to 8GCA §161.55; **(Exhibit E)**
- d. is the compensation requested for the benefit of the victim(s) or person(s) pursuant to 8 GCA §161.50 (a)(1) through (4); **(Exhibit F)**

Victim Eligibility pursuant to Part III Section 301 of the CICC Operational Rules and Regulations

3. Eligibility Letter- Once the application is reviewed for all requirements the agency coordinator will issue a letter to the applicant as notification that the application has qualified to go before the Commission. The agency

coordinator will schedule an interview with the applicant to complete the application and evaluation process; (Exhibit G)

4. Interview – Agency coordinator will make contact with the applicant(s) to schedule an interview. This interview will serve as a one to one meeting to review all the relevant documents required by the Commission, to evaluate and examine all receipts, amounts, billings and statements in the presence of the applicant(s) and to have a better understanding of the overall request to the Commission. This interview will also function as the official notification process to the applicant(s) on the Commission Hearing process and what the applicant(s) privileges and rights are before the Commission.

a. Required Documentation:

- 1) copy of valid identification;
- 2) copy of victim's birth certificate or death certificate if applicable;
- 3) burial receipts, billings or statements;
- 4) medical receipts, billings or statements;
- 5) copy of W-2 forms, check stubs, employment verification if applicable;

Required Documentation pursuant to Part VI Section 402(b) through (g) of the CICC Operational Rules and Regulations

b. Notification to Applicant:

- 1) applicant is informed that the Commission can only consider any amounts that have not been paid through restitution or through direct or indirect payments made by the defendant;
- 2) applicant is informed of what the maximum award amount is that the Commission can consider for each claim;
- 3) applicant is informed that they are entitled to be represented by counsel before the Commission at their own expense;
- 4) applicant is informed that they may testify before the Commission under oath and that the Commission may examine them at the hearing;
- 5) applicant is informed that they have a right bring forth any witnesses to testify before the Commission;
- 6) applicant is informed that they have the burden of proof to prove his/her application before the Commission through clear and convincing evidence;
- 7) applicant is informed that the Commission has the discretion to continue or recess the hearing;

8) applicant is informed that the Commission may issue a decision at the day of the hearing or has the discretion to render a decision no later than one hundred and twenty (120) days from the final hearing;

**Hearing Procedure pursuant to Part V Section 501(d) through (i) of the CICC
Operational Rules and Regulations**

c. Status of the Court Case or Police Report:

- 1) charges;
- 2) status of defendant's custody, if defendant is detained or released;
- 3) status on the case if pre-trial, post judgment, closed or pending;
- 4) inquire if restitution has been claimed by the victim or ordered by the Court and to inquire if a payment plan has been entered, or if the matter was referred to Restitution or Collection Court;
- 5) next hearing date, type of hearing and purpose of hearing;
- 6) assigned Judge, Courtroom, prosecutor, advocate, probation officer and/or investigator;

**please note that this process is not to be considered as a requirement for possible award by the Commission. Obtaining case information is strictly for the purposes of updating the victim(s) during the interview*

d. Notification of the CICC Public Hearing and Compliance with the Open Government Act:

- 1) applicant is notified of the date and time that their application is scheduled to go before the Commission;
- 2) applicant is notified that all hearings shall be open and it is at the discretion of the Commission or on motion of the applicant, to determine that the best interest of the parties including the interest of the offender who may still be engaged in the defense of his/her criminal case, requires that the hearing be closed;
- 3) applicant is notified that all hearings shall be recorded for appeal purposes. No written transcript shall be required or produced. However, a digital transcript of the hearing can be provided for upon written request for a fee of \$25;
- 4) applicant is notified that if special accommodations is needed, that our Public Information Officer will be available to coordinate any reasonable requests pursuant to Title 1 of the American Disabilities Act;

IV. COMMISSION WORKING SESSION:

- A. Binders are to be constructed and provided by the agency coordinator in preparation of a working session with Commission members; Binders are to include:
- 1) Statute/CICC Operational Rules and Regulations amended and adopted by the Commission on April 22, 2016 and transmitted to the Guam Legislature on April 27, 2016 (Exhibit H) and any amendments thereafter;
 - 2) Application Internal Case Review Worksheet (refer to Exhibit B) reflecting a summation of the applicant's basic and statutory requirements, compensation requested, criminal case status if any and recommendation by agency coordinator;
 - 3) Completed CICC Application (refer to Exhibit A);
 - 4) Copy of Valid Identification of Applicant (Exhibit I);
 - 5) If victim is deceased, copy of birth and death certificate of deceased should be requested for the CICC file; (Exhibit J)
 - 6) All documentation submitted by the applicant such as receipts, billings, letters, statements, breakdowns, et al., supporting the amount requested in the application;

V. COMMISSION HEARING:

- A. All Commission hearings will be required to be open to the general public. The hearing process must be in compliance with the Open Government Act of Guam. Agency coordinator upon scheduling shall coordinate the publication of the CICC announcements in two (2) local media circulations. (Exhibit K)
- B. For any cases that are Pre Trial Status, the Agency Coordinator must notify the Chief Prosecutor of cases or matters going before the Commission;
- C. All hearings shall be recorded for appeal purposes. No written transcript shall be required to be produced. A digital transcript of the hearing can be provided for purposes of an appeal or upon request of a party at a fee of \$25.00 reproduction fee.
- D. Agency coordinator will temporarily serve as the Commission secretary at all hearings until such time appointed otherwise. Duties will include:
- 1) Preservation of the Record: Commission secretary to ensure that the proceedings are recorded by video or any listening devices available to the office;
 - 2) Agenda: Commission secretary will be responsible for preparing an agenda reflecting the cases that are scheduled to be considered by the Commission. Agenda shall also include new and old business and any issues that need to be

- heard on the record by the Commission. Agenda must be made available to any member of the public that is in attendance including the media; Exhibit L
- 3) Attendance Sheet: Commission secretary must prepare a sign in sheet for any person who is in attendance of the public hearing. Contact information should be obtained through this attendance sheet for future notification of hearings in addition to serve as proof of attendance.
 - 4) Minute Taking: Commission secretary will be designated to take minutes and detailed notes at the hearing. The minutes taken by the Commission secretary will be officially recorded as required.
- E. Decision: Commission members will be required to vote on the record at a scheduled and published Commission hearings; Commission members will also be permitted to discuss the case off the record, outside the presence of the public and the media; [please refer to the CICC legal counsel for limits and restrictions of the commission pursuant to Open Government Act of Guam]
- 1) Resolution Order: (Exhibit M) The agency coordinator will prepare a resolution that will be reflect the following:
 - a. Date Commission considered and reviewed the application;
 - b. Commission Findings
 - c. Acceptance of the merits, testimony before the Commission and all evidence in support of the application;
 - d. Amount awarded by the Commission;
 - e. Name of the Applicant who was awarded;
 - f. Signature of the Attorney General and all Commission members;

VI. PROCESSING:

- A. Notification of Award: Exhibit N Notification of Award must be issued and signed by the CICC Administrator. This notification is to inform all parties involved in the criminal court case that compensation was granted by the Commission which will ultimately affect the fine and restitution amount in the Defendant's Plea Agreement and/or Judgment. This memorandum is to be addressed to the Chief Prosecutor or the Deputy Attorney General for Juvenile Division with the expectation that their respective division will be filing a pleading with the Office of the Clerk of Court at the Superior Court of Guam notifying the assigned Judges', Probation Officers' and Specialty Court Case Managers of the award; Courtesy copies to be issued as follows:
- a. Counsel for the Defendant [if pro se, notification must be provided to the defendant directly]
 - b. Judiciary of Guam Probation Services Division
 - c. OAG General Accounting Supervisor or OAG Controller
 - d. OAG / VOCA Program Coordinator

