

DEPARTMENT OF PUBLIC SAFETY

Division of Criminal Justice

8 CCR 1507-15

Review of Violations of the Standards for the Administration of the Crime Victim Compensation and Victim Assistance and Law Enforcement Programs and Related Sanctions

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to Section 24-33.5-104.3, C.R.S., the Executive Director of the Colorado Department of Public Safety may repeal rules concerning the Victims Assistance and Law Enforcement Advisory Board, Standards for the Administration of Crime Victim Compensation Programs, Standards for the Administration of Victim Assistance and Law Enforcement Programs, and Review of Violation of the Standards for the Administration of the Crime Victim Compensation and Victim Assistance and Law Enforcement Program and Related Sanctions. This rule repeal is proposed pursuant to this authority and is intended to be consistent with the requirements of the State Administrative Procedures Act, Section 24-4-101, et seq., C.R.S.

The rules regarding the Review of Violations of the Standards for the Administration of the Crime Victim Compensation and Victim Assistance and Law Enforcement Programs and Related Sanctions are being repealed as defunct and unnecessary. Per 24-4.1-117.3(3), C.R.S., the Crime Victim Services Advisory Board assumed the duties of developing and revising standards for the administration of the crime victim compensation fund, including imposing sanctions for violating the standards. These rules are inaccurate and duplicative of the guidance and standards established by the Crime Victim Services Advisory Board.

Section 24-33.5-104.3, C.R.S. granting rule repeal authority to the Executive Director is repealed effective July 1, 2019. Maintaining this rule beyond that time period would cause confusion regarding victim assistance, and would be contrary to the public peace, health, and safety of the state. For these purposes it is imperatively necessary that the proposed rules be repealed.

Stan Hilkey, Executive Director
Colorado Department of Public Safety

Date of Adoption

DEPARTMENT OF PUBLIC SAFETY

Victims' Compensation and Assistance Coordinating Committee

REVIEW OF VIOLATIONS OF THE STANDARDS FOR THE ADMINISTRATION OF THE CRIME VICTIM COMPENSATION AND VICTIM ASSISTANCE AND LAW ENFORCEMENT PROGRAMS AND RELATED SANCTIONS

8 CCR 1507-15

INTRODUCTION

During 1989 the Office of the State Auditor conducted a comprehensive performance audit of Colorado's services to crime victims through both the Crime Victim Compensation and Victim Assistance and Law Enforcement (VALE) programs.

The purpose and scope of the audit was: to evaluate the effectiveness of the decentralized structure of Colorado's victim compensation and assistance programs; to evaluate compliance with the federal victim compensation grant requirements and other applicable requirements of laws and regulations; to evaluate the adequacy of the victim compensation boards', the victim assistance boards', and the statewide victim assistance board's systems for measuring and reporting performance; and to evaluate the risk of abuse and illegal acts.¹

Additionally the auditors reviewed: the processes through which local programs provide compensation to victims and grant awards to victim service providers and law enforcement agencies; the process through which victims receive restitution; and the internal control procedures.¹

The audit concluded that the strengths of Colorado's decentralized system outweigh the weaknesses. Specifically, the audit was complimentary of the speed with which Colorado crime victims receive compensation compared to centralized programs in other states. The audit also concluded, however, that the weaknesses were material and should be addressed and resolved. The audit contained thirty-eight recommendations that the auditors believed should be implemented in order to create a system that remained decentralized but had in place mechanisms to correct the identified problems.

To provide knowledge and expertise pertaining to crime victim compensation and VALE programs, the committee was statutorily expanded to include: a local crime victim compensation board chairperson, a local VALE board chairperson, an elected district attorney, a local crime victim compensation program administrator, a local VALE program administrator, a judicial district administrator, the president of the Colorado Organization for Victim Assistance, and a district court judge. The eight additional committee members serve as a subcommittee and are advisory to the committee as a whole, in developing standards and related minimum implementation requirements.

The Standards were promulgated pursuant to the requirements of the Administrative Procedures Act (APA). The process provided significant opportunity for both written and oral comment from interested individuals throughout the state. The Standards became effective September 30, 1992.

The Standards reaffirm the importance of a decentralized administrative philosophy balanced with accountability in order to maximize fair and equitable assistance to victims of crime while preserving local priorities and administration.

The statute also requires the Coordinating Committee to develop sanctions for violations of the approved standards. The sanctions development process is also subject to the requirements of the Administrative Procedures Act.

The Division of Criminal Justice, with the guidance of the Coordinating Committee, is responsible for providing technical assistance and training to all judicial districts to assist them in complying with the Standards. Additionally, the Division is responsible for on-going monitoring of the Standards to ensure continued compliance.

¹Report of the Colorado State Auditor, Performance Audit of Victim Services, 1989.

VICTIMS' COMPENSATION AND ASSISTANCE COORDINATING COMMITTEE

Dr. Ward Anthony	Liza Jackson
Bonnie Benedetti District Attorney's Office	Vicki Jordan
The Hon. Tom Blickensderfer Colorado State Senator	Barbara Kendall Boulder District Attorney's Office
Libby Bortz, LCSW	*Rueben Marquez
Dr. Don Bross Kempe Center	•The Hon. Gus F. Sandstrom Pueblo District Attorney (Chair of Standards Subcommittee)
Chief Leo Carrillo Lafayette Police Department	•Steve Siegel District Attorney's Office (Chair of Coordinating Committee)
Mary Anne Castellano U.S. Attorney's Office	•Mary Sommerfeld Victim Witness Coordinator District Attorney's Office
*Barbara Cox	*Anthony Tilger
•Mary Ann Ganey	•Jeanine Truswell
•Sharon Halford COVA President Aurora Community College	
•Sandra Weaver Judicial District Administrator Sumiko Hennessy, Ph.D. Asian Pacific Dev Center	*Sheriff Stephen C. Zotos Douglas Co Sheriffs Dept.
	•Thomas Hunt
	**State VALE Board Only

¹State VALE Board

•Standards Subcommittee

~~GENERAL OVERVIEW AND STATEMENT OF PHILOSOPHY PROCEDURES FOR REVIEWING COMPLAINTS CONCERNING VIOLATIONS OF APPROVED STANDARDS~~

~~It is the role of the Coordinating Committee to act as an impartial fact finding and disseminating entity. The Coordinating Committee is committed to follow all complaints to resolution and to engage in a process that is accurate, thorough and ultimately responsive to crime victims and to the individuals and programs who serve them.~~

~~The Coordinating Committee and the Division of Criminal Justice will endeavor to assist local judicial districts in complying with the approved Standards through technical assistance and training efforts.~~

~~The Coordinating Committee may receive complaints concerning violations of the approved Standards in two manners: Staff identification through on-going monitoring and community level identification and reporting.~~

~~Violations identified by staff will be referred to the Coordinating Committee only after technical assistance efforts and written requests for compliance have not been successful or if exigent circumstances exist.~~

~~Violations identified and reported from the community will be addressed by the Coordinating Committee only after the violation issue(s) have been presented at the local level and remain unresolved.~~

~~STEP 1 -- REPORT OF VIOLATIONS OF STANDARDS~~

~~A. A complaint is received by the Division of Criminal Justice (DCJ).~~

~~A.1 Staff² determine if the complaint is within the purview of the Standards and if the complaint has been addressed with the appropriate party at the local level.~~

~~²The use of the term staff, throughout the document, refers to Division of Criminal Justice staff members unless otherwise noted~~

~~DCJ internal procedural requirements:~~

~~a.1.1 Contact is recorded on DCJ internal complaint log~~

~~a.1.2 DCJ internal case file opened and identification number assigned~~

~~STEP 2 -- STANDARD COMPLAINT FORM PROVIDED TO COMPLAINANT~~

~~A. DCJ Form 1S: Complaint of Violation(s) of Standards for the Administration of the Crime Victim Compensation and/or Victim Assistance and Law Enforcement Program(s) mailed to complainant.~~

~~DCJ internal procedural requirements:~~

~~a.1.1 DCJ internal complaint log and internal case file updated~~

~~STEP 3 -- COMPLETED COMPLAINT FORM RECEIVED~~

~~A. Completed DCJ Form 1S is received.~~

~~DCJ internal procedural requirements:~~

~~a.1.1 DCJ Form 1S reviewed for completeness, legibility, signature of complainant~~

- a.1.2 — Staff identifies specific standard(s) for which violations are alleged
- a.1.3 — Staff identifies party(ies) alleged to be in violation of the standard(s)
- a.1.4 — Form 2S—DCJ Staff Summary of Complaint of Violation of Standards completed (based on data provided in completed Form 1S)
- a.1.5 — DCJ internal complaint log and internal case file updated

STEP 4 – RESPONSE OF IDENTIFIED PARTY:

A. DCJ Form 2S: DCJ Staff Summary of Complaint for Violation of Standards is mailed via certified mail to the identified party(ies) with DCJ Form 3S: Response to Complaint of Violation(s) of Standards.

DCJ internal procedural requirements:

- a.1.1 — DCJ Form 3S mailed via certified mail within 10 days of receipt of completed DCJ Form 1S
- a.1.2 — DCJ internal complaint log and internal case file updated

STEP 5 – RECEIPT OF WRITTEN RESPONSE ó DCJ FORM 3S

A. — DCJ Form 3S: Response to Complaint of Violation(s) of Standards is received by the identified deadline of thirty days after receipt by the identified party(ies)

- A.1 — Subcommittee review of DCJ Form 3S indicates that resolution is being attempted.
- A.2 — Subcommittee review of DCJ Form 3S indicates that a dispute continues to exist.
- A.3 — Concerned party(ies) fail to respond by the identified deadline.

DCJ internal procedural requirements:

- a.1.1 — DCJ Form 3S reviewed for completeness, legibility, signature of identified party(ies)
- a.1.2 — A written 30 day extension granted to allow for continuation of local efforts toward resolution and written notice mailed to all parties;
- a.1.3 — By day 30 of the extension, DCJ Form 4S: Complaint Resolution Verification mailed to complainant and to identified party(ies)
- a.1.4 — Receipt of DCJ Form 4S. confirming all parties agree complaint is resolved
- a.1.5 — DCJ internal complaint log and internal case file updated to reflect case closed at Step 5
- a.2.1 — DCJ Form 3S reviewed for completeness, legibility, signature of identified party(ies)
- a.2.2 — Staff review of DCJ Form 3S indicates that a dispute continues to exist
- a.3.1 — Concerned party(ies) fail to respond by the identified deadline

~~a.3.2—Case moves to Step 6~~

~~a.3.3—DCJ internal complaint log and internal case file updated~~

~~STEP 6 -- REGIONAL COORDINATING COMMITTEE REVIEW~~

~~A. Violation complaint remains in dispute. Regional review scheduled within sixty days of the receipt of DCJ Form 3S.~~

~~Written notice mailed, via certified mail, to complainant and the identified party(ies) notified of the day of the review and the guidelines for addressing the committee within 30 days of the receipt of DCJ Form 3S.~~

~~DCJ internal procedural requirements:~~

~~a.1.1—Staff and the Standards Subcommittee Chair will facilitate the creation of a three member Regional Review Committee including a Chairperson who is geographically close but does not have a conflict of interest. The Review Committee members will be drawn from the Standards Subcommittee.~~

~~a.1.2—Staff will facilitate the scheduling of the Regional Review within the designated timeline and will provide written notice to complainant and identified party(ies).~~

~~a.1.3—DCJ internal complaint log and internal case file updated.~~

~~STEP 7 -- REGIONAL COORDINATING COMMITTEE FINDING~~

~~A. A written finding will be completed by the Chair of the Regional Review Committee within thirty days of the Regional Review.~~

~~A copy of the written finding(s) and notice of the right to appeal the decision to the Standards Subcommittee, will be mailed to the complainant and the identified party(ies) within forty five days of the Regional Review.~~

~~A.1—Regional review committee finds the complaint is unfounded.~~

~~A.2—Regional review committee finds the complaint is founded.~~

~~A.3—Regional review committee mediates resolution.~~

~~DCJ internal procedural requirements:~~

~~a.1.1a—No appeal received within the designated time period~~

~~a.1.2a—DCJ internal complaint log and internal case file updated to reflect case closed at Step 7~~

~~a.1.1b—Appeal received within the designated time period~~

~~a.1.2b—Staff and Standards Subcommittee Chair facilitate scheduling of appeal within 30 days of receipt of request for appeal~~

~~a.1.3b—Written finding(s) of appeal issued within 30 days of appeal~~

~~a.1.4b—Case moved to Step 8 or closed based on the outcome of the appeal~~

- ~~a.1.5b—DCJ internal complaint log and internal case file updated~~
- ~~a.2.1a—No appeal received within the designated time period~~
- ~~a.2.2a—DCJ internal complaint log and internal case file updated to reflect case moved to Step 8~~
- ~~a.2.1b—Appeal received within the designated time period~~
- ~~a.2.2b—Staff and Standards Subcommittee Chair facilitate scheduling of appeal within 30 days of receipt of request for appeal~~
- ~~a.2.3b—Written finding(s) of appeal issued within 30 days of appeal~~
- ~~a.2.4b—Case moved to Step 8 or closed based on the outcome of the appeal~~
- ~~a.1.5b—DCJ internal complaint log and internal case file updated~~

STEP 8 – IMPOSITION OF LEVEL 3 SANCTION – FORMAL WRITTEN REPRIMAND

~~A. A formal written reprimand will be issued by the Chair of the Standards Subcommittee, via certified mail.~~

~~The identified party(ies) will be advised that they have received the lowest level sanction (level 3) and that 30 days will be allowed to correct the identified violation(s) or show cause why further sanctions should not be imposed.~~

DCJ internal procedural requirements:

- ~~a.1.1—DCJ internal complaint log and internal case file updated.~~

STEP 9 – RESPONSE TO LEVEL 3 SANCTION

~~A. Written response to level 3 sanction received within the 30 day time limit.~~

- ~~A.1—Written response indicates that resolution of conflict is likely.~~
- ~~A.2—Written response indicates that conflict remains and alleged violation(s) remain.~~
- ~~A.3—No response is received within the 30 day time limit.~~

DCJ internal procedural requirements:

- ~~a.1.1—A written 30 day extension granted to allow for continuation of local efforts toward resolution~~
- ~~a.1.2—Written notification of 30 day extension mailed to complainant and to party(ies) previously identified in Step 3~~
- ~~a.1.3—By day 30 of the extension, DCJ Form 4S: Complaint Resolution Verification mailed to complainant and to identified party(ies)~~
- ~~a.1.4—Receipt of DCJ Form 4S, confirming all parties agree complaint resolved~~

- a.1.5—DCJ internal complaint log and internal case updated to reflect case closed at Step 9
- a.2.1—Staff review of written response indicates that the dispute continues to exist
- a.2.2—DCJ internal complaint log and internal case file updated to reflect case moved to Step 10
- a.3.1—DCJ internal complaint log and internal case file updated to reflect case moved to Step 10

STEP 10 – BINDING ARBITRATION OPTION

- A.1—All are parties given the option of entering into binding arbitration. If all parties agree, staff will initiate the necessary steps to facilitate the arbitration process.
- A.2—If any of the parties choose not to enter into binding arbitration, case is moved to Step 11.
- A.3—If any parties fail to comply with the arbitration decision, case is moved to Step 11.

DCJ internal procedural requirements:

- a.1.1—A written arbitration agreement provided to both parties; agreement sets out: the nature of the dispute and the arbitration rules as described;
- a.1.2—Staff will facilitate the scheduling of the arbitration
- a.1.3—Within 15 days after the lead arbitrator declares an end to the arbitration process, a written decision will be mailed, via certified mail to all parties
- a.1.4—Within 30 days after the end of the arbitration process, DCJ Form 4S: Complaint Resolution Verification will be mailed to all party(ies)
- a.1.5—Receipt of DCJ Form 4S, confirming all parties agree complaint resolved
- a.1.6—DCJ internal complaint log and internal case updated to reflect case closed at Step 10
- a.2.1—DCJ internal complaint log and internal case file updated to reflect case closed at Step 11
- a.3.1—DCJ internal complaint log and internal case file updated to reflect case closed at Step 11

STEP 11 – IMPOSITION OF LEVEL 2 SANCTION – PUBLIC REPRIMAND

- A.1—A Written Notice of Public Reprimand will be used when efforts made in Steps one through ten have failed to resolve the violation of the standards.

The Written Notice of Public Reprimand will be signed by the Chair of the Coordinating Committee and the Chair of the Standards Subcommittee. The document will state the nature of the violation(s). The document will also include a summary of the number and types of efforts that have been made to resolve the dispute.

~~The Written Notice of Public Reprimand will be issued to: the complainant; all identified parties; local victim service providers; media; elected officials; and the Chief Judge.~~

~~A.2—The identified party will be advised that they have received a very high level sanction (level 2) and that they will be given 30 days to correct the identified violation of the standards or show cause why further sanctions should not be imposed.~~

~~DCJ internal procedural requirements:~~

~~a.1.1—The Written Notice of Public Reprimand distributed to identified parties within 30 days of issuance~~

~~a.1.2—DCJ internal complaint log and internal case file updated to reflect case moved to Step 12~~

~~STEP 12 – WRITTEN RESPONSE TO LEVEL 2 SANCTION~~

~~A.—Written response to level 2 sanction received by the identified deadline.~~

~~A.1—Written response indicates that resolution of conflict is likely.~~

~~A.2—Written response indicates that conflict remain and alleged violation(s) remains.~~

~~A.3—No response received within the 30 day time limit.~~

~~DCJ internal procedural requirements:~~

~~a.1.1—A written 30 day extension granted to allow for continuation of local efforts toward resolution~~

~~a.1.2—Written notification of 30 day of the extension mailed, to complainant and to party(ies) previously identified in Step 3 :ó~~

~~a.1.3—By the day 30 of the extension, DCJ Form 4S: Complaint Resolution Verification will be mailed to complainant and to identified party(ies)~~

~~a.1.4—Receipt of DCJ Form 4S, confirming all parties agree complaint resolved~~

~~a.1.5—DCJ internal complaint log and internal case file updated to reflect case closed at Step 12~~

~~a.2.1—Staff review of written response indicates that the dispute continues to exist~~

~~a.2.2—DCJ internal complaint log and internal case file updated to reflect case moved to Step 13~~

~~a.3.1—DCJ internal complaint log and internal case file updated to reflect case moved to Step 13~~

~~EXIGENT CIRCUMSTANCE EXCEPTION~~

~~The chair of the Governors Victim Compensation and Assistance Coordinating Committee may suspend or modify any of these procedures in the interest of justice to avoid irreparable harm to crime victims or to the citizens of Colorado.~~

ANNUAL REPORT

The Governor's Victims' Compensation and Assistance Coordinating Committee shall issue a report annually at a date determined by the committee indicating; the number of complaints received; the level at which the complaints were resolved; a list of those complaints that were not resolved and reached level 2 and level 1 sanctions and the current status of those complaints.

GLOSSARY OF TERMS

Complainant:	The complainant may be any affected party(ies) at the local level or may be the Division of Criminal Justice in their role as identified in the Standards and in 24-4.1-117.5 C.R.S.
Identified Party(ies):	The identified party(ies) may include individuals or entities who have responsibilities as outlined in the Standards.
Coordinating Committee:	The Governor appointed Victims' Compensation and Assistance Coordinating Committee.
Division of Criminal Justice:	The Colorado state criminal justice planning agency.
DCJ Form 1S:	Complaint of Violation(s) of Standards for the Administration of the Crime Victim Compensation and/or Victim Assistance and Law Enforcement (VALE)
DCJ Form 2S:	DCJ Staff Summary of Complaint for Violation of Standards
DCJ Form 3S:	Response to Complaint of Violation(s) of Standards
DCJ Form 4S:	Complaint Resolution Verification
Regional Coordinating Committee:	The committee appointed to review the initial complaint.
Standards:	Standards for the administration of the Crime Victim Compensation and the Victim Assistance and Law Enforcement (VALE) programs promulgated pursuant to the Administrative Procedures Act. Crime Victim Compensation Program standards may be found in the Colorado Code of Regulations 8 CCR 1507-4. Victim Assistance and Law Enforcement (VALE) program standards may be found in the Colorado Code of Regulations 8 CCR 1507-5.
Standards Subcommittee:	The statutorily mandated Governor appointed subcommittee of the Coordinating Committee.