

---

## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

---

**Bill No:** SB 838                      **Hearing Date:** March 28, 2023  
**Author:** Menjivar  
**Version:** February 17, 2023  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SC

**Subject:** *Victim compensation: use of force by a law enforcement officer*

### HISTORY

**Source:** Californians for Safety and Justice  
Prosecutors Alliance of California  
Youth ALIVE!

**Prior Legislation:** AB 160 (Committee on Budget), Ch. 771, Stats. 2022  
SB 299 (Leyva), died on Assem. Floor, 2022  
SB 993 (Skinner), dies on Assem. Floor, 2022  
AB 767 (Grayson), held in Sen. Appropriations, 2020  
SB 329 (Kamlager), was not heard by Sen. Public Safety, 2020

**Support:** Asian Solidarity Collective; Black Lives Matter – Los Angeles; Bolda Bridges Inc.; California Alliance for Youth and Community Justice; California Coalition for Women Prisoners; California Families Against Solitary Confinement; California Public Defenders Association; Californians United for A Responsible Budget; Catron Academy Learning Institute; Communities United for Restorative Youth Justice; Crime Survivors for Safety and Justice; Ella Baker Center for Human Rights; Everytown for Gun Safety Action Fund; Fresno Barrios Unidos; Initiate Justice; Lawyers’ Committee for Civil Rights of the San Francisco Bay Area; Legal Services for Prisoners With Children; Match for Our Lives Action Fund; Motivating Individual Leadership for Public Advancement; National Association of Social Workers – California Chapter; Pacific Juvenile Defender Center; Sacred Purpose LLC; Santa Cruz Barrios Unidos; Secure Justice; Sister Warriors Freedom Center; Smart Justice California; Southern California Crossroads; Starting Over, Inc.; The Gathering for Justice; United Communities for Peace; Young Women’s Freedom Center

**Opposition:** Arcadia Police Officers' Association; Burbank Police Officers' Association; California Coalition of School Safety Professionals; California District Attorneys Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California (PORAC); Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association; San

Diegans Against Crime; San Diego Deputy District Attorneys Association; Santa Ana Police Officers Association; Upland Police Officers Association;

## PURPOSE

***The purpose of this bill is to revise the definition of “crime” for purposes of the Victim Compensation Program to include an incident in which an individual sustains serious bodily injury or death as the result of a law enforcement officer’s use of force and make changes to eligibility factors as they would apply to these types of claims.***

*Existing law* states that the Legislature finds and declares that it is in the public interest to assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts. (Gov. Code, § 13950, subd. (a).)

*Existing law* establishes the California Victims Compensation Claims Board (CalVCB) to operate the Victim Compensation Program (VCP). (Gov. Code, §§ 13950 *et. seq.*)

*Existing law* provides that an application for compensation shall be filed with CalVCB in the manner determined by the board. (Gov. Code, § 13952, subd. (a).)

*Existing law* requires an application be filed in accordance with the following timelines:

- Within seven years of the date of the crime;
- Seven years after the victim attains 21 years of age; or,
- Seven years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later. (Gov. Code, § 13953, subd. (a).)

*Existing law* authorizes CalVCB to reimburse for pecuniary loss for the following types of losses:

- Medical or medical-related expenses incurred by the victim for services provided by a licensed medical provider;
- Out-patient psychiatric, psychological or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center, not to exceed \$10,000;
- Compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim’s injury or the victim’s death;
- Cash payment to, or on behalf of, the victim for job retraining or similar employment-oriented services;
- The expense of installing or increasing residential security;
- The expense of renovating or retrofitting a victim’s residence or a vehicle to make them accessible or operational, if it is medically necessary;
- Relocation expenses, not to exceed \$2,000, if the expenses are determined by law enforcement to be necessary for the victim's personal safety, or by a mental health treatment provider to be necessary for the emotional well-being of the victim;
- Funeral or burial expenses, not to exceed \$7,500;

- Costs to clean the scene of the crime, not to exceed \$1,000s; and,
- Costs of veterinary services. (Gov. Code, § 13957, subd. (a).)

*Existing law* limits the total award to or on behalf of each victim to \$35,000, except that this amount may be increased up to \$70,000 if federal funds for that increase are available. (Gov. Code, § 13957, subd. (b).)

*Existing law* authorizes CalVCB to require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation. (Gov. Code, § 13952, subd. (c)(1).)

*Existing law* requires the CalVCB to verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. (Gov. Code, § 13954, subd. (a).)

*Existing law* provides that verification information shall be returned to CalVCB within 10 business days after a request for verification has been made by the board. Verification information shall be provided at no cost to the applicant, the board, or victim centers. (Gov. Code, § 13954, subd. (a)).

*Existing law* requires an applicant to cooperate with the staff of CalVCB or the victim center in the verification of the information contained in the application and states that failure to cooperate shall be reported to CalVCB, which, in its discretion, may reject the application solely on this ground. (Gov. Code, § 13954, subd. (b).)

*Existing law* states that an applicant's refusal to apply for other benefits potentially available to them from other sources, including, but not limited to, worker's compensation, state disability insurance, social security benefits, and unemployment insurance may be used to find that the applicant failed to cooperate with CalVCB. (Gov. Code, § 13954, subd. (b)(2)(C).)

*Existing law* requires the Department of Justice (DOJ) to furnish, upon application of CalVCB, all information necessary to verify the eligibility of any applicant for other available benefits, to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime, or to evaluate the status of any criminal disposition. (Gov. Code, § 13954, subd. (f).)

*Existing law* defines "crime" for purposes of victim compensation to mean "a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult. (Gov. Code, § 13951, subd. (b)(1).)

*Existing law* defines "victim" to mean an individual who sustains injury or death as a direct result of a crime as specified. (Gov. Code, § 13951, subd. (e).)

*Existing law* defines "derivative victim" to mean an individual who sustains pecuniary loss as a result of injury or death to a victim. (Gov. Code, § 13951, subd. (e).)

*This bill* provides that “crime” includes, for purposes of eligibility for compensation, an incident occurring on or after January 1, 2024, in which an individual sustains serious bodily injury or death as a result of a law enforcement officer’s use of force, regardless of whether the law enforcement officer is arrested, charged, or convicted of committing a crime.

*Existing law* defines “serious bodily injury” as a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement. (Pen. Code, § 243, subd. (f)(4).)

*This bill* defines “law enforcement officer” to mean a peace officer as defined in Section 830 of the Penal Code.

*This bill* defines “victim services provider” to mean an individual, whether paid or serving as a volunteer, who provides services to victims under the supervision of an agency or organization that has a documented record of providing services to victims or law enforcement or prosecution agency.

*Existing law* provides that a person shall not be eligible for compensation under the following conditions:

- If CalVCB finds that denial is appropriate because of the nature of the victim’s or other applicant’s involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application. Factors that may be considered when making this determination include, but are not limited to:
  - The victim or derivative victim initiated the qualifying crime, or provoked or aggravated the suspect into initiating the qualifying crime;
  - The qualifying crime was a reasonably foreseeable consequence of the conduct of the victim or derivative victim;
  - The victim or derivative victim was committing a crime that could be charged as a felony and reasonably lead to them being victimized, unless the injury or death occurred as a direct result of specified crimes including rape, domestic violence, or statutory rape where the minor is under 16 and the perpetrator is over 20.
- If CalVCB finds that the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider:
  - The victim’s or derivative victim’s age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or victim’s family or the derivative victim or derivative victim’s family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors.

- A victim of domestic violence shall not be determined to have failed to cooperate based on their conduct with law enforcement at the scene of the crime.
- Lack of cooperation shall not be found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime.

(Gov. Code, § 13956, subs. (a) & (b).)