- e. CICC Case File
- B. Pleading: Exhibit O; To prepare and expedite the process of notification, the program coordinator will attach a draft pleading form for the Chief Prosecutor or the Deputy Attorney General's signature; Attachments to pleading will be as follows:
 - a. Notification of Award Memorandum from the CICC Administrator to the Chief Prosecutor or Deputy Attorney General; [Refer to Exhibit N]
 - b. Copy of Resolution Order [Refer to Exhibit M]
- C. Agency Cover Letter: A letter must be drafted and prepared for the Attorney General's signature. Letter to be addressed and transmitted to the Director of Department of Administration requesting payment and reflecting the name of the recipient, the amount of compensation and method of payment requested; Exhibit P attachments to the Cover Letter is as follows:
 - a. Resolution Order [Refer to Exhibit M]
 - b. Direct Payment Request- Form ACC-DPA001 Exhibit Q
 - c. Vender Establishment – Form ACC-VNA001 - Exhibit R
- D. Memorandums/Letters/Miscellaneous Documentation: All referenced letters, memorandums, correspondence and attachments related to the CICC Application must be filed in the CICC case file and kept as Attorney General's Office records and files and are to be maintained by the CICC Administrator.



CRIMINAL INJURIES COMPENSATION COMMISSION - GUAM

OPERATIONAL RULES AND REGULATIONS

[Prepared by the Office of the Attorney General of Guam in coordination and with approval of the Criminal Injuries Compensation Commission, adopted by the Commission on Monday, June 22, 2015, and amended on April 22, 2016.]

PART I

MISSION STATEMENT

SECTION 101. Purpose.

These Operational Rules and Regulations are adopted in accordance with *8 GCA § 161.120* for the purpose of conducting the business of the Criminal Injuries Compensation Commission (hereinafter "the Commission"), and the procedures are to be followed in the application and award for compensation of those eligible to apply under the "Compensation for Damages from Criminal Activities" Act. It is the intent of the Commission to provide for prompt and expeditious review of all applications made to the Commission pursuant to law.

SECTION 102. Definitions.

In addition to those terms defined under *8 GCA § 161.10*, the following terms are herein defined:

- a. "Funeral or burial expense" means expenses directly related to the cost of burial or cremation of the victim(s), to include a burial plot or crypt, casket, flowers and candles, rental of the funeral home, rental of a church, tents, chairs, funeral booklets, choir, transportation of the deceased from off-island, as well as, food and drink.
- b. "Incurred expense" or "Expense incurred" means expenses for the benefit of the victim to include medical expenses, loss of earning power due to total or partial incapacity, medical expenses, pain and suffering, and pecuniary loss for any person responsible for the maintenance of the victim.
- c. "Maintenance of the victim" means the actual providing of direct physical care to a victim such as hospice, food, clothing, personal hygiene needs, but does not include indirect costs such as power, utilities, mortgage or rent, or personal

financial debts. It also may include the payment of expenses directly related to either temporary or long care maintenance of the victim at a facility licensed on Guam to provide such services.

- d. "Medical expense" means monetary cost involved in seeking treatment from a licensed medical provider from injury resulting to a victim from a violent crime as stated in 8 GCA § 161.55.
- e. "Pain and suffering" means expenses incurred by the victim related to severe or serious physical injury, or temporary mental or behavioral health suffering requiring counseling in order to cope with the trauma of the victimization.
- f. "Pecuniary loss" means damages measured in financial terms, in monetary amounts to include: loss of employment, loss of financial support, out of pocket cost or expense associated with maintenance of the victim.
- g. "Residency" means the place where a person lives for a period of at least thirty (30) days, maintains that person's home and to which, whenever that person is absent, that person has the bona fide intention to return. Indicia of residence on Guam shall include, but not be limited to, payment of Guam personal income taxes, maintaining a home or other living accommodation on Guam, having temporarily departed Guam with the intention of returning, and not being registered to vote in any other U.S. jurisdiction since departing Guam as stated in 3 GCA § 9123.
- h. "Injury" means actual bodily harm, and in respect to the victim, includes pregnancy, and mental or nervous shock.

