



Freedom Network USA

April 5, 2024
Office of Justice Programs
US Department of Justice

VIA regulations.gov

RE: Freedom Network USA's Public Comment on the Victims of Crime Act (VOCA) Victim Compensation Grant Program Proposed Rule (OJP-2024-0001)

Freedom Network USA (FNUSA), established in 2001, is a coalition of 101 non-governmental organizations and individuals that provide services to and advocate for the rights of trafficking survivors in the US. Since the enactment of the Trafficking Victims Protection Act of 2000, FNUSA members have worked to ensure that trafficking survivors receive the full array of legal and social services needed and that they are engaged in ensuring effective implementation of the law.

Criminal Histories and VOCA Claims

Criminal records act as significant barriers to survivors' recovery from trafficking. Survivors of trafficking are frequently arrested, prosecuted, and convicted for crimes related to their trafficking experience. While most states offer record relief for prostitution arrests and convictions, rarely are survivors able to clear their full records. For federal records, there is no option for vacatur or expungement. FNUSA's Survivor Reentry Project is supporting over 146 survivors across the country, working to clear criminal records of a total of over 1,315 charges.¹ These charges include Prostitution (50%), Drug Offenses (10%), Theft/Larceny (9%), Trespass/Loitering (6%), Forgery/false Documents (5%), Assault/Battery (3%), Robbery (2%), and Other (15%).

Criminal records create barriers to legal employment, safe housing, and custody of children. Black, Brown, and Trans survivors face criminalization at disproportionate rates.² Achieving economic stability is crucial for trafficking survivors to prevent them from becoming vulnerable to further exploitation. Many survivors have significant debt, including debt taken out in their

¹ Freedom Network USA, <https://freedomnetworkusa.org/advocacy/survivor-reentry-project/>

² K.B. White, "Impact of Arrest and Conviction Histories on Trafficking Survivors," Freedom Network USA, December 6, 2021, <https://freedomnetworkusa.org/2021/11/10/impact-of-arrest-and-conviction-histories-on-trafficking-survivors/>

names by traffickers. Paying off fines and restitution for crimes they were forced to commit digs survivors into an even greater financial hole.

§ 94.222 Criminal History and Delinquent Payments

The changes in the proposed rule regarding the consideration of existing criminal histories in determining VOCA claim approvals are a significant step forward in ensuring survivors of trafficking are able to access all remedies available to them. Survivors should be able to access compensation regardless of immigration status and criminal history. Proposed changes 10 and 11 are crucial to helping more survivors access compensation to which they are entitled.

Although these changes are a great step forward, a few questions remain. By allowing states to deny or delay compensation due to delinquency in payments of restitution or fines, the rule suggests that survivors who are facing the impact of criminalization will be unable to receive compensation. No one should be denied compensation for victimization simply because they have committed a crime, whether they are a survivor of trafficking or not.

§ 94.223 Contributory Conduct

Providing an exception for contributory conduct that was the result of force, fraud, or coercion is essential. Proposed change 12 should be included in the final rule to ensure survivors are not prevented from accessing compensation due to contributory conduct related to their trafficking experience.

VOCA compensation should not be restricted to “perfect” victims. DOJ should maintain these positive changes to the rule and consider updates to ensure all survivors are able to access compensation. Thank you for your consideration of these comments. I can be reached at emma@freedomnetworkusa.org if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Emma Ecker". The signature is fluid and cursive, with the first name being the most prominent.

Emma Ecker
Senior Policy Specialist
Freedom Network USA