*Existing law* states that if the victim is determined to have been involved in the events leading to the qualifying crime, factors that may be considered to mitigate or overcome involvement include, but are not limited to:

- The victim's injuries were significantly more serious than reasonably could have been expected based on the victim's level of involvement;
- A third party interfered in a manner not foreseeable by the victim or derivative victim; and,
- CalVCB shall consider the victim's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the application should be denied for this reason. (Gov. Code, § 13956, subd. (a)(2).)

*This bill* states that notwithstanding the above ineligibility factors, for a claim based on a victim's serious bodily injury or death resulting from a law enforcement officer's use of force, CalVCB shall not deny the application based on the victim's or other applicant's involvement in the qualifying crime that gave rise to the claim, unless both of the following conditions are met:

- The victim is convicted of a violent felony, as defined, or a crime that resulted in death or serious bodily injury, as defined; and,
- The crime that the victim is convicted of occurred at the time and location of the incident on which the claim is based.

*This bill* states that the claimant may apply for compensation based on law enforcement officer's use of force at any time for any expense but that CalVCB shall not consider the claim while charges are pending alleging that the victim committed a crime that may make the victim ineligible for compensation.

*This bill* specifies that charges shall not be considered pending if the victim is deceased.

*This bill* states that for a claim based on a victim's death that resulted from a law enforcement officer's use of force, CalVCB may deny an application based on the victim's involvement in the qualifying crime that gave rise to the claim if there is clear and convincing evidence that the deceased victim committed a crime during which the deceased victim personally inflicted serious bodily injury, as defined, or personally killed another person at the time and location of the incident on which the claim is based.

*This bill* provides that an application for a claim based on a victim's serious bodily injury or death that resulted from a law enforcement officer's use of force shall not be denied based on a victim or derivative victim's failure to cooperate reasonably with a law enforcement's agency.

*This bill* states that notwithstanding any other law, for an application for a claim based on serious injury or death that resulted from a law enforcement officer's use of force, the CalVCB shall not deny an application, in whole or in part, based solely on any of the following:

- The contents of a police report;
- Whether a police report was made;
- Whether a suspect was arrested or charged with the qualifying crime that gave rise to the claim.

*Existing law* requires the CalVCB staff to determine whether an application for compensation contains all of the information required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. (Gov. Code, § 13952, subd. (c)(2).)

*Existing law* states that the applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff's determination to CalVCB, which shall review the application to determine whether it is complete. (Gov. Code, § 13952, subd. (c)(2).)

*This bill* states that if the only evidence CalVCB receives that the qualifying crime occurred is a police report and the report does not establish that the qualifying crime occurred, CalVCB shall notify the applicant of the deficiency and solicit additional information to verify the claim.

*This bill* requires CalVCB to adopt guidelines that allow the board to rely on evidence other than a police report to establish that a qualifying crime occurred when considering applications for assistance based on serious bodily injury or death that resulted from a law enforcement officer's use of force, including, but not limited to, any of the following:

- Medical records documenting injuries consistent with the allegation that the victim suffered serious bodily injury or death as a result of a law enforcement officer's use of force;
- A written statement from a victim services provider stating that the victim is seeking services related to suffering serious bodily injury as a result of a law enforcement officer's use of force;
- A statement from a licensed medical provider, physician's assistant, nurse practitioner, or other person licensed to provide medical or mental health care documenting that the victim suffered serious bodily injury or death as a result of a law enforcement officer's use of force;
- A written or oral report from a law enforcement agency documenting that the victim suffered serious bodily injury or death as a result of a law enforcement officer's use of force;
- Evidence that the qualifying crime was reported to the Department of Justice as an incident in which the use of force by a law enforcement officer against a civilian resulted in serious bodily injury or death; or,
- A death certificate documenting a cause of death consistent with the allegation that the victim died as a result of a law enforcement officer's use of force.

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

Survivors of police violence are victims that need support and healing. For too long, these survivors have been revictimized by a justice system that ignores their trauma and pain. We must stand with all survivors of crime by working to ensure they and their families have access to the supportive services they need to heal. Supporting survivors and making sure their needs are met is critical for increasing the safety and wellbeing of all of our communities.

### 2. History and Purpose of California Victim Compensation Program

The victim compensation program was created in 1965, the first such program in the country. The program provides compensation for victims of violent crime. It reimburses eligible victims for many crime-related expenses, such as counseling and medical fees. Funding for the CalVCB comes from restitution fines and penalty assessments paid by criminal offenders, as well as federal matching funds. (See the California Victim Compensation Board's website <<http://www.vcgcb.ca.gov/board/>>.)

The victim compensation program is the payor of last resort, which means applicants are compensated for covered expenses that have not been and will not be compensated from any other source. The types of expenses that may be reimbursed include:

- Medical, medical-related, dental.
- Outpatient mental health treatment or counseling.
- Funeral and burial.
- Wage or income loss up to five years following the date of the crime due to the victim's disability resulting from the qualifying crime. If the victim is permanently disabled, wage or income loss may be extended.
- Support loss for legal dependents of a deceased or injured victim.
- Up to 30 days wage loss for the parent or legal guardian of a minor victim who is hospitalized or dies as a direct result of a crime.
- Job retraining.
- Medically necessary renovation or retrofitting of a home or vehicle for a person permanently disabled as a result of the crime.
- Home security installation or improvements
- In-patient psychiatric hospitalization costs.
- Relocation.
- Crime scene clean-up.
- Veterinary fees, or replacement costs for a guide, signal or service dog.
- Roundtrip mileage reimbursement to medical, dental or mental health appointments.
- Minors who suffer emotional injuries from witnessing a violent crime may be eligible for mental health counseling. To qualify, the minor witness must have been in close proximity to the crime.

Reimbursement is limited to the actual amount paid out-of-pocket or bills accrued by the victim. The maximum amount reimburse a victim or derivative victim is \$35,000, except this amount

may be increased to \$70,000 if federal funds are available. Additionally, there are specified limits for certain expenses.

Last year, AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, raised the maximum reimbursable amount and the individual limits for specified expenses which will go into effect July 1, 2024, contingent on funds being available and appropriated in the 2024-2025 fiscal year.

### **3. Current Eligibility Requirements for Compensation and Changes Made by this Bill**

The CalVCP reimburses eligible victims for specified expenses such as counseling and medical fees. Eligible persons are victims and derivative victims where the crime either occurred in California or the victim is a resident of California or a member or a family member living with a member of the military stationed in California. The victim or derivative victim must have sustained either physical injury or emotional injury for specified violent crimes.

Once an application is filed, the board is required to verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. (Gov. Code, § 13954, subd. (a).) Any verification information requested by the board must be returned within 10 days of the request. (*Ibid.*) The applicant is also required to cooperate with the staff of the board or the victim center in the verification of the information contained in the application. Failure to cooperate may constitute grounds to reject the application. (Gov. Code, § 13954, subd. (b)(1).)

Under existing law, the board may deny an application based on a finding that the victim was involved in the events leading to the crime or the victim's failure to reasonably cooperate with law enforcement. The proponents of this bill state that these disqualifying factors unjustly exclude victims of a law enforcement officer's use of force from compensation. Specifically, the board may find that the victim was involved in the events leading up to their own injury or death because of a minor act that caused the police to initiate contact with the victim or because the victim resisted the officer's orders during the encounter. The board may also find that the victim failed to reasonably cooperate with law enforcement by not filing a police report regarding the use of force or not answering officers' questions when arrested or detained.

This bill expands the definition of a qualifying crime to include "an incident occurring on or after January 1, 2024, in which an individual sustains serious bodily injury, as defined in Section 243 of the Penal Code, or death as a result of a law enforcement officer's use of force, regardless of whether the law enforcement officer is arrested for, charged with, or convicted of committing a crime." Serious bodily injury is defined in existing law as "a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss of impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement." (Pen. Code, § 243, subd. (f)(4).)

This bill states that for claims involving serious bodily injury or death caused by law enforcement use of force, the board shall not deny an application for compensation based on the victim's or other applicant's involvement in the qualifying crime that gave rise to the claim.



For claims involving serious bodily injury, the bill states that the board may deny the claim if the victim is convicted of a violent felony, as defined in Penal Code section 667, or a crime that resulted in serious bodily injury or death, and the crime occurred at the time and location of the incident on which the claim is based. The board shall not consider a claim for compensation while charges are pending alleging that a victim committed the crime. A victim may apply for compensation at any time for any expense, but the award of that compensation shall not be granted until the charges are no longer pending against the victim. However, if the victim is deceased, charges shall not be considered pending against the victim.

For claims based on a victim's death that resulted from a law enforcement officer's use of force, this bill states that the board may deny an application based on the victim's involvement in the qualifying crime that gave rise to the claim if there is clear and convincing evidence that the deceased victim committed a crime during which the deceased victim personally inflicted serious bodily injury or personally killed another person at the time and location of the incident on which the claim is based.

Under existing law, the board is required to approve or deny an application within an average of 90 calendar days and no longer than 180 days of acceptance by the board or victim center. (Gov. Code, § 13958.) If the board fails to meet the 90 day average, the board is required to report to the Legislature on a quarterly basis, its progress and current average time of processing applications until it meets the 90-day average standard for two consecutive quarters. (Gov. Code, § 13958, subd. (a).) Allowing victims to apply for compensation while criminal charges may be pending against the victim may create delays in approving or denying applications, which could lead to an overall increase in the average length of time the board approves or denies applications.

This bill also provides that for claims involving serious injury or death caused by law enforcement use of force, the board shall not deny an application based on the victim's failure to cooperate reasonably with law enforcement. Existing law provides that "[i]n determining whether cooperation has been reasonable, the board shall consider the victim or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, and any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or victim's family or derivative victim or derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of these factors." (Gov. Code, § 13956, subd. (b)(1).)

Additionally, the bill states that the board shall not deny an application, in whole or in part, based solely upon the contents of a police report, or because a police report was not made, or based on whether any suspect was arrested or charged with the crime that gave rise to the claim. This bill states if the only evidence the board receives that the qualifying crime occurred is a police report and the police report does not establish that the crime occurred, the board shall notify the applicant of the deficiency and solicit additional information to verify the claim. Under existing law, an applicant is given 30 days to provide the additional information. (Gov. Code, § 13952, subd. (c)(2).)

This bill also requires the board to adopt guidelines that allow the board to rely on evidence other than a police report when considering applications for assistance based on an individual's serious bodily injury or death that resulted from a law enforcement officer's use of force, such as medical records or a written statement from a victim services provider.

These provisions are similar to existing provisions for victims of domestic violence and sexual assault. (Gov. Code, §13956, subd. (b)(2)-(4).)

#### 4. Police Use of Force Statistics

The California Department of Justice collects information on use of force incidents that result in serious bodily injury or death or involved the discharge of a firearm. According to the 2021 use of force incident reporting, there were 660 civilians involved in police use of force incidents that involved the discharge of a firearm or use of force resulting in serious bodily injury or death. (DOJ, *2021 Use of Force Incident Reporting* (2022), pg. 2, see <https://data-openjustice.doj.ca.gov/sites/default/files/2022-08/USE%20OF%20FORCE%202021.pdf> [as of Mar. 16, 2023].) Of those, 349 resulted in serious bodily injury and 149 resulted in death. (*Id.* at pg. 43.) Demographics of the civilians were 50.6 percent (334) Hispanic, 25.5 percent (168) white, and 16.7 percent (110) black. (*Id.* at pg. 2.)