PART II

COMMISSION GENERAL PROCEDURES

SECTION 201. Membership.

The Commission shall be made up of five (5) Commissioners appointed by the Governor with the advice and consent of the Legislature.

SECTION 202. Chairperson/Term Limit.

The Commission shall elect a Chairperson from among the membership who shall serve for a period of two (2) years. A commissioner may be reelected to the position of Chairperson to a second consecutive term. No Commissioner can serve more than one (1) consecutive term as Chairperson, for a total of four (4) years, without a break in tenure, unless no other Commission member is otherwise interested in serving as Chairperson, in which case an outgoing Chairperson may continue to serve for successive terms without limit. The Chairperson may be removed without cause by a majority of the members.

SECTION 203. Hearings/Working Sessions.

a. Hearings.

A hearing shall be called by the Chairperson at such times, dates and places as shall be set by the Chairperson. Additional hearings can be called by a majority of the Commission members in writing submitted to the Chairperson. The Attorney General's Office (the "OAG") shall provide all administrative support and assistance to the Commission for the purposes of calling hearings. The business of a hearing shall be for the purposes of considering an application, taking testimony and evidence from applicants and supporting witnesses on an application, adopting rules and regulations relative to the statutory duties of the Commission, recommending new or amended regulation or legislation, issuing subpoena(s), reviewing the financial stability of the Criminal Injuries Compensation Fund (the "Fund"), considering and approving the fiscal year budget, to recommend fiscal year replenishment of Fund assets to the Governor and the Guam Legislature, and considering such matters as will benefit the general community in relation to victim compensation.

b. Working Sessions.

The Chairperson may call a working session of the membership for the purpose of discussing administrative or executive matters. No application can be decided upon, and no action taken with reference to an application at a working session. The purpose of a working session is to discuss administrative matters related, but not limited to personnel issues, budget preparation, legal assistance from the Attorney General, and matters related to establishing an agenda and procedural conduct of a hearing. Working sessions may be conducted via teleconferencing.

SECTION 204. Quorum.

- a. A validly convened hearing requires a quorum present. A quorum of the Commission for purposes of a hearing shall consist of three (3) voting members. No decision or action of the Commission shall be valid without a quorum. No hearing can be convened without a valid quorum.
- b. The Commission may engage in working sessions to discuss administrative matters for which a quorum is not required as long the Commission does not take action or make collective decisions on any matter pursuant to the Open Government Law, 5 GCA, Chapter 8.
- c. A quorum failure resulting from a vacancy in the number of Commissioners necessary to establish a valid quorum shall be resolved in accordance with 8 GCA § 161.15(a). Upon resolution of the quorum failure, § 161.15(a) shall no longer be applicable.

- d. A Commissioner may be considered in attendance for purposes of establishing a hearing quorum via any video conferencing that permits questions and answers to be properly recorded.

SECTION 205. Vacancy.

A vacancy in the membership of the Commission shall be filled only in accordance with statute. *8 GCA § 161.20.*

SECTION 206. Voting.

A decision of the Commission shall require a vote of three (3) members participating in a hearing where a valid quorum is called. No action or decision shall be valid without a quorum vote. A Commissioner who is participating in a hearing via two-way video conferencing shall be permitted to exercise his/her vote. *8 GCA §161.25.*

SECTION 207. Public Notice.

All hearings of the Commission shall comply with notice requirements of the Open Government law. No decision is valid at any hearing that has not been published as required under the Open Government Act. Working sessions do not require compliance with the Open Government Law, *5 GCA, Chapter 8.*

PART III

ELIGIBILITY

SECTION 301. Victim Eligibility.

A person is eligible to apply for compensation if their case meets the following requirements:

- a. Act or omission resulted in the death or injury of the victim;
- b. Death or injury occurred within Guam, or if occurred outside of Guam, applicant must prove victim was a resident of Guam at the time the death or injury occurred and prove that the territory, state, or country in which the crime occurred does not have a crime victim's compensation statute. *8 GCA § 161.50 (a) & (f);*
- c. Death or injury resulted from a violent crime enumerated in *8 GCA §161.55;*
- d. Compensation is for the benefit of the victim or persons as provided for in *8 GCA §161.50(a)(1) through (4).*

SECTION 302. Burden to Demonstrate Eligibility.

The burden of showing eligibility rests wholly with the person who seeks compensation as a victim or person entitled to compensation.

SECTION 303. Filing Limitation.

An application must be made within eighteen (18) months after the date of injury, death or property damage. *8 GCA §161.90(a)*.

PART IV

APPLICATION

SECTION 401. Application Form.

Application for compensation under these Operational Rules and Regulations shall be made on "FORM A" attached hereto. No other application form shall be acceptable. An applicant is required to make a sworn declaration attesting to the truthfulness of all information contained in the application.

SECTION 402. Review for Eligibility and Completeness – Referral to Commission.

- a. The Office of the Attorney General (hereinafter "OAG") is responsible for administratively reviewing all filed applications promptly to determine whether the applicant is eligible, and if eligible, whether the application is properly completed. Any incomplete application shall not be processed for further consideration. An applicant shall be notified within twenty (20) business days of filing whether the applicant meets eligibility and whether the application is complete or incomplete. An incomplete application may be properly filed within the time limitation in Section 203 herein, provided the applicant is eligible.
- b. An applicant must provide all supporting documentation including original or certified copies of medical billings or receipts.
- c. An applicant, who may be a victim or a dependent of a deceased victim, must provide all supporting documentation to prove loss of income or loss of employment or any other pecuniary loss directly resulting from the death or injury of the victim.
- d. An applicant, responsible for the maintenance of the victim, must provide all evidence to prove pecuniary losses directly resulting from the death or injury of the victim, or losses related to the maintenance or care of a victim.
- e. An applicant, who is a victim, must provide all supporting documentation to prove non-pecuniary losses, such as pain and suffering.

- f. A dependent or relative applicant must submit documentation to prove the relationship between them and the victim.
- g. An applicant claiming funeral or burial expenses must provide actual billings, or payments of billings related to funeral costs and expenses.
- h. Every applicant, whether at the time of application or after an award of compensation, must provide evidence of collateral compensation from any source (*e.g.*, insurance coverages or restitution), whether from the offender or from any person on behalf of the offender, or from public or private funds, and which amounts or benefits result from or are in any manner, directly or indirectly, attributable to the injury or death which gave rise to the requested compensation or award, except for life insurance benefits of the victim which are exempt from deduction. *8 GCA §161.100.*
- i. The OAG shall refer all completed applications to the Commission for further consideration and hearing. The Commission is permitted to engage in working sessions with the administrative staff of the OAG for purposes of pre-hearing preparation.

PART V

HEARING

SECTION 501. Hearing.

- a. The Chairperson of the Commission shall sit as hearing officer for the Commission. The Commission is authorized to appoint an Administrative Hearing Officer (AHO) to assist in conducting all procedures required of a fair and full hearing.
- b. The Commission is authorized to hire an Administrative Law Judge (ALJ) to conduct the evidentiary findings at hearing in regard to an application for an award, to receive evidence in support of an application, and to recommend either approval or denial of an award based on the evidence presented.
- c. The hearing shall be informal. Rules of evidence and civil procedure shall not apply.
- d. The applicant and all witnesses shall testify under oath.
- e. The applicant is entitled to call witnesses to testify at hearing, and to request the Commission issue subpoenas for the attendance of any witness to a hearing. The applicant shall pay the civil fee for a witnesses attendance equivalent to the same fees impose by the Superior Court of Guam for attendance of a witness on subpoena.

- f. An applicant is entitled to be represented by counsel at his/her own expense.
- g. The Commission members may ask any relevant questions of the applicant or any witness presented to the Commission. The applicant, or counsel, may cross-examine any witness.
- h. The burden of proof is upon the applicant to prove his/her application by clear and convincing evidence.
- i. Hearings can be recessed or continued at the discretion of the Commission.
- j. All hearings shall be recorded for appeal purposes. No written transcript shall be required or be produced. A digital transcript of the hearing shall be provided for purposes of an appeal, or upon written request of a party, and payment of a \$25.00 reproduction fee.
- k. All hearings shall be open, unless in the discretion of the Commission, or on motion of the applicant, it determines that the best interest of the parties, including the interest of the offender who may still be engaged in the defense of his/her criminal case, requires that the hearing be closed.

SECTION 502. Medical Examination.

- a. The Commission may order the applicant to be examined by a licensed physician appointed by the Commission Chairperson, specifically requesting a determination that would be relevant to the Commission's determination of whether the injury was reasonably and likely a result of the acts or omissions of the offender as alleged by the applicant. Such examination shall be paid from the administrative funds of the Commission. A report shall be made to the Commission by the appointed physician expressing his/her expert finding(s) as to whether the injury was more likely than not the result of the alleged injury caused by an act or omission of the person alleged to have committed the crime. A copy of the report shall be made available to the applicant and his/her attorney. *8 GCA §161.35.*
- b. The applicant may dispute the findings of the report at hearing, and may submit a medical report of a private physician of the applicant's choice at the applicant's own expense.

PART VI
DECISION AND APPEAL

SECTION 601. Decision.

- a. The Commission shall render a decision no later than one hundred and twenty (120) days from date of the final hearing, unless good cause is shown in which case the Commission shall notify the applicant of the reason(s) for an extension of time which shall not exceed an additional sixty calendar (60) days.
- b. Where the hearing and findings of fact are conducted by an ALJ, the Commission may accept or reject the recommended findings of the ALJ. If the Commission rejects the recommended findings of the ALJ, the Commission shall review all the record evidence presented without further hearing, and issue its final decision no later than sixty (60) days after receipt of the ALJ's recommendation. In its decision, the Commission shall state the reasons for rejection of the ALJ's recommended findings, and the basis for Commission's decision.

SECTION 602. Reconsideration.

The Commission is permitted to reconsider any decision rendered, either *sua sponte*, or on petition of an aggrieved applicant. A reconsideration motion must be filed no later than ten (10) working days after issuance of the Commission's decision. Reconsideration is permitted only on the basis of an error or mistake of fact. Reconsideration is not permitted to challenge the Commission's final conclusions or discretionary authority. No new evidence shall be permitted as the basis for a motion for reconsideration. 8 GCA §161.45(a).

SECTION 603. Appeal.

An aggrieved applicant may appeal the decision of the Commission to the Superior Court of Guam on the sole grounds that the decision was in excess of the Commission's authority or jurisdiction, within thirty (30) calendar days after service upon the applicant of an original or certified copy of such decision. Except as provided herein, there is no further basis for appeal. 8 GCA §161.45(b).

SECTION 604. Finality.

Except as provided in Section 602, all decisions of the Commission whether to approve or disapprove an award are final decisions of the Commission.

PART VII

AWARD AND ATTORNEY FEES

SECTION 701. Maximum Awards.

Compensation for medical expenses may be awarded up to the amount of Twenty Thousand Dollars (\$20,000.00), and compensation for all other purposes allowed under this Chapter shall not exceed Ten Thousand Dollars (\$10,000.00). *8 GCA § 161.90(b).*

SECTION 702. Attorney Fees.

The Commission may award reasonable attorney fees as provided for in *8 GCA § 161.40*. The Commission shall require the attorney to submit an Affidavit of Attorney Fees to the OAG within thirty (30) days of the issuance of a final decision of the Commission. An award of fees is not subject to reconsideration or appeal.