

Minnesota Crime Victim Reparations and the Police Report Requirement:  
How tying crime victim compensation to the criminal justice system limits access for  
victims of diverse backgrounds

**MPP Professional Paper**

In Partial Fulfillment of the Master of Public Policy Degree Requirements  
The Hubert H. Humphrey School of Public Affairs  
The University of Minnesota

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August 9, 2021

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August 16, 2021      August 20, 2021  
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## Acknowledgements

I would like to thank my Humphrey School professors, especially my advisors on this paper: Deborah Levison and Christina Melander. Thank you for spending your valuable time providing me with important feedback to make this paper successful.

I am also grateful to my family, friends, and previous roommates for providing me with support not only during the writing process, but throughout the three stressful years I was both a graduate student and full-time professional. I am sure I was not always pleasant to be around, but thank you for believing in me and doing what you could to make life easier.

Thank you also to my coworkers at the Aurora Center for their flexibility and for believing in me.

Finally, thank you to everyone who participated in this research—victim advocates in Minnesota, compensation policy experts, and CVR program staff. This research would not be possible without you.

I give enormous credit to my peers Ariana Kopycinski and Veronica Cadavid Gonzalez, two Masters of Human Rights students at the Humphrey School of Public affairs, and co-authors on a paper we wrote in spring of 2021 on the CVR program.<sup>1</sup> Thank you to both of you for your incredible work, and for your permission for me to build on our joint paper.

The University of Minnesota Twin Cities is located on lands of Indigenous people, specifically on Dakota land ceded in the Treaties of 1837 and 1851. I include this land acknowledgement as one way to honor this community and contribute to ongoing education regarding American Indians and their inherent sovereignty.

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<sup>1</sup> Title of paper: Minnesota Crime Victim Reparations Board Program: Accessibility for Gender-Based Violence Survivors. Written in PA 5041: Qualitative Research Methods.

## Abstract

The Crime Victim Reparations Board (CVR) is an Office of Justice Program within the Minnesota Department of Public Safety that provides financial compensation to victims of private crimes to cover incurred costs resulting in injury or death. The program determines eligibility of applicants through requirements written into state statute. If accepted, applicants can receive coverage for common costs incurred due to the crime. Literature on victim compensation programs shows that victims encounter potential barriers in accessing compensation due to eligibility requirements outlined in the application and determined by state law. One of the key criteria of program eligibility is making a report to law enforcement, in most cases within 30 days of the crime. This requirement has existed since the inception of CVR, linking compensation directly to the criminal justice system. However, racial justice advocates have gained more public support recently by calling attention to the systemic racial inequalities ingrained in the criminal justice system, including bias and a documented lack of trauma-informed approach in law enforcement response. Many victim advocates, who serve survivors of gender-based violence, have joined the racial justice movement, recognizing that their anti-violence work is intersectional in dismantling multiple systems of oppression, as well as questioning their own place as liaisons to the criminal justice system. Utilizing analysis from these anti-racist, feminist, and anti-carceral movements and applying it to data gathered from victim advocates and system professionals in Minnesota via individual interviews, I explore the impact of this requirement for victims of diverse identities in accessing compensation and propose that the Minnesota CVR program allow the requirement to be waived. I end with a series of recommendations to solidify this waiver into policy and Minnesota statute.

## Introduction

The Minnesota Crime Victim Reparations Board (CVR) is an Office of Justice Program within the Minnesota Department of Public Safety that provides financial compensation to victims of private crimes to cover incurred costs resulting in injury or death.<sup>2</sup> The program determines eligibility of applicants through requirements written into state statute and informed by federal guidelines.<sup>3</sup> If accepted, applicants can seek coverage for common costs incurred due to the crime. State compensation programs may provide financial coverage to victims for: medical expenses from physical injuries not covered by insurance, mental health counseling, loss of wages, and funeral expenses paid to the family should the victim die as a result of a crime. Outside of these requirements, states are free to choose whether to cover additional expenses, such as attorney fees, moving expenses, and crime-scene cleanup.<sup>4</sup>

One of the key criteria of Minnesota's program eligibility is that victims report the crime to police within a 30-day period, except for in cases of sexual assault and child abuse, for which the time limit is waived. This requirement is typical among most U.S. state compensation programs, which are financed with both state funds and matching federal funds. These federal funds originated with the Victim of Crime Act of 1984 (VOCA), whose guidelines encourage—but do not mandate—the promotion of “victim cooperation with the reasonable requests of law enforcement authorities.”<sup>5</sup> Thus, state compensation programs directly link victim

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<sup>2</sup> Office of Justice Programs. (n.d.). *Minnesota Crime Victim Reparations Board*. <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-reparations.aspx>; In the event of death, the CVR compensates families of the deceased victim.

<sup>3</sup> Minnesota Crime Victims Reparations Act, MINN. STAT. 611A.51-68 (2020). <https://www.revisor.mn.gov/statutes/cite/611A.51>.

<sup>4</sup> Hancock, L. N. (2020). Another collateral consequence: Kicking the victim when she's down. *Washington and Lee Law Review*, 77(3), 1319-1374. <https://heinonline.org/HOL/P?h=hein.journals/waslee77&i=1312>.

<sup>5</sup> Crime Victim Compensation, §U.S.C. 20102. (1984). [https://uscode.house.gov/view.xhtml?req=\(title:34%20section:20102%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:34%20section:20102%20edition:prelim)).

reimbursement of crime costs to the criminal justice system by implementing this eligibility criterion. According to Minnesota CVR, victims are required to “cooperate fully” with police, to not have been the offender or an accomplice to the offender of the claimed crime, to not have been in the act of committing a crime at the time of injury, and to file the claim within three years of injury.<sup>6</sup>

The CVR program in Minnesota is well accessed, with 1,808 applications approved from October 2018-September 2019.<sup>7</sup> Domestic and sexual assault make up some of the most commonly documented crimes in these applications. These fall under the category of gender-based violence (GBV), which is understood to be an umbrella term for human rights violations in the form of physical, sexual, and emotional harm caused from one person to another on the basis of gender or sexuality.<sup>8</sup> Subcategories of GBV include domestic violence, intimate partner violence,<sup>9</sup> sexual assault, sex trafficking, sexual harassment, and stalking. Victims of gender-based violence often learn about the program through working with victim advocates—service providers typically employed by non-profit anti-violence agencies who help victims navigate trauma and legal processes after experiencing violence. Often, victim advocates serve as liaisons to the criminal justice system, communicating with police and prosecution as well as accompanying victims who report to police or testify during court hearings. Many victim

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<sup>6</sup> Minnesota Crime Victims Reparations Act, (2020).

<sup>7</sup> Office for Victims of Crimes. (2019.) Annual Performance Measures Report. *Victim Compensation Formula Grant Program*; CVR provided their Annual Performance Measures Report upon my request of quantitative data from a recent program year.

<sup>8</sup> World Health Organization. (2021). Violence against women. *WHO*. [https://www.who.int/health-topics/violence-against-women#tab=tab\\_1](https://www.who.int/health-topics/violence-against-women#tab=tab_1); UNICEF. (2020). Gender-based violence in emergencies. *UNICEF*. <https://www.unicef.org/protection/gender-based-violence-in-emergencies>.

<sup>9</sup> World Health Organization. (2013). Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines. *WHO*. <https://www.who.int/reproductivehealth/publications/violence/9789241548595/en/>; United Nations, Committee on the Elimination of Discrimination against Women. (2017). *General recommendation No. 35 on gender based violence against women, updating general recommendation No. 19* (pp. 1-19). Geneva: United Nations. [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_35\\_8267\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf).

advocates hold a confidential, “privileged” status established by Minnesota state law that allows them to build strong rapport with survivors of violence.<sup>10</sup>

The CVR program provides an essential service of compensating victims for costs incurred of up to \$50,000 per crime. Although available to any crime victims who meet the eligibility criteria, the program affords significant relief particularly for uninsured, underinsured, and low-income victims. Advocates working with victims who receive coverage for claims recognize the invaluable impact that this resource has on a victim’s financial wellbeing. However, the strict eligibility requirements and categories of coverage often cause denials of applications, effectively acting as barriers to victims receiving necessary compensation. In 2018-19, CVR denied or closed 752 applications out of 2,560, with 36 of these denials due to failure to report to or cooperate with law enforcement.<sup>11</sup> While this number may seem low (at 1.6% percent of all applications), it does not include the potentially very large number of victims who chose not to file CVR applications because they did not report to law enforcement and knew they would therefore be ineligible for compensation or who were simply unaware of the program. Unfortunately, it is difficult to quantify how large this pool of victims is, as CVR does not typically have contact with victims who do not apply for compensation and therefore is unable to document these numbers.

Additionally, resistance to policing and the prison-industrial complex from racial equity advocates has gained recent widespread support due to the anti-racist, anti-criminal justice, and anti-law enforcement movements that have swept the country throughout the past two decades,

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<sup>10</sup> Testimony of Witnesses, MINN. STAT. 611A.51-68 (2020). MINN. STAT. 595.02(1). <https://www.revisor.mn.gov/statutes/cite/595.02>.

<sup>11</sup> Office for Victims of Crimes. (2019).

and particularly throughout the past year.<sup>12</sup> Police brutality toward Black people is now recorded, distributed via various media, and viewed more than ever before, resulting in public awareness about long-standing bias in our public safety structure. Racial equity activists condemn the racist foundation and continuance of policing and the courts, which have allowed officials to engage in state-sanctioned violence against oppressed communities since the country's inception. Black Americans make up "40 percent of the current prison population, while accounting for only 12 percent of the U.S. population."<sup>13</sup> Feminist and anti-racist scholars and activists have challenged the notion that the criminal justice system actually makes our society safer, demonstrating how it perpetuates discrimination and inequalities, while failing to respond to what victims need most—resources.<sup>14</sup>

Many gender-based violence victim advocates have begun to recognize that the anti-violence movement is intersectional in its goal to end all types of violence and oppression—including racism, colorism, anti-Blackness, classism, sexism, and ableism. Having worked professionally as a victim advocate for over six years, I have participated in many thoughtful discussions around this goal. We question how the field of gender-based violence victim advocacy and prevention must transform to be more anti-racist and provide for alternative paths to justice and healing beyond the criminal justice system. Many communities have turned to exploring restorative justice and mutual aid as answers to repairing harm, redistributing resources, and avoiding systems established by the state, which is often viewed as the oppressor.

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<sup>12</sup> Critical Resistance, & Incite! (2003). Critical Resistance-Incite! Statement on Gender Violence And the Prison-Industrial Complex. *Social Justice*, 30(3), 141–150. <http://www.jstor.org/stable/29768215>; Jacobs, L., Kim, M., Whitfield, D., Gartner, R., Panichelli, M., Kattari, S., & Downey, M.M., Mcqueen, S., & Mountz, S. (2020). Defund the Police: Moving Towards an Anti-Carceral Social Work. *Journal of Progressive Human Services*. 32. 1-26. [http://d-scholarship.pitt.edu/39755/2/JPHS\\_Defund%20the%20Police\\_092520\\_dscholarship.pdf](http://d-scholarship.pitt.edu/39755/2/JPHS_Defund%20the%20Police_092520_dscholarship.pdf).

<sup>13</sup> The Sentencing Project. (2018). "Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System." *The Sentencing Project*. <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>.

<sup>14</sup> Critical Resistance, & Incite!, (2003).

However, many important resources remain with and are provided by the state—Crime Victim Reparations being one of them. Thus, I ask the following research questions:

1. What is the impact of requiring victims, who need compensation for costs incurred from a crime, to report to law enforcement in order to receive said compensation?
2. What is the impact particularly for victims from marginalized communities? I define marginalized communities as those who have historically and still today experience systemic oppression and discrimination: people who identify as Black, Indigenous, and People of Color (BIPOC), disabled by a seen or unseen disability, LGBTQIA+, women, sex workers, people who experience poverty and homelessness, undocumented immigrants, and immigrants with limited English proficiency.
3. What are the policy implications of CVR maintaining the requirement for approved applicants to report to law enforcement? What policy innovations might be possible if this requirement is shown to limit access to some groups of people?

## Literature Review & Social Context

Literature related to victim compensation programs in the United States has focused on accessibility barriers due to strict eligibility requirements, including reporting to law enforcement within a 30-day period, victim cooperation with police, and filing a claim within a three-year period, among others. These state requirements are potential barriers to accessing the

compensation program for reasons that include victim distrust of law enforcement,<sup>15</sup> fear of re-traumatization through the reporting and investigative process,<sup>16</sup> and disempowerment caused by poverty.<sup>17</sup> The literature demonstrates an underutilization of victim compensation funds by victims of domestic violence due to program requirements.<sup>18</sup> It also questions accessibility to the program for Black, Indigenous, and People of Color (BIPOC) and disabled people, who experience policing, police violence, and incarceration at disproportionately higher rates.<sup>19</sup> This results in an underutilization of victim compensation funds by victims of domestic violence due to program requirements,<sup>20</sup> demonstrating a need for alternative methods of justice that meet the needs of GBV victims.<sup>21</sup>

While victim advocacy started as a grassroots, non-state funded field, it became professionalized and intertwined with the state over the last part of the 20th century. The passing

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<sup>15</sup> Xie, M. & Baumer, E. P. (2019). Crime victims' decisions to call the police: Past research and new directions. *Annual Review of Criminology*, 2, 217-240. <https://doi.org/10.1146/annurev-criminol-011518-024748>.

<sup>16</sup> Naylor, B. (2010). Effective justice for victims of sexual assault: Taking up the debate on alternative pathways. *University of New South Wales Law Journal*, 33(3), 662-684. <https://heinonline.org/HOL/P?h=hein.journals/swales33&i=670>.

<sup>17</sup> Mogulescu, K. (2020). Legal Systems and Needs: Considerations for Survivors of Gender-Based Violence. In V. Ades V. (Ed.), *Sexual and Gender-Based Violence: A Complete Clinical Guide* (pp. 234-5). Springer International Publishing. [https://doi.org/10.1007/978-3-030-38345-9\\_13](https://doi.org/10.1007/978-3-030-38345-9_13).

<sup>18</sup> Rutledge, N. M. (2011). Looking a gift horse in the mouth: The underutilization of crime victim compensation funds by domestic violence victims. *Duke Journal of Gender Law & Policy*, 19(1), 223-274. <https://heinonline.org/HOL/P?h=hein.journals/djglp19&i=225>.

<sup>19</sup> Wacquant, L. (2010). Class, race & hyperincarceration in revanchist America. *Daedalus*, 139(3), 74-90. [https://doi.org/10.1162/DAED\\_a\\_00024](https://doi.org/10.1162/DAED_a_00024); Mapping Police Violence. (2020). Mapping Police Violence. <https://mappingpoliceviolence.org>; Saleh, A. Z., Appelbaum, P. S., Liu, X., Scott Stroup, T., & Wall, M. (2018).

Deaths of people with mental illness during interactions with law enforcement. *International Journal of Law and Psychiatry*, 58, 110-116. <https://doi.org/10.1016/j.ijlp.2018.03.003>; INCITE! (2016). *Color of violence: The INCITE! anthology*. Duke University Press.

<https://ebookcentral.proquest.com/lib/umn/detail.action?docID=4653378>; Newmark, L., Bonderman, J., Smith, B., & Liner, B. (2003). National Evaluation of State Victims of Crime Act Assistance and Compensation Programs: Trends and Strategies for the Future. *National Institute of Justice*. <https://www.urban.org/sites/default/files/publication/59536/410924-The-National-Evaluation-of-State-Victims-of-Crime-Act-Assistance-and-Compensation-Programs-Trends-and-Strategies-for-the-Future-Full-Report-.PDF>.

<sup>20</sup> Rutledge, N. M., (2011).

<sup>21</sup> Kim, M. (2013). Challenging the pursuit of criminalisation in an era of mass incarceration: The limitations of social work responses to domestic violence in the USA. *British Journal of Social Work*, 43(7): 1276. <https://doi.org/10.1093/bjsw/bcs060>.

of the 1984 Victims of Crime Act helped fund state compensation programs,<sup>22</sup> and the 1994 Violence Against Women Act aimed to improve criminal justice responses to crimes of gender-based violence.<sup>23</sup> While these federal funds are designated to help victims, their guidelines caused state funding and response programs to become linked to the criminal justice system and its prosecutorial agenda.<sup>24</sup> This is demonstrated by state laws that require victims to report to police in order to receive compensation after a crime, mandatory arrest laws for domestic disputes, and prosecution's ability to subpoena victims for testimony. When advocacy agencies accepted federal funding in exchange for forming partnerships with local law enforcement agencies and district attorney's offices, the advocacy agencies gained funds for victims but did so by simultaneously solidifying the agenda of law enforcement and the criminal justice system. Early feminist discussions regarding victim advocacy services embraced this pro-policing, mainstream approach to justice that aimed to keep women safe by putting offenders behind bars. Later, this so-called "carceral feminism" was critiqued for supporting racial injustice.

### ***Carceral Feminism***

Anti-violence advocates of the 1970s—whose mission was to end gendered oppression—adopted this formal, case-work approach of carceral feminism that is understood as the commitment to criminal penalties and incarceration as a way of preventing gendered violence and finding justice for victims.<sup>25</sup> This approach is exemplified by mainstream (white) feminists' push for mandatory domestic violence arrests and the enhancement of court sentences for

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<sup>22</sup> Hancock, L. N., (2020).

<sup>23</sup> Jacobs, L., et al., (2020).

<sup>24</sup> Kim, M. E. (2018). From carceral feminism to transformative justice: Women-of-color feminism and alternatives to incarceration. *Journal of Ethnic & Cultural Diversity in Social Work*, 27(3), 219–233. <https://doi.org/https://doi.org/10.1080/15313204.2018.1474827>.

<sup>25</sup> Bernstein, E. (2010). Militarized humanitarianism meets carceral feminism: The politics of sex, rights, and freedom in contemporary antitrafficking campaigns. *Signs*, 36(1), 45. Doi: <http://dx.doi.org.ezp2.lib.umn.edu/10.1086/652918>; Kim, M. E., (2018).

repeated acts of violence. However, progressive anti-violence activists began to question this approach in the 1990s, gaining more widespread support at the turn of the 21st century. Critics recognized that this model ultimately results in advocates' engagement in oppression against Black, poor, and other bodies of color through disproportionate policing and incarceration practices. Some voiced concern over the increasing instances of victims with these identities being arrested when seeking help, due to their use of self-defense or in some cases, victims' own previous criminal conduct. Some scholars point out the emphasis on hegemony within the criminal justice system and state laws, which tends to "leave neoliberal imperial structural violence unquestioned."<sup>26</sup> The critique of carceral feminism also makes apparent the lack of redistribution of resources in the criminal justice response as well as the lack of recognition of gender-based violence as a cultural and societal issue, instead limiting it to the scope of an individual crime.<sup>27</sup>

### ***Racial Violence and Injustice***

While law enforcement agencies are known in many communities as positive forms of public safety, they are often viewed as threats to one's life in communities of color. Policing and the criminal justice system have racist foundations that implicitly inform their current practices. The Social Service Workers United-Chicago released a statement in response to the National Association of Social Work's minimal response to police violence and endorsement of police reform, writing:

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<sup>26</sup> Chew, H. A. (2021). Bringing the Revolution Home: Filipino Urban Poor Women, "Neoliberal Imperial Feminisms," and a Social Movements Approach to Domestic Abuse. *Women's Studies Quarterly*, 46(3 & 4), 49-68. DOI: <https://doi.org/10.1353/wsq.2018.0031>.

<sup>27</sup> Kim, M. E., (2018).

One cannot discuss the history of policing in the United States without addressing how American policing was born out of slavery and the formation of “slave patrols”. Policing, and our current system of mass incarceration show that while some forms of slavery were abolished by the 13th Amendment, the state’s exploitation of Black labor and targeted torture, rape, and murder of Black people has continued without interruption.<sup>28</sup>

Police are critiqued in this way as historical and current tools of white supremacy, upholding the “law and order” with weapons on behalf of those in power who wish to maintain the status quo.<sup>29</sup> It is important to examine how law enforcement’s historical roots continue to impact its current execution and protocol, and in turn, how these may affect BIPOC crime victims’ willingness to call for help.

Within the state of Minnesota, and particularly the local context of Minneapolis/St. Paul, the widespread realization of discrimination in policing and criminal justice has grown throughout the past decade. This is due greatly to the deaths of several Black men, including Jamar Clark, Philando Castile, George Floyd, Daunte Wright, and Winston Smith, who were killed by law enforcement, though these men were often unarmed and in seemingly non-threatening situations such as traffic stops.<sup>30</sup> Although these types of gross injustices and disregard for Black lives are not new to Minneapolis or the United States, cell phones and police body cameras have enhanced much of the public’s ability to conclude that these are instances of state-sanctioned, racist violence. While anti-racist and anti-police brutality organizations like

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<sup>28</sup> Social Service Workers United-Chicago. (2020.) “The NASW is failing us. Either it changes, or we will change it ourselves.” <https://socialserviceworkersunited.medium.com/the-nasw-is-failing-us-either-it-changes-or-we-will-change-it-ourselves-b1da4c8a0096>.

<sup>29</sup> Jacobs, L., et al., (2020).

<sup>30</sup> Davis, A. and Zamora, K. (2020.) “Revisiting the life of Jamar Clark, 5 years after his death.” *MPR News*. <https://www.mprnews.org/episode/2020/11/13/davis-revisiting-the-life-of-jamar-clark-5-years-after-his-death>.

Black Lives Matter and MPD150 have been advocating for reform and abolition for years, the murder of George Floyd by Minneapolis Police Department (MPD) officers in May 2020 catalyzed racial justice movements across not only the United States, but internationally.<sup>31</sup> A recent article by news source Kare 11 documented that MPD officers disproportionately use force against Black individuals compared to those of other races.<sup>32</sup> Coincidentally, since racial tensions have increased locally after Floyd's death, MPD was found to be routinely neglecting to list in reports the race of individuals against whom they use force, thus causing the data around racialized police violence to be difficult to collect and analyze. Shootings and murders of Black men and women by police across America have caused many citizens to cry for criminal justice reform, or more radically, its abolition.

Unique barriers to equity and justice exist for specific racial and cultural communities, impacting their victims and perpetrators in particular and disempowering ways that connect to their identities and deter reporting. Many BIPOC individuals in situations of violence and conflict feel like they cannot seek safety via a formal system due to racial discrimination. For them, it is impossible to separate gender injustice from racial injustice, as it is the combination of the two that uniquely blocks them from accessing certain system options. For example, a Black woman may not want to report a Black man for a crime, for fear of the system being unfair and biased by putting one more Black body in prison. Although she desires to be safe and for him to not repeat his violent behavior, she may not want him to be harmed by the prison system. The Sentencing Project reports that “African-American adults are 5.9 times as likely to be

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<sup>31</sup> Burch, A. D. S., Harmon, A., Tavernise, S., and Badger, T. (2021.) “The Death of George Floyd Reignited a Movement. What Happens Now?” *New York Times*. <https://www.nytimes.com/2021/04/20/us/george-floyd-protests-police-reform.html>.

<sup>32</sup> Stahl, B., Lagoe, A.J., & Eckert, S. (2021, July 8). Race increasingly listed as 'unknown' in MPD Use of Force reports. *Kare 11*. <https://www.kare11.com/article/news/investigations/kare-11-investigates-race-increasingly-listed-as-unknown-in-mpd-use-of-force-reports/89-2439f86f-0d19-4a0c-8bfa-e9be7b099979>.

incarcerated than whites,”<sup>33</sup> due to harsher sentencing punishments for less expensive drugs, the over-policing of Black neighborhoods, racial profiling, and “stop and frisk” policies, as well as systemic bias ingrained in policies, adjudicatory decisions, and welfare programs.<sup>34</sup> Many Black women are aware of these prejudicial policies and know that if they choose to seek criminal justice against a Black man, he may be subject to these racist forms of state violence. BIPOC victims themselves, particularly if they have their own criminal record, may fear being viewed as the aggressor due to racial bias on the part of law enforcement and decide not to report.

Additionally, immigrant women may not want to report the immigrant father of their children despite his abuse of her, in fear of his detention and deportation, for he may be their financial source and still an important figure to their children. In some ethnic cultures, crimes of sexual violence are taboo and bring shame upon the victim and their families (even more than for the perpetrator), acting as a strong deterrent to reporting the violence or even speaking about it. Families experiencing domestic abuse from someone with mental health issues may fear that person not being treated fairly by the system, or worse, that they may be killed by police or paramedics by use of lethal force or sedatives, as has happened in the deaths of two Black men named Elijah McClain and Daniel Prude.<sup>35</sup> These fears, accompanied by many more specific to Native communities, disabled people, and other oppressed groups,<sup>36</sup> are well-known reasons to advocates as to why individuals of many identities avoid interaction with law enforcement, and why some crime victims may not want to report to law enforcement at all.

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<sup>33</sup> The Sentencing Project, (2018).

<sup>34</sup> Jacobs, L., et al., (2020).

<sup>35</sup> Tomkins, L. (2021, February 23). “Here’s What You Need to Know About Elijah McClain’s Death.” *The New York Times*. <https://www.nytimes.com/article/who-was-elijah-mcclain.html>.

; Hill, M.; Thompson, C. (2021). “No charges against officers involved in Daniel Prude’s death.” *PBS*. <https://www.pbs.org/newshour/nation/no-charges-against-officers-involved-in-daniel-prudes-death>.

<sup>36</sup> Saleh, A. Z., et al., (2018).

The intersection of gender-based violence and racialized violence, and their unique impact on women of color, acts as a catalyst to remind victim advocates that we must be against all forms of violence and abuses of power. At this peak time of recognition with the racism ingrained in our systems, society, and policies, advocates have begun to realize that we are complicit in these abuses through our ongoing professional support of incarceration practices and strong ties to law enforcement and the criminal justice system. In Minnesota, a group of gender-based violence victim advocates formed to discuss how our programs and systems must change in order to offer a multitude of services that meet the diverse needs and identities of our clients and which critically examine the harm that is caused to communities of color and other marginalized communities by these carceral feminist approaches to our legal advocacy. Advocates have noticed a trend in fewer victims wanting to report crimes of gender-based violence, for fear of police interaction and cooperating with the criminal justice system. While individual police officers often care deeply about victims and justice, advocates have long recognized that victims' interactions with police can be re-traumatizing and that their racist foundations, lack of trauma-informed protocol, implicit bias, and prioritization of incarceration over public safety can easily act as barriers to victims reporting or getting access to resources connected to the legal system.<sup>37</sup>

### ***Gendered Violence and Injustice***

Additional research exists around law enforcement not believing victims and utilizing poor investigative techniques. In Minnesota, the Star Tribune reported a series named *Denied Justice: When rape is reported and nothing happens*, which documented numerous accounts

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<sup>37</sup> Wacquant, L., (2010).; Mapping Police Violence, (2020).; Saleh, A. Z., et al., (2018); Jacobs, L., et al., (2020); INCITE!, (2016).

from survivors of sexual violence who reported their assaults to law enforcement agencies in Minnesota, only to be disbelieved, be treated poorly, or learn of chronic errors made in investigations by detectives.<sup>38</sup> These victims' stories highlight not only the failure of our criminal justice system's collection of evidence and communication with victims, but also the explicit bias against the cases of some victims who were women of color, low-income, or convicted criminals themselves, who were ignored and deemed less worthy of justice by police. The majority of survivors (most sources estimate around 70%) choose not to report to law enforcement,<sup>39</sup> for a myriad of reasons that stem from fears—fear of not being believed, of being treated unfairly, of experiencing retaliation, and more, as discussed above. Many victims already experience emotions of self-blame and shame, and when these harmful and unjust emotions are validated by an officer in a position of authority, word spreads that reporting to police is unsafe and ineffective. This is intensified for women of color, especially Black and Native women, who are the last to be believed due to racist and misogynist violence stemming from eras of colonization and slavery.<sup>40</sup>

While some law enforcement departments and officers and district attorneys work hard to provide compassionate services to victims and bring them justice, the vast majority of sexual assault reports go unprosecuted,<sup>41</sup> and GBV victims may not feel like the criminal justice system

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<sup>38</sup> Stahl, B., BJORHUS, J., WEBSTER, M.J., & COVINGTON, H. (2018, January 25). Denied Justice. When rape is reported and nothing happens: How Minnesota's criminal justice system has failed victims of sexual assault. *Star Tribune*. <https://www.startribune.com/denied-justice-series-when-rape-is-reported-and-nothing-happens-minnesota-police-sexual-assault-investigations/487400761/>.

<sup>39</sup> Rennison, C. A. (2002). Rape and sexual assault: Reporting to police and medical attention, 1992-2000 [NCJ 194530]. Retrieved from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics: <http://bjs.ojp.usdoj.gov/content/pub/pdf/rsarp00.pdf>.

<sup>40</sup> Tanis, F., Ericka, D., Mills, L., & Richter-Montpetit, M. (2018). Sexualized violence and torture in the afterlife of slavery: An interview with Farah Tanis and Ericka Dixon of Black Women's Blueprint. *International Feminist Journal of Politics*, 20(3), 446-461. <https://doi.org/10.1080/14616742.2018.1486082>.

<sup>41</sup> Van Dan, A. (2018, October 6). "Less than 1% of rapes lead to felony convictions. At least 89% of victims face emotional and physical consequences." *The Washington Post*.

brings them a sense of healing.<sup>42</sup> In the groundbreaking 2003 statement from INCITE!, it is stated that “Reliance on the criminal justice system has taken power away from women’s ability to organize collectively to stop violence and has invested this power within the state. The result is that women who seek redress in the criminal justice system feel disempowered and alienated.”<sup>43</sup> Much prior feminist, anti-carceral, and anti-racist research exists to demonstrate many groups’ desires to reject law enforcement and the criminal justice system, both to bring more diverse healing options, and to confront the deep fear and concern for equity and justice rooted in these legal practices.<sup>44</sup> Conversations among advocacy agencies have centered around how to increase resources and make them accessible for victim/survivors of all identities, without them being required to engage in racist, patriarchal, and potentially re-traumatizing systems.

### *Alternative Solutions*

Anti-violence, anti-racist feminist women of color advocates have led the movement throughout the last two decades in questioning this carceral feminist approach to advocacy. Mimi Kim is a researcher and activist who co-founded INCITE! and founded Creative Interventions,<sup>45</sup> two organizations that center communities of color through reimagining non-systemic, non-carceral solutions for gendered and racial violence. The landmark 2003 statement by Critical Resistance and Incite! succinctly states:

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<https://www.washingtonpost.com/business/2018/10/06/less-than-percent-rapes-lead-felony-convictions-least-percent-victims-face-emotional-physical-consequences/>.

<sup>42</sup> Kunst, M., Popelier, L., & Varekamp, E. (2015). Victim Satisfaction With the Criminal Justice System and Emotional Recovery Victim Satisfaction With the Criminal Justice System and Emotional Recovery: A Systematic and Critical Review of the Literature. Source: *Trauma, Violence & Abuse*, 16(3), 336–358.

<https://doi.org/10.2307/26638363>; Stahl, B., et al. (2013).

<sup>43</sup> Critical Resistance-Incite!, (2003).

<sup>44</sup> Jacobs, L., et al, (2020); Critical Resistance-Incite!, (2003); INCITE!, (2016); Kim, M., (2013); Kim, M. E., (2018). Wong, W. (2020). 'Defund the police' movement could offer sexual assault survivors a different path for justice, experts say. *NBC News*. <https://www.nbcnews.com/news/us-news/defund-police-movement-could-offer-sexual-assault-survivors-different-path-n1235478>.

<sup>45</sup> Creative Interventions. (n.d.). “About the founder.” <https://www.creative-interventions.org/about-the-founder/>.

It is critical for us to develop responses to gender violence that do not depend on a sexist, racist, classist, and homophobic criminal justice system. It is also important that we develop strategies that challenge the criminal justice system, while providing safety for survivors of sexual and domestic violence. To live violence-free lives, we must develop holistic strategies for addressing violence that speak to the intersection of all forms of oppression.<sup>46</sup>

These strategies often take the form of restorative or transformative justice, which serve as less formal, more community-based practices that aim to bring healing to impacted people and which originated with First Nation peoples in Canada, as well as in South Africa and New Zealand.<sup>47</sup> Kim writes in her article *From carceral feminism to transformative justice: Women-of-color feminism and alternatives to incarceration* that in the practice of transformative justice, “The emphasis on the level of community is also posed as an alternative and challenge to the authority of the criminal justice system, child welfare system, or even nonprofit organizations.”<sup>48</sup> By decreasing reliance on the state and engaging in a process of safety, accountability, and healing for everyone involved, transformative justice denies the criminal justice system from committing further acts of state violence in the form of traumatizing arrests and imprisonment. The powerful structure of the criminal justice system has begun to face widespread public scrutiny, especially in the face of concerning research that found police arrests of abusers to disproportionately increase violence against Black women compared to white women.<sup>49</sup> Some courts have begun to

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<sup>46</sup> Critical Resistance, & Incite!, (2003).

<sup>47</sup> Llewellyn, J., & Philpott, D. (2014). *Restorative justice, reconciliation, and peacebuilding*. Oxford; New York: Oxford University Press, USA.

<sup>48</sup> Kim, M. E., (2018).

<sup>49</sup> Sherman, L.W., and Harris, H.M. 2014. “Increased Death Rates of Domestic Violence Victims from Arresting vs. Warning Suspects in the Milwaukee Domestic Violence Experiment (MilDVE).” *Journal of Experimental Criminology*, 11(1): 1–20. <https://link.springer.com/content/pdf/10.1007/s11292-014-9203-x.pdf>.

consider offering diversion programs for appropriate cases that could act as an alternative to the criminal justice process. Advocacy organizations and college campuses have turned to research on restorative and transformative justice, mutual aid, and other alternative forms of healing and community support that do not utilize formal disciplinary or adjudicatory systems like Title IX or the courts. These solutions are structured to more effectively address intersectional oppressions and repair harm than the hetero-patriarchal structure of the criminal justice system.<sup>50</sup> While various forms of restorative justice have been practiced for years, the empirical research to confirm its effectiveness regarding recidivism and prevention continues to grow.

Other organizations, such as Black Youth Project 100, Generation 5, and Communities Against Rape and Abuse are using similar practices to create change without utilization of the criminal justice system and by recognizing that anti-violence work must be intersectional in addressing all forms of oppression. Coined by Kimberlé Crenshaw, the term intersectionality describes how one's lived experiences are impacted by the intersections of their identities—gender, race, class, ability status, and other.<sup>51</sup> Crenshaw wrote about gender-based violence that women experience in the African-American community and how their racial and gender identities combined caused them to be vulnerable to multiple forms of violence and discrimination, while their needs have not historically been considered in policy decisions and structural implementation of services. This theory highlights the disproportionality of violence

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<sup>50</sup> Community Accountability: Emerging Movements to Transform Violence. (2011). *Social Justice*, 37(4 (122)), 1-11. <http://www.jstor.org/stable/41478929>.

<sup>51</sup> Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139–168. <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>; Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), 1241–1299. <https://doi:10.2307/1229039>.

that Black women and other women of color experience, demonstrating how their marginalization is reflected in laws and programs that fail to meet their needs.<sup>52</sup>

While the CVR program provides an essential and wonderful service to crime victims, inequitable consequences of its connection to the criminal justice system must be examined so that necessary change can happen. Thus, I apply this analysis to the context of victim services in Minnesota by examining the impact of connecting crime victim compensation to victim participation in the criminal justice system. I hypothesize that a victim's ability to be financially whole following a crime is dependent on their willingness to report and prosecute their perpetrator, due to strict program eligibility criteria.

## Methodology

This paper builds on research completed in the spring of 2021 by myself and two classmates, Ariana Kopycinski and Veronica Cadavid Gonzalez. The research used a mixed methods study to hear from victim advocates in Minnesota. We recruited via three statewide advocacy email listservs utilizing specific sample criteria and a purposive sampling method (see Appendix A for the recruitment email). We conducted semi-structured individual interviews via Zoom with eight victim advocates from various advocacy programs in Minnesota, learning what facilitated or impeded victims' access to the CVR program, in their experience. The advocates' participation in our research was both voluntary and confidential, indicated by our consent form and verbal consent process (see Appendix B). Additionally, we interviewed one staff member at the Minnesota Crime Victim Reparations Board program to learn about challenges and

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<sup>52</sup> Kim, M. E., (2018).

innovations that the program has seen, especially in relation to the information from the advocates in previous interviews. For each interview, we wrote a contact note, which we coded and analyzed using Atlas.TI. From our data, we formulated three separate code groups based on our findings: protocol, eligibility requirements, and coverage.

This paper utilizes these findings, but narrows the focus to the program eligibility criterion of the police report. After synthesizing the first round of advocacy interviews, I built on my conclusions to form new research questions for a second round of interviews (see Appendix C for interview guides). I conducted four more interviews in summer of 2021, two with victim advocates and two with policy experts in other state compensation programs. The latter two interviews offered much insight related to my recommendations for the Minnesota Crime Victim Reparations Board, documented here in the Policy Implications section. I followed the same consent protocol and data organization methods as in the previous interviews. I then combined qualitative data from advocates' interviews with an analysis of feminist and anti-racist social movements happening both in Minnesota and nationally. My positionality as a victim advocate helped to inform my conceptual framework.

## Findings & Discussion

Victim advocates first shared about the importance of CVR and the positive impact that compensation had on the victims they worked with. Interviews consisted of significant praise for the program and recognition of its vital importance. Additionally, they provided essential insight into the impact of requiring victims to report to police in order to be eligible for CVR funds.

***Research Question #1:*** *What is the impact of requiring victims, who need compensation for costs incurred from a crime, to report to law enforcement in order to receive said compensation?*

Regarding the first research question, the findings were at first mixed. One advocate explained, “the police report isn’t a driving factor usually, but it has come up very rarely as a deciding factor. Usually they know if they want to report or not.” This comment is key; victims often know whether or not they feel comfortable reporting to police and whether this action will help them meet their goals or needs. A few other advocates answered similarly, stating initially that they did not find the requirement to report as cause for denial in victims’ cases. However, upon further discussion and analysis, I found that while it may be true that victims remained consistent in their desire to report or not, this desire did not necessarily correlate with whether or not they could have benefited from the CVR program had they been eligible.

*Advocates as gatekeepers:* Upon further elaboration from these advocates, most shared that they simply did not bring up compensation through the CVR program if the victim had not already reported to law enforcement and met the other requirements. Advocates may provide pamphlets or a list of resources, but if the victim did not already meet eligibility requirements, advocates knew not to spend much time discussing this option that would not be available to them. One advocate stated that she had initially attempted to file applications with typically covered claims and with no police report, but “quickly realized they would be denied.” Another stated, “Since I go over with them each of the requirements, I would make sure they already checked the boxes before we even start [the application] [...] I just wouldn’t submit something that was outside of the three years or if the [police] report hadn’t been made.” Advocates catered services to victims in this way because they are familiar with the requirements of the program, particularly that of reporting to law enforcement and its time limits. This theme was solidified in every interview with advocates; they “don’t talk about the program at all with them because they won’t qualify, they didn’t report the crime, they didn’t follow the steps that the state wants them

to follow.” If the victim showed no interest in reporting, then advocates knew they would be ineligible for compensation through the CVR program and that their application would be denied.

Therefore, while advocates had experience working both with victims who chose to engage and victims who declined to engage with the criminal justice system, advocates stated that they only assisted with CVR applications for victims who had already reported the crime to police, knowing that the application would otherwise be unsuccessful. This demonstrates advocates’ knowledge of state programs and policies and saves ineligible victims time and energy. However, as Grace Call from the Council of State Governments Justice Center noted in an interview, advocates thereby function as “gatekeepers.” Because they hold important knowledge regarding available resources and eligibility about which people are usually unaware, advocates use judgment in their decision whether to inform victims of CVR. For example, advocates spoke to the fact that if someone had extensive medical bills, they would provide information about CVR even if the victim had not reported to police. However, if a victim did not have any apparent incurred costs from the crime and was not interested in reporting, advocates typically would not share about the resource, as it would likely be less useful for that victim. While this catering of services to a victim’s specific circumstance is a common advocacy approach, the result is that advocates may fail to inform some non-reporting victims about the program—even if those victims would have liked to reconsider reporting and pursue compensation for therapy, for example—because advocates knew they would be initially denied without a police report. Therefore, I posit that the police report requirement acts, even if indirectly, as a deterrent to many victims who may have otherwise considered applying for compensation through the CVR program.

*Lack of data that captures program gaps:* Because victims learn from advocates that they won't be granted compensation if they do not meet the eligibility criteria, Call stated that the unfortunate result is that state compensation programs never interact with these victims to learn how policy should change to better meet their needs. CVR is unable to collect statistical data that accurately captures the large quantity of victims who may have financial need following a crime and would apply if eligibility requirements were less strict. Thus, program staff do not clearly see where gaps exist and cannot document the main reasons why victims who may benefit from compensation do not apply—all of which is information that could greatly inform policy change. Interviews with advocates confirmed that while they would like to see policy change regarding eligibility to compensate more survivors, they recognize their roles as helping victims navigate complicated processes, offering feasible options, and being transparent about the outcomes. Knowing policies and eligibility, and communicating these in consideration of each victims' specific circumstances, is part of advocacy's role; encouraging more ineligible victims to apply for the greater cause of changing policies, only for them to be individually denied compensation, is not. It is important for CVR to expand accessibility to meet more victims' needs without saddling them with the burden of demonstrating those needs.

*Reasons for lack of reporting:* Interviews with victim advocates confirmed that the requirement for victims to report to police acts as a significant barrier for a number of reasons. Advocates spoke to the dynamics of power and control in abusive relationships and sexual assault, and how these deter victims from reporting: "The barrier that I probably have seen the most is that there was no police report at all. They don't feel comfortable making a police report; they don't want to poke the bear, their abuser." That is, an abuser may become even more violent as the result of a police report. Reporting can sometimes feel like an escalation of violence

instead of a safe option, or potentially too big of a step for someone to take so soon after experiencing violence: “Not all survivors are ready to talk to police, not all of them want to, especially domestic violence and sexual violence survivors, like that's a really weighing decision on what you're ready for and or what you [...] don't want to do specifically [with] sexual assault.” This conclusion is consistent with statistics that suggest that most sexual assaults go unreported, and that those which are reported are often delayed by several months or years until the victim feels ready to take this critical step.<sup>53</sup>

***Research Question #2: What is the impact [of the police report requirement] particularly for victims from marginalized communities?***<sup>54</sup>

*Impact for Black communities:* In regards to the second research question, the findings were clear from interviews with advocates that access to CVR for victims from marginalized communities was particularly negatively impacted. Many advocates discussed how these survivors, particularly those who are women of color, do not feel safe reporting crimes to police and therefore face a barrier when considering applying to CVR, despite a demonstrated need for financial reimbursement of incurred costs from a crime. They noted that marginalized communities have less trust in and poor relationships with police, often fearing incriminating themselves or another person in their community. One advocate who identified as African American stated, “In [our] community, we don’t grow up being taught to call the police.” Another advocate expanded upon this by providing an example of a case where the perpetrator was a Black man, and the victim chose not to report to law enforcement so as to not cause

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<sup>53</sup> Muldoon, S. D., Taylor, S. C., & Norma, C. (2016). The Survivor Master Narrative in Sexual Assault. *Violence Against Women*, 22(5), 565–587. <https://doi.org/10.1177/1077801215608701>.

<sup>54</sup> I define marginalized communities for the context of this paper as people who identify as BIPOC, disabled, LGBTQ, women, sex workers, undocumented immigrants, people experiencing poverty, non-Native English speakers, and others who have experienced historic, systemic oppression.

additional harm to Black communities and expose more Black men to the criminal justice system. Trends noticed by advocates in reasons why BIPOC victims choose not to report to police are reinforced by the current American public outrage of police brutality toward Black people. This finding is crucial in that women of color who may experience violence within their own communities recognize that their perpetrator is also a victim of a different type of violence in which they do not wish to be complicit. The abuse of one form of power, by subjecting a man of color to the risk of experiencing police brutality or hyper-incarceration practices, is no longer seen as a clear, one-size-fits-all solution to correcting another abuse of power (the domestic or sexual assault he committed).

*Impact for sex workers and immigrants:* The phenomenon of requiring victims to report seemingly causes some to be put in a position of contributing to a different type of victimization—systemic racism and marginalization of oppressed groups—while seeking healing, justice, and assistance regarding their own victimization. Specifically, advocates mentioned concerns from clients who were immigrants, especially in situations where the victim or the perpetrator was undocumented; an undocumented person facing serious criminal charges faces a higher risk of deportation, and in some cases, this person may be the father of the victim’s children. Advocates who serve sex workers and sex trafficking victims also considered the trauma that is caused to the people they serve when interacting with police:

“That’s not the people we’re serving [...] they want minimal interaction with the police. Some of our women have had encounters with the police, in which the police tell them, ‘I’m going to arrest you unless you do this for me,’ so there’s huge trauma there. And then sometimes they still get arrested. There’s also just this power and control thing of authority, issues with authority [...] And a lot of the people we work with have similar

backgrounds growing up, similar traumas, and that comes out in certain behaviors of assaulting police or feeling very, very frightened by them. Like they're not part of the community safety, they're the enemy, and it's hard to break those barriers down. We've seen people not call the police in situations where we're like, 'you have to call the police and get some help because we can't do more than what we're doing right now.' And sometimes that can break relationships with our clients, because they're like, 'I feel like you're not understanding my struggle that I've been through, how dare you tell me something like that.' So, we have to be very cautious about how to approach the issue of law enforcement. It's a huge, huge barrier for the people we work with. We try not even to call them here because of past experiences. We saw how traumatic it was for that individual, of just seeing the police, so it's actually a huge barrier. If they already tried to report something once and felt like they weren't heard or believed, they're not even gonna try to go down that road again."

Negative association due to trauma from interactions with law enforcement from marginalized communities established itself as a consistent pattern during interviews with advocates, explaining why some victims do not report.

*Culture & stigma:* Culture was also noted to be an important driver of one's decision. An advocate working with three women from an East African community in Minneapolis discussed how none of them chose to report to law enforcement or file a Reparations application despite financial need. The advocacy program ended up providing financial assistance to these women, who knew that their community's perception of sexual and domestic violence is very stigmatized and who believed that more people would find out about the assault if they reported. Shame is very highly associated with victimization of these types of violence in many cultures, and it can

cause survivors of many diverse identities to decline to report to police and access a formal system for this reason. One advocate stated:

“Going to the police just isn’t safe for their population for that survivor [...] it forces them into a system that they don’t want to be a part of or that they don’t necessarily want to participate in [...] That’s a huge barrier especially to the communities of color that I work with, people who have been historically disappointed by police and prosecution, who just don’t want to put their families through that process again [...] they don’t want prosecution to move forward. Maybe they never wanted this person arrested, they just needed medical help.”

Advocates discussed at length how requiring victims to report to police fails to meet their needs and instead can act as a threat to their sense of belonging in and support from their very own community.

***Research Question #3:*** *What are the policy implications of CVR maintaining the requirement for approved applicants to report to law enforcement? What policy innovations might be possible if this requirement is shown to limit access to some groups of people?*

*Exclusion of certain communities:* This leads to my third and final research question, which I examine here and in the Policy Recommendations section. From interviews with advocates as well as CVR program staff, it was clear that maintaining the strict eligibility criterion of reporting to law enforcement automatically denies state compensation to victims of crimes who do not report. One advocate stated this precisely: “If you make everything contingent on a law enforcement report, I think you inherently end up reducing that benefit to communities of color.” These communities often include individuals who may otherwise have desperately

needed financial help, but did not feel comfortable reporting to law enforcement. One advocate noted that for applicants who don't meet the eligibility requirement, "those are people that are obviously still suffering; they could use the help. Instead of tying them into the state's view of a crime victim, it misses the mark of helping people recover from this." Another advocate echoed these thoughts, stating, "I wonder how better off our survivors would be if they just had systems in place that would automatically support them and get them access to help that they need without having to engage in a system that oftentimes is not going to believe them or not going to do their due part of making sure they hold the perpetrator accountable." I consider reflections such as these from advocates to have great validity, as they work closely with survivors after violence has happened and often foster strong rapport.

*Alternatives:* Naturally, discussion turned toward what resources are more accessible for survivors, if compensation is not an option due to the strict eligibility requirements. Many mentioned a state-funded emergency grant for crime victims but noted how limited these resources are. Advocates also praised how many organizations and communities are turning toward non-carceral forms of justice and healing, expressing desire for Minnesota to separate the distribution of financial resources for victims from state programs with strict eligibility criteria.

## Policy Implications and Conclusions

CVR is a valuable and important program targeted to meet victims' needs and provide resources to them that will help them be financially whole again. However, based on the findings from my interviews with victim advocates, there is a clear need to separate victim compensation from victims' willingness to engage with and participate in the criminal justice system. While some victims will still actively choose to report to police and testify against their perpetrator, it is

essential that we make resources available to all victims who need them. In a paper examining barriers to victim compensation across all U.S. states, Hancock (2020) writes that the requirement of a police report violates the Title VI of the Civil Rights Act., which states that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."<sup>55</sup> Using an interesting legal application of accessibility analysis, Hancock makes a strong point. This can be combined with both societal and cultural understanding that many communities of color fear law enforcement, as well as empirical research and reputable news sources document racist treatment and violence by police officers to these communities.<sup>56</sup> For CVR to truly be accessible to diverse communities who may experience violent crimes, multiple options must be allowed in applications as documentation in place of a police report.

The Iowa state compensation program provides a positive model within their program eligibility and statute language.<sup>57</sup> After finding that a lack of police report was resulting too often in denials of claims, Iowa formalized a waiver option for victims in May of 2013; they must simply fill out a form documenting the general reason why they chose not to report (see Appendix D for the waiver form). Robert Hamill, of the Crime Victim Assistance Division in Iowa, discussed how the department "may waive the requirement of a police report if 'good cause' is shown." This waiver clause was always included in Iowa's state law, and state administrators began to define it more clearly when they realized how vital it was to improving access to compensation for victims who do not report crimes. Good cause in the Iowa program

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<sup>55</sup> Hancock, L. N., (2020).

<sup>56</sup> Jacobs, L., et al., (2020); Stahl, B., et al., (2021.)

<sup>57</sup> Victim Rights. Iowa Code 2021, Chapter 915 (57, 1). (2021). <https://www.legis.iowa.gov/docs/code/915.pdf>.

rules can be determined by factors which include “the victim’s age, physical condition, psychological state, cultural or linguistic barriers, and any compelling health or safety reasons that jeopardize the well-being of the victim.”<sup>58</sup> Robert noted that it is rare that the Iowa program denies applications with waivers, stating, “If someone tells us they’re fearful of retaliation from the offender, we’re going to believe it.” Additionally, corroboration of the crime, which is established by cooperation with the law enforcement investigation and criminal justice process under Minnesota’s current statute, can actually be established in Iowa through documentation from medical providers, counselors and therapists, and victim advocates. By allowing these multiple options, victims are more likely to seek services that help meet their needs rather than be forced to engage in a system where they have little control and their needs are not prioritized.

Fortunately, the Minnesota CVR program is hopefully moving toward this legislative change for types of corroboration accepted, with the presentation of a new bill called SF1116 currently in the Minnesota Senate.<sup>59</sup> However, the police report requirement remains intact, continuing to limit victims’ access to compensation. Grace Call noted that other states have moved toward a model like Iowa’s; for example, Utah’s was the “first program to institute a second review of sexual assault reports.” If the state compensation program noticed a lack of cooperation in the police report, Utah officials recognized there may be many reasons for this and “called the victim directly instead of taking law enforcement’s word for it.” This approach reduces the number of applications denied, recognizing that the criminal justice system presents

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<sup>58</sup> Legislative Services Agency. (2015). Fiscal Topics: Crime Victim Compensation Program. *Office of the Attorney General*. <https://www.legis.iowa.gov/docs/publications/FTNO/16801.pdf>.

<sup>59</sup> Minnesota Crime Victims Reimbursement Act, S.F. 1116, 92nd Senate. (2021). [https://www.revisor.mn.gov/bills/text.php?number=SF1116&version=latest&session=ls92&session\\_year=2021&session\\_number=0&format=pdf](https://www.revisor.mn.gov/bills/text.php?number=SF1116&version=latest&session=ls92&session_year=2021&session_number=0&format=pdf).

many barriers to victims of violence, trauma, and oppression, and disallows these to be reasons for denial.

Requiring victims to engage with police and participate in prosecution in order to receive coverage for costs incurred from the crime directly limits who will have access to these funds. Advocates recognize that communities of color often feel safer with less interaction with law enforcement due to historical mistreatment, fear of authority, and presence of bias. The institution of policing has left a traumatic impact on individuals and families in these communities, and forcing them to engage with police officers and the criminal justice system is paternalistic, re-traumatizing, and rooted in white supremacy. Hyper-incarceration of and police brutality toward BIPOC and disabled people have illuminated the discriminatory roots of the criminal justice system, even if its publicly marketed and socially acceptable purpose is to enhance public safety. Marginalized groups need and deserve monetary resources, for they are the most often trapped in cycles of poverty that enhance their vulnerability to being victimized in unsafe situations. Furthermore, survivors of sexual assault and domestic violence have often been received with disbelief and a lack of justice when reporting to law enforcement—themes which have become well-known among many communities and have deterred victims, along with other noteworthy reasons, from reporting. By maintaining the tie from the criminal justice system to victim compensation, oppressed people will continue to be underserved by our systems, including a program as valuable and well-intentioned as the Minnesota Crime Victim Reparations Board program.

Therefore, I argue that Minnesota's CVR should remove the police report requirement. One option is to adopt statutory language similar to that of Iowa that will allow for other forms of documentation and corroboration of the crime to supplement a victim's application and claims

instead of a police report. This legislative change could begin with the presentation of a bill that allows exceptions to the police report requirement via a waiver option. Alternatively, and utilizing an anti-oppression lens, a better option would be for Minnesota's statute which governs the rules to be amended to remove the requirement for a police report entirely and instead list the many number of ways that a victim can achieve corroboration. This corroboration, via documentation from police, medical, counseling, or advocacy, will supplement their application. By offering a menu of options instead of naming a police report as the standard with alternate options, this second approach removes the criminal justice system from the center of the compensation program and shifts its focus toward prioritizing the holistic wellbeing of victims, despite which services they choose to access. Additionally, this option will eliminate the potential for bias on the part of any future official who would approve waivers. With this new format, advocates will likely prioritize CVR as a possible resource in their conversations with *all* victims, as many more victims will be eligible to apply for compensation. CVR will more easily be able to quantify the number of victims who would have previously been ineligible and to identify gaps in services, thus informing further inclusion and equity efforts to changes in program policies and practices. By having language that attempts to meet the needs of the most vulnerable, programs can better serve individuals of all identities and backgrounds, allow victims to regain financial wellness after experiencing trauma, and help build a safer and more equitable Minnesota.

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# Appendices

## Appendix A: Recruitment Email

Subject: Invitation to Participate in Research Study

Dear advocates:

Three University of Minnesota graduate students are completing a qualitative research project related to the Minnesota Crime Victim Reparations Board program, and we are seeking domestic or sexual violence victim advocates as research study participants. Participation in the study will be anonymous and confidential.

Our research will focus on the barriers and facilitators that victims of gender-based violence encounter when applying to the Minnesota Reparations program for financial compensation, especially in light of the program's state-mandated eligibility requirements. Advocates will be asked to share insight into trends they have seen from their work assisting victims who consider applying to the program. They will not be asked to share identifying information or details about specific crimes that would compromise victim/client confidentiality.

Priority will be given to victim advocates who have assisted with the most CVR applications and are familiar with the process and eligibility requirements, and who work primarily with victims from marginalized groups (people who identify as BIPOC, disabled, LGBTQIA\*, women, sex workers, undocumented immigrants, people experiencing poverty, non-Native English speakers).

Participation in this research project is completely voluntary, and participants' identities will remain confidential. Each consenting participant will participate in one interview that will take place over Zoom and will be recorded on a separate device. Data collected during the interview will be de-identified before being included in the final research report, which will be shared with the Crime Victim Reparations program to inform future policy discussions.

Ariana Kopycinski, Veronica Cadavid Gonzalez, and Chloe Vraney will conduct the research within the course supervised by Professor Greta Friedemann-Sanchez and her teaching assistant, Julie Marzec. Any concerns regarding research methods of the investigators can be directed to Professor Friedemann-Sanchez by emailing [frie0013@umn.edu](mailto:frie0013@umn.edu). The investigators are Masters-level students within the Humphrey School of Public Affairs at the University of Minnesota.

If you meet this criteria and are interested in participating in an interview for the research study, please email Chloe Vraney at [vran0020@umn.edu](mailto:vran0020@umn.edu). Thank you for your time.

Sincerely,

Chloe Vraney, Ariana Kopycinski, and Veronica Cadavid Gonzalez

## **Appendix B: Consent Form**

### *Background and Purpose of the study*

Thank you for considering participating in an interview. The three investigators on this project are Masters students at the Humphrey School of Public Affairs, taking a graduate course in Qualitative Research Methods with Professor Greta Friedemann-Sanchez. We are interested in learning from victim advocates like you about facilitators and barriers that victims/survivors of gender-based violence whom you have worked with may have encountered when interacting with the Minnesota Crime Victim Reparations Board program. We especially would like to focus on accessibility gaps that you have noticed while assisting victims from marginalized communities with their applications. Our hope is to collect data on how the program eligibility requirements might affect underserved victims' access to compensation. We are recruiting from advocacy organizations that receive emails from the MNCASA, Violence Free Minnesota, and Standpoint listservs. We will be interviewing nine other people total for this study. All interviews are anonymous. When we are done with the study, we will write a report and present this data to the Crime Victim Reparations Board in hopes of future legislative change that would make the program more accessible.

### *Procedures*

We will have some questions for you regarding general experiences you have seen when discussing with victims the option of applying for compensation through the Crime Victim Reparations Board and when assisting them with the application process. Our questions will ask about barriers, facilitators, needs, and innovations that victims you have worked with have encountered when considering applying (or applying) to the program. If there is anything in the topic that we are not asking and you think it is relevant, please do bring it up. You can also decline to answer any questions.

### *Confidentiality*

I understand that your work is confidential, meaning that you cannot share specific, identifiable client information with others. My questions will revolve around trends in gaps and barriers that you have seen in the CVR application process, so you will not be asked to share anything about victims themselves or details about the crimes they experienced. We will not collect names, specific locations, or other identifiers besides a marginalized status of victims. Know that we are mandated reporters of child abuse and would need to report any identifiable details of this nature. For this reason, we ask you to refrain from identifying any of the clients you have served. If you do share anything identifiable, know that we will not write it in our notes, nor will it appear in any final, public product. All data in our final report will be de-identified.

Your participation in this interview is confidential, and you will remain anonymous. That

means that I will not reveal to anyone what information you specifically shared with me, and I will de-identify any information you share with me about victims' experiences to protect both you and them; however, your responses will be included in our public analysis. We will be audio recording the interview because we cannot take notes that fast. Later we will write up contact notes from the interview. The three investigators are the only people who will have access to any identifiable information, which will be stored separately from our de-identified contact notes that we will keep in a secure server at the Humphrey school. The audio recordings and interview notes will only be accessible to us and our course instructors and will be saved in a secure server and deleted in August of 2021.

### *Risks and Benefits*

Some people may wonder how they will benefit from the study. There will be no benefit to you directly, but we hope that our research will be used to inform discussions in future legislative sessions on policy regarding Crime Victim Reparations. Therefore, we hope that it will benefit many individuals who experience crimes and gender-based violence in the future, especially those from marginalized communities.

The risks to you from participating in the study are minimal. Your identity will remain confidential, and because both you and we as investigators will be de-identifying any information regarding victim experiences, their confidentiality will be protected as well. We understand that you work with this sensitive topic all the time, but if you would like to take a break at any time, please let us know.

### *Voluntary Nature of the Study*

You are free to stop the conversation at any time. You may also choose not to answer certain questions or can change your mind and decide not to participate. You are here voluntarily.

### *Questions*

May I answer any questions for you about the study or about ourselves? Do you have any thoughts or comments about the study? Do you feel comfortable sharing insights from your work helping victims apply for the CVR program while maintaining their confidentiality?

### *Statement of Consent*

Before starting the audio recording and the interview, we will verbally review the main points of this form and ask if you consent to participate in an interview. We will only ask for verbal consent, not written consent. If you say yes, we will proceed with the interview. If you say no, we will thank you and terminate the interview.

## Appendix C: Interview Guides

Interview Guide 1: Used in first round of interviews (#1-8) with victim advocates

**Question 1: Can you share with us a bit about your interactions and experiences with the Crime Victim Reparations Board?**

**Follow-up Questions:**

- How many applications to the CVR program have you assisted victims with?

**Question 2: What do you think is going well for victims who apply to the program?**

**Follow-up Questions:**

- Describe the process of application for one of your clients to the CVR program.
- What are aspects of the CVR program that made the application process more accessible for GBV victims?

**Question 3: What do you think is not working well in the program?**

**Follow-up Questions:**

- [What are barriers or challenges that gender-based violence victims you have worked with have encountered when interacting with the program?]
  - Describe any experiences you have had where a victim of gender-based violence that you were advocating for did/did not receive the compensation they applied for through the CVR program.
    - No need to share details about the violence itself.
  - What are aspects of the CVR program that made the application process more difficult or inhibited victims of GBV from receiving compensation?
- How have you seen any of the eligibility requirements for the CVR program presenting as barriers to your clients seeking compensation?
  - Have you worked with victims who considered applying for compensation through the CVR program but chose not to after learning about the eligibility requirements?
  - Describe any barriers that your clients experienced within the criminal investigation process.
    - Probe: Such as contact with police officers or prosecutors?
  - Describe any negative impacts for clients when they had to use their own insurance or paid time off before being able to receive compensation for medical costs or lost wages.

**Question 4: Can you describe interactions with the program of victims who you've worked with who identify from marginalized communities (Age, gender, race/ethnicity, geographic area, socioeconomic status/class, immigration/documentated status, language, dis/ability)?**

**Follow-up Questions:**

- Does your organization serve a specific population? Does the mission of the organization focus on a particular population?
  - Do not reveal specific client information.
- [[What are barriers, facilitators, needs, and innovations that these victims/communities have experienced, as you've seen in your work helping them apply for compensation?]]
  - What are aspects of the Reparations program that made it more accessible for victims from marginalized communities?
  - What are aspects of the Reparations program that made it more difficult for or inhibited victims from marginalized communities from receiving compensation?
    - Probes: application, communication/timeliness, filing claims
  - Describe any experiences you have had where a victim you were advocating for from a marginalized community did/did not receive the compensation they applied for through the CVR program.
    - Are certain applications from victims of a certain type of crime typically more successful or unsuccessful?
      - Probe: For example, hate crimes or discriminatory actions toward specific marginalized groups
      - Is any community often left out of receiving compensation from the program, due to the eligibility requirements, that shouldn't be?

**Question 5: Discuss how the CVR program eligibility requirements could be altered, or if they need to be altered, to become more inclusive or considerate of GBV victims from marginalized communities.**

**Follow-up Questions:**

- What are some innovations you have made navigating the program?
- Do you think these alterations can be realized through policy change of the CVR program?

## Interview Guide 2: Used in interview 9 with CVR program staff

**Question 1: In your experience as a staff member of Crime Victims Reparations Board program, how do you think the program is doing?**

- How well do you think the program is serving gender-based crime victims' needs?
- How well do you think the program is serving victims from marginalized communities?
  - What populations are you serving most?
- What kind of crimes do you see people seeking compensation for? What percentage are gender-based crimes?
  - Are there barriers that come up often for a certain community or certain type of gender-based violent crime?

**Question 2: Application**

- Does your program see that the application is pretty easy to fill out for victims?
  - How easy to navigate is the application?
  - Do you think the length of the application is appropriate?
  - Do you think the email submission format will continue post pandemic?
- How many languages do you have the application available in?
  - What languages do your staff speak?
  - If you receive an application in a different language, does the victim receive communication back in that same language?
- Have you had any conversations with system providers about concerns with the application? If so, have there been innovations?
  - Probe: difficult jargon/language, outdated Spanish language versions, and the extensive length of the application.
  - No ALS/Braille options for deaf/hard of hearing/blind folks; no Hmong/Somali language options

**Question 3: Eligibility Requirements**

- Can you tell us about the history of the statute that governs the Reparations Board and establishes the eligibility requirements? Is there contextual information we should be aware of in the way the program was designed?
  - E.g., requirement of a police report within 1 month of crime
  - E.g., requirement of application within 3 years of crime
- We understand that the time limits built into the eligibility requirements ensure that victims of crimes committed most recently receive financial compensation. We also know that victims of sexual assault don't have a time limit for reporting.
  - How does the program take into account victims that experience trauma from other gender-based crimes committed against them and do not feel ready to come forward at the time of their crime? (E.g., domestic violence-coverage for only crime that is reported within time limits)

- Have you seen the requirement of a police report be a deterrent to victims applying to the program?
  - How can the Reparations Board address the systemic discrimination that victims from marginalized communities face from the criminal justice system while still offering these victims some form of financial compensation?
  - Context: Victim advocates have informed us that their clients see the requirement to report to police as one of the biggest deterrents in either applying to the program in general or receiving compensation.
- How does the Crime Victim Reparations Board define “cooperation” in relation to victims reporting and engaging with the police? How is this measured? Is “cooperation” left to the discretion of individual police officers?
  - Have you ever seen cases where if an officer poorly wrote a police report, where it impacted the victim’s ability to receive compensation through the program?
  - The service provider handbook states that evidence of the crime must exist in order for the application to be approved. Can you talk about how evidence is analyzed and in cases where there may not be hard evidence (i.e., sexual assaults), if this ever reduces compensation for victims?
- Within crimes of gender-based violence, are there times where compensation is reduced due to victims contributing to the misconduct or a crime? How are these compensation reductions determined (i.e., is there a formula)?
  - For example: Cases of domestic violence where a victim commits a crime in self-defense?

#### **Question 4: Timeliness, Communication, and System Provision**

- Can you walk us through the timeline of an application? How long does it take to receive the necessary documentation from the police department, hospitals, etc. in order to accept/deny a claim?
  - If there are delays in claim processing, what does the Board do to address instances where some victims may pay out of pocket while waiting for their compensation?
- Have there been any instances where the Board has been unable to get in contact with a victim throughout the application process? What does the Board do in instances like these?
  - The application asks for the victim advocate’s name, if the victim is working with one. However, advocates we spoke with said they are not notified by the claim specialists after helping the victim submit. Is there a reason for this?
    - Has the Board considered updating communication options for victims and advocates (i.e., format of communication including phone, email options, and including the advocate)?

- What has been the impact of COVID-19 on communications between the Board, victims, and advocates?
- How well do you think victims and the public know about the Reparations program? Have there been any innovations in this area?
- Are there training opportunities for service providers to receive ongoing training from Reparations?

**Question 5: Coverage**

**How well do you think Reparations is covering victims' costs? What do you think are the main barriers victims face in getting costs covered? Why?**

- Are there instances where victims ask for specific coverage that you have to deny because they are not eligible?
  - E.g., property damages, such as personal property or house damages
  - Probe: Recurring crimes such as domestic violence
- How do you see the requirements for exhausting insurance, vacation/sick time, and PTO play out in whether or not victims receive compensation? Do you see cases where the requirement to use these resources first negatively impacts the victim's financial and emotional wellness in the long term?
- What happens if victims meet the cap of financial compensation before they are able to receive completion of services?
  - E.g., therapeutic services, medical costs, etc.

Interview Guide 3: Used in final interviews (#10-11) with victim advocates

**Question 1:** Please describe your general experiences helping victims apply to the Crime Victim Reparations (CVR) program for compensation.

- Does your organization serve a specific community?
- What types of crimes do the survivors you serve typically experience and need compensation for?

**Question 2:** Have you seen the program requirement of a police report inhibit a victim's ability to be eligible for funds from CVR? How so?

- Do advocates at your program typically inform victims of the Reparations program, even if those victims have not reported to law enforcement?
- Have you worked with victims who considered applying for compensation through the CVR program but chose not to after learning about the eligibility requirements? If so, please describe why they made this decision.

**Question 3:** What impact have you seen from linking monetary resources for victims to their required participation in the criminal justice system, particularly for victims from marginalized communities?

## Appendix D: Iowa's Waiver Form

### Victim Service Programs Statement of Crime

When the crime has not been reported to law enforcement, medical professional, or counselor/therapist

1. What is the name of the victim? \_\_\_\_\_
2. In what city and state did the crime occur? \_\_\_\_\_
3. What type of crime was it? \_\_\_\_\_
4. Please list all injuries (physical and/or emotional)? \_\_\_\_\_
5. What was the date of the crime (estimate if unknown)? \_\_\_\_\_
6. Was the crime reported to law enforcement or 911 called? \_\_\_\_\_
7. If the victim does not intend to report the crime, please identify why:

\_\_\_The victim was a juvenile. \_\_\_The victim was afraid to report due to health/safety concerns.

\_\_\_There were cultural/linguistic barriers. \_\_\_The victim's physical/mental state prevented it.

Please explain: \_\_\_\_\_

8. If the victim does not intend to report the crime, please describe the basic facts of the crime (Who was involved? What happened? How did it happen?)

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\_\_\_\_\_  
Signature of Victim (if available)

\_\_\_\_\_  
Signature & Organization of person who assisted in completion  
Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

*This form must be completed by an advocate working with the victim if there is no other third-party documentation such as a police report, counseling, or medical records to substantiate the crime. Include this form with a paper application or email to [alejandra.pina@ag.iowa.gov](mailto:alejandra.pina@ag.iowa.gov) OR [arica.wright@ag.iowa.gov](mailto:arica.wright@ag.iowa.gov) if an online application is completed. Iowa and federal law requires the CVC Program to keep confidential all third-party information.*