The report showed that 1,462 officers were involved in the use of force incidents. (*Id.* at pg. 3.) Of the 1,462 officers, 43.6 percent (638) did not receive force from a civilian, 18.9 percent (277) received force during physical contact with a civilian, and 17.5 percent (256) received force by the discharge of a firearm from a civilian. (*Ibid.*) Demographics of officers were 49.6 percent (725) white, 38.3 percent (560) Hispanic, 6.0 percent (88) Asian/Pacific Islander, and 4.0 percent (58) black. (*Ibid.*)

#### 5. Condition of the Restitution Fund

The Restitution Fund, which funds CalVCB reimbursements, has been operating under a structural deficiency for a number of years. In 2015, the Legislative Analyst's Office reported the Restitution Fund was depleting and would eventually face insolvency. Although revenue has remained consistent, expenditures have outpaced revenues since FY 2015-16. The Governor's 2021-22 budget proposed \$33 million dollars in one-time General Fund monies to backfill declining fine and fee revenues in the Restitution Fund, and \$39.5 million annually afterwards. This amount will allow CalVCB to continue operating at its current resource level. Furthermore, the Budget Act allows for additional backfill if a determination is made that revenues are insufficient to support CalVCB. (Department of Finance, *California State Budget –2023-24* at 90 <<https://ebudget.ca.gov/2023-24/pdf/BudgetSummary/CriminalJustice.pdf>> [as of Feb. 8, 2023].) In addition, the 2022 Budget prioritized changes to the victim compensation program and the elimination of the restitution fine, if a determination is made in the spring of 2024 that the General Fund over the multiyear forecast is available to support this ongoing augmentation. (*Ibid.*)

#### 6. Argument in Support

According to Communities United for a Restorative Youth Justice:

Existing law requires the California Victim Compensation Board (CalVCB) to verify that a crime occurred based on a police report and deny applications if it finds that the victim was involved in the events that gave rise to the application, giving significant weight to the opinion of law enforcement. Survivors may be denied for noncooperation with police, and—for most victims—CalVCB cannot approve a claim without a police report. Yet data collected by the U.S.

Department of Justice indicate that 6 in 10 violent victimizations in California are never reported to police. CalVCB may use other evidence to establish eligibility for victims of sexual assault, domestic violence, and human trafficking, but other victims are not afforded the same flexibility.

For survivors of police violence and loved ones of those killed by police, these restrictions are especially wrong. A police report documenting the victimization is often elusive. Survivors may not want to speak with officers, resulting in exclusion for noncooperation. And, state regulation encourages giving “significant weight...to the conclusions of a law enforcement agency” when assessing “involvement.” The very people responsible for the victimization are tasked with assigning blame, and denying the victim or their family access to needed resources.

These policies also entrench racialized perceptions of survivors as “deserving” or “undeserving”, and disproportionately deny survivors of color compensation. Trauma is compounded for victims and loved ones who receive the message that their experience or loss is not worthy of support.

SB 838 is critically important, as it ensures that more survivors receive the support needed to address their trauma, regardless of who caused that harm. Survivors of police violence should not have to overcome unjust barriers to compensation. Ultimately, this bill will improve access to this crucial program for survivors.

## 7. Argument in Opposition

According to San Diego Deputy District Attorneys Association:

SB838 would revise the definition of "crime" to include, solely for the purposes of eligibility for compensation by the CalVCP, an incident occurring on or after January 1, 2024, in which an individual sustains serious bodily injury, as defined, or death as a result of a law enforcement officer's use of force, regardless of whether the law enforcement officer is arrested for, charged with, or convicted of committing any crime.

SB838 would prohibit the CalVCP from denying funds based on the victim's involvement in the crime, the victim's failure to cooperate, or the contents of a police report, or the lack thereof. CalVCP may deny funds only if the victim is convicted of a violent felony that resulted in death or serious bodily injury. If the victim is deceased, funds may only be denied if the victim personally inflicted serious bodily injury or death on another person at the time and location of the incident on which the claim for funds is based. SB838 would lead to ludicrous results. A perpetrator could kill a person at one location and flee. If the killer later shot at law enforcement to avoid arrest at a separate location, the killer would be eligible to seek compensation for an injury inflicted at the time of arrest.

The restitution fund is limited and should be reserved for victims of crime. Persons who are unlawfully injured or killed by police should be entitled to compensation. But this bill allows persons who are lawfully injured or killed

while engaging in serious and dangerous crimes to demand compensation unless they fall into one of two very limited exceptions.

**-- END --**