

Final Protocol Overview

The Buffalo 5/14 Survivors Fund (the Fund) will distribute funds as gifts to victims and survivors of the May 14, 2022, shooting at the Tops Market grocery store in Buffalo, NY. The funds may be used however the recipients wish.

Decisions about eligibility and distribution are made by the local Steering Committee with intentions of transparency, integrity, compassion, and fairness. This Draft Protocol is the Steering Committee's suggestion of what rules should apply to this Fund and was created with guidance from National Compassion Fund, which has led numerous similar efforts after mass casualty events. On June 13, 2022, the Steering Committee published a Draft Protocol and requested public feedback.

Feedback was accepted via e-mail and also received in person from those who attended the Town Hall Meeting held on July 21 at City Honors School.

The Final Protocol establishes five categories of eligibility:

- Legal heirs of those who were killed as a direct result of the shooting
- Those who were physically injured by gunshot wound in the shooting
- Those who suffered some other type of physical injury during the shooting
- Those who were present at the Tops Market at the time of the shooting and suffered psychological trauma
- Tops associates of the Jefferson Avenue Store who were not present at the time of the Shooting.

An online application will be available on or about August 16, 2022.

All interested parties should sign up for the Fund's contact list by filling out and submitting the form on www.NationalCompassion.org/Buffalo. Emails will be sent regarding:

- When the application is available
- When the deadline for submitting an application is approaching

Representatives from the National Compassion Fund are available to help throughout this process through meetings or phone calls. Email Buffalo@NationalCompassion.org with any questions or to set up a meeting.

Buffalo 5/14 Survivors Fund Local Steering Committee

Rev. Mark Blue, Co-Chair	President, Buffalo NAACP
Paul Vukelic, Co-Chair	Chair, Buffalo Niagara Partnership
Thomas Beauford	President & CEO, Buffalo Urban League
Mike Cummings	Vice Chair of Community Affairs and Outreach for the Dept. of Psychiatry, University of Buffalo
Jