

**The Oregon Administrative Rules contain OARs filed through April 15,  
2003**

**DEPARTMENT OF JUSTICE**

**DIVISION 78**

**CRIME VICTIMS/WITNESS ASSISTANCE**

**137-078-0000**

**Purpose**

[ORS 147.259](#) and [147.265](#) ("the Act" herein) provides authority to the Attorney General or the designee thereof to approve for funding those victim/witness assistance attorneys maintained and administered by district or city attorneys that in the determination of the Attorney General or designee will provide certain comprehensive services. OAR 137-078-0005 through 137-078-0050 provide procedures and criteria under which such approval determinations are made.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

**137-078-0005**

**Designee**

The designee of the Attorney General under the Act is the Administrator of the Office of Special Compensation Programs of the Oregon Department of Justice.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

**137-078-0010**

**Duration of Approval**

(1) Programs will continue approved for funding indefinitely subject to the availability of assessment revenues, OAR 137-078-0050 and this rule:

(a) The program Director shall, at the time of submission of the annual report under OAR 137-078-0045, state whether or not the approved program will continue in operation for the fiscal year ending June 30;

(b) Any deletion of a specific service from an approved program requires a new approval, based upon a new program application, for continued funding. The addition of services to an approved program does not require a new approval or new program application for continued funding.

(2) Programs temporarily approved for funding will receive funding for up to a 12-month period, with an end date of June 30. A new program application must be submitted each year for temporary approval in order to continue funding.

Stat. Auth.: ORS Ch. 147

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

### **137-078-0015**

#### **Operational Status and Funding**

(1) A program to be approved shall be in operation at the time application for approval is made or shall be able to begin operation of a victim/witness assistance program within 30 days after granting of approval.

(2) A program approved for funding will be eligible to receive returned monies collected during the month in which approval was granted and for subsequent months.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

### **137-078-0020**

#### **Temporary Approval**

(1) Temporary approval may be obtained when it is demonstrated in the application that it would not be practical at the then current time for the district or city attorney to establish a program that provides each of the comprehensive service categories specified under OAR 137-078-0030(1) through (11), and if it is demonstrated that OAR 137-078-0030(1), (3), (10) and (11) will be accomplished as well any three of OAR 137-078-0030(4), (5), (6), (7), (8) and (9).

(2) Applications for temporary approval shall contain a time table for implementing those additional service categories under rule 137-078-0030 that cannot be provided at the beginning of the funding period.

(3) Temporary approvals shall carry the condition that continued approval is contingent upon implementation of the time table for additional services, and that temporary approval for subsequent years will be contingent upon the addition of services to satisfy at least one more service category each year until all service categories under OAR 137-078-0030 are satisfied by the program.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

## **137-078-0025**

### **Application Process**

The application for program approval shall be made upon a form supplied by the Oregon Department of Justice, Office of Special Compensation Programs, and shall include the following information:

- (1) Face Sheet -- The program title, program director, financial officer and signature of the district or city attorney shall be included on the face sheet.
- (2) Program Narrative -- The program narrative is the applicant's detailed statement about the program. The following information shall be included:
  - (a) An introduction giving a brief description of the county or city which the victim/witness assistance program will serve. The description shall include:
    - (A) Crime victimization rates in the county/city, including crimes against persons and property crimes;
    - (B) County/city population; and
    - (C) Number of courts.
  - (b) A description or list of existing community resources and how these resources will interact with the victim/witness assistance program;
  - (c) The objectives of the program as to each of the program services to be provided and an implementation plan specifying the specific services that will be provided to meet those objectives. Specific services to be provided shall be consistent with those set forth under the service categories in OAR 137-078-0030.
- (3) Appendix -- Items which serve to further clarify the narrative, but are too long to be contained in the text, are included in the Appendix portion of the application.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

**137-078-0030**

### **Program Content**

The Victim/Witness Assistance Program shall provide comprehensive services to victims and witnesses of all types of crime, with particular emphasis on serious crimes against persons and property, and shall not restrict services only to victims or witnesses of a particular type of crime. The comprehensive service categories provided shall be as follows:

(1) Service Category: Case Status/Progress Information: **"Inform Victims and witnesses of their case status and progress"**:

(a) Service Definition: To provide a procedure for systematic notification to victims and witnesses of crime which are the subject of prosecution, and family members of all deceased victims the subject of criminal prosecutions, of any significant developments in the proceeding in which they are involved, including informing such victims and witnesses and family members of deceased victims of the final disposition of the case;

(b) Specific Service:

(A) Notify victims of felony\* crimes and families of deceased victims, the subject of such crimes, of:

**NOTE:** \* May not be applicable to city attorneys.

(i) The date of the arraignment of the defendant;

(ii) The charges upon which the defendant was arraigned;

(iii) A tentative trial date when it becomes known; and

(iv) Hearing dates and cancellations.

(B) Notify victims of felony\* crimes and witnesses thereto and families of deceased victims, the subject of such crimes, of the final disposition of the case in which they are involved;

**NOTE:** \* May not be applicable to city attorneys.

(C) Notify victims of misdemeanor crimes of the final disposition of the case in which they are involved.

(2) Service Category: Advocate Duties: **"Perform advocate duties for victims within the criminal justice system"**: Service Definition: (The services identified in sections (3), (4), (5), (7), (8) and (11) of this rule, are the services to be performed under this category.)

(3) Service Category: Assistance in Recovering Property and Obtaining Restitution or Compensation for Expenses: **"Assist victims in recovering property damaged or stolen and obtaining restitution or compensation for medical and other expenses incurred as a result of the criminal act":**

(a) Service Definition: To provide a procedure for systematic assistance to victims of crimes which are the subject of prosecution and family members of all deceased victims the subject of criminal prosecution in recovering damaged or stolen property and in obtaining restitution or compensation for medical or other expenses incurred as a result of the criminal act;

(b) Specific Service:

(A) Identify/contact victims of crime who have sustained monetary losses and obtain from them verification of those losses (estimates of damage, salary verification, etc.);

(B) Make available to the courts itemized and verified lists of losses incurred by the victims of crime;

(C) Assist victims when it is necessary for them to attend a restitution hearing;

(D) Assist victims who inform the program of nonreceipt of restitution payments;

(E) Refer victims to those criminal justice system authorities responsible for the return of property damaged or stolen;

(F) Intercede on behalf of victims with those criminal justice authorities responsible for the return of property in order to obtain the early release of victims' property.

(4) Service Category: Preparation of Victims for Court Hearings: **"Prepare victims for impending court hearings by informing them of procedures involved":**

(a) Service Definition: To provide a procedure for systematic notification to victims of crime of the procedures involved in pending court hearings;

(b) Specific Service: Prepare crime victims, either by written or verbal communication, by explaining to them the various court stages through which a case progresses (preliminary hearing, grand jury, trial, etc.).

(5) Service Category: Accompanying Victims to Hearings: **"Accompany victims to court hearings"**

(a) Service Definition: To provide, when deemed necessary or when requested, accompaniment of victims to court hearings;

(b) Specific Service:

(A) Upon request or when deemed necessary by the program staff, arrange for program person to accompany victims and witnesses to the courtroom;

(B) When deemed necessary by program staff, the program person to remain with victims or witnesses throughout their court appearances.

(6) Service Category: Involving Victims in Decision-Making Process: **"Involve victims when possible in the decision-making process in the criminal justice system"**

(a) Service Definition: To provide a procedure for systematic inclusion of victims' input into the decision-making process, both at the prosecutorial and the judicial level;

(b) Specific Service:

(A) In whatever ways appropriate, involve the crime victims in the sentencing process, including appearances at sentencing hearings, making the court aware of the victim's presence, and facilitating the victim's involvement in the preparation of presentence reports and the "Victim Impact Statement";

(B) Involve the victims in the plea negotiation process when appropriate.

(7) Service Category: Assistance in Obtaining Return of Property Held as Evidence: **"Assist victims in obtaining the return of property held as evidence"**:

(a) Service Definition: To provide a procedure for systematic assistance to victims and witnesses of crimes which are the subject of prosecution and all family members of all deceased victims the subject of criminal prosecution to obtain the return of property held as evidence;

(b) Specific Service:

(A) Refer victims and witnesses to those criminal justice system authorities responsible for the return of property held as evidence;

(B) Intercede on behalf of victims and witnesses with those criminal justice authorities responsible for the return of property in order to obtain the early release of victims' or witnesses' property;

(C) Direct participation in and administration of a system to facilitate the early release of victims' or witnesses' property (i.e., by use of photographs).

(8) Service Category: Victims' and Witnesses' Logistical Problems: **"Assisting victims with personal logistical problems related to court appearances"**:

(a) Service Definition: To provide a procedure for systematic assistance to victims and witnesses having personal problems militating against appearances in court in order to meet such court appearances;

(b) Specific Service:

(A) Arrange for the provision of temporary child care when appropriate;

(B) Upon request, arrange for transportation of victims/witnesses when deemed necessary for their participation in the criminal justice proceedings;

(C) When requested, intercede with an employer on the victims'/witnesses' behalf where the need for court appearance has caused, or will cause, an employed person to lost time from work and possibly jeopardize his/her employment.

(9) Service Category: Community Resource Development: **"Developing community resources to assist victims of crime":**

(a) Service Definition: To develop a procedure for systematically providing victims and witnesses of crime with information as to, and referrals to, existing community resources responsive to their needs;

(b) Specific Service:

(A) Maintain a comprehensive, up-to-date directory of existing agencies with individuals within the community which provide relevant services to citizens, such as financial counseling, shelter and food. This directory shall include the general eligibility requirements, services offered, hours of operation, location, telephone number, and a contact name;

(B) When deemed necessary, refer victims and witnesses, and particularly families of deceased victims, directly to appropriate community service resources in order to meet immediate and long-term needs of these individuals. Follow-up on referrals to ensure that the victim's/witness' needs have been met.

(10) Service Category: Orientation to Crime Victim Compensation Benefits: **"Assist victims of crimes in the preparation and presentation of claims against the Criminal Injuries Compensation Account":**

(a) Service Definition: To provide a procedure for systematic notification of victims and relatives of deceased victims of compensable crimes under [ORS 147.005](#) to 147.365 of the existence of the Crime Victim Compensation Program in the Oregon Department of Justice, including explaining to such victims and relatives of the benefits available through Crime Victim Compensation, how to apply for benefits and assisting, when requested, those demonstrating inability to do so independently, in gathering information and completing applications in order to perfect a claim;

(b) Specific Service:

(A) Notification of the existence of the Crime Victim Compensation Program and explanation of available benefits and how to apply shall be accomplished by providing such victims and relatives with an informational brochure and an application form;

(B) When requested, the program shall have program persons available to assist such victims and relatives, not able to do so independently, in gathering information and completing their applications in order to perfect a claim for compensation under ORS 147.005 to 147.365.

(11) Service Category: Encouragement and Facilitation of Testimony: **"Generally encourage and facilitate testimony by victims of and witnesses to criminal conduct":**

(a) Service Definitions: To develop procedures that systematically ensure that the interests, needs, and welfare of victims and witnesses are attended to, toward the end that they are encouraged to testify in all proceedings to which they are called;

(b) Specific Service:

(A) Orient personnel of the criminal justice system, who will or may have contact with victims or witnesses, to the needs of victims or witnesses in general and in special circumstances, the needs of particular victims and/or witnesses;

(B) Provide a safe waiting area separated from the defendant, defendant's family, friends and witnesses;

(C) Notify the appropriate law enforcement agency if protection of the victim or witness is requested or deemed necessary by staff;

(D) When deemed necessary, advise the proper authorities of the need for a "no contact" condition of release and/or sentence;

(E) In those cases where tampering with and/or harassment of a victim or witness appears provable, to act to ensure that proper charges are filed and given priority;

(F) When hearings are cancelled, act to ensure that victims and/or witnesses who have been requested or subpoenaed to attend are notified not to appear.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

### **137-078-0035**

#### **Maintenance and Retention of Records**

The program shall maintain accurate, complete, orderly, and separate records. All records and documents must be adequately stored and protected from fire and other damage. All record books, documents, and records related to the program must be accessible to the Administrator of the Special Compensation Programs or his designee for inspection and audit. All records must be retained for at least three years after submitting the annual report or the date ending the program period, whichever is later.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

### **137-078-0040**

#### **Fiscal and Contracting Requirements**

(1) Subsidiary record documentations, source documents, e.g., invoices, time and payroll records, and indirect cost computations are the instruments which bring about the actual expenditure of funds. All ledger account entries must be supported by secondary or intermediate records in the original source documentation. Unless commonly accepted accounting standards and practices have been followed, audits may result in non-renewal of program approval.

(2) Penalty assessment funds returned to a district or city attorney under the provisions of the Act may not be used for expenditures that a district or city attorney's office would incur if it did not have a victim/witness assistance program. The monies returned are to be exclusively used for the operation of the victim/witness program.

(3) Programs are required to be prudent in the acquisition of equipment. Careful screening should take place before purchasing equipment to be sure that the property is needed and the need cannot be met with the equipment already in the possession of the program funds for the purchase of new equipment required for a program that is already available for use within the county or city will be considered unnecessary purchases.

(4)(a) Professional services may be performed under contract by individuals and organizations, when such services are not readily available within the program and are clearly consistent with the intent of the Act. Employees on the program's payroll are not included;

(b) Under the Act, city and district attorneys are required to administer the victims/witness assistance program. This is understood as serving the objective of incorporating these programs as an integral function of the prosecutor's office, to the end that there is an efficient and coordinated merger between the interests of serving the needs of the victim/witness and the prosecution of crime. Accordingly, no contract may be entered into which will allow the program to be administered independently of the control and policy direction of the city or district attorney whose program is the subject of the contracted service. Any contract must:

(A) Detail those specific services identified in the approved program that are to be carried out by the contractor;

(B) Provide for coordination of the contractor's functions with those of the prosecutor's office, including as appropriate to the services to be performed, for the contractor's access to the prosecutor's records and personnel, and for the exchange of such communications between the prosecutor's office and the contractor as are necessary to the the ongoing performance of the contractor's services and to the prosecutorial function;

(C) Provide that ultimate program control and policy direction not addressed in the agreement shall be retained as the responsibility of the prosecutor and that he or she shall provide timely consideration and written determination thereof; and

(D) Provide a procedure for routine review by the city or district attorney of the contractor's performance, facilitated by quarterly activity reports to be made by the contractor to the prosecutor outlining the activities and accomplishments during the

report period, any problems in operation or implementation of the contracted services, and any critical observations relative to the program's operation.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 5-1983(Temp), f. & ef. 9-9-83

## **137-078-0045**

### **Annual Report**

The Program Director shall each year of funding submit an annual report to the Administrator of the Special Compensation Programs. The report shall be made upon a form supplied by the Department of Justice. The report shall be submitted within 30 days of receiving the forms and instructions, but not later than August 31 of the funding year. The report shall include the following information. Face Sheet -- The program title, program director, period of report, signature of person reporting, and signature of the district or city attorney certifying the truth and accuracy of the report. The sheet shall also contain the verification of continued operation specified in OAR 137-078-0010(1).

(2) Program Narrative - A description of the implementation and operation of each service provided by the victim/witness assistance program during the report period. The following subject areas shall be included:

(a) Activities and accomplishments completed during the report period in terms of meeting of objectives set forth in the approved program plan. Copies of any brochures or pamphlets, policies, procedures, guidelines or rules that have been developed for administration of the program, as well as controls for professional services, shall be attached;

(b) Personnel and staffing, which will include the number of positions (full-time and part-time) and volunteers;

(c) Problems in operation or implementation of service in the program and critical observations, if any.

(3) Data Statistical information on services provided as specified in the form supplied by the Department of Justice.

(4) Financial Report - A summary of revenues and expenditures of the program in line item detail, including but not limited to the following expenditure categories:

(a) Personnel services - Salaries;

(b) Personnel services - Benefits;

(c) Operating expenses, such as rent, telephone, supplies, postage, utilities, etc.;

(d) Equipment acquisitions;

(e) Contractual services (see OAR 137-078-0040(4));

(f) Additionally, a copy of the city's or county's annual financial report, accompanied by an independent auditor's report, shall be submitted to the Administrator of the Special Compensation Programs as soon as is practical upon completion of the entity's annual audit.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

## **137-078-0050**

### **Disapproval of Program for Funding -- Discontinuance of Funding**

(1) The Administrator of the Special Compensation Program may disapprove any program for funding that does not comply with the Act or these rules. Similarly, he may discontinue approval of funding for these reasons or for the program's failure to comply with the approved program. Prior to any disapproval or discontinuance of funding, the Administrator of the Special Compensation Programs will contact the district or city attorney in an effort to assist in development of an approvable program or in correcting any deviation from requirements. In the case of discontinuance of funding, 30-days advance notice will be provided by the Administrator of the Special Compensation Programs to the district or city attorney.

(2) A district or city attorney may request reconsideration of any decision resulting in the disapproval of a victim/witness assistance program for funding or in the discontinuance of funding. The process is as follows:

(a) The district or city attorney shall first request reconsideration in writing to the Administrator of the Special Compensation Programs, detailing his reasons for disagreement with the Department's decision. The Administrator will reconsider any decision for which request for reconsideration is received, and will notify the district or city attorney within a reasonable period of time in writing of the reconsideration decision;

(b) Any district or city attorney who requests review by the Administrator and who disagrees with the reconsideration decision may appeal to the Deputy Attorney General. Requests for the Deputy Attorney General's review shall be in writing. The Deputy Attorney General's decision will be in writing and will be final.

Stat. Auth.: [ORS 147](#)

Stats. Implemented: [ORS 147.227](#)

Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84

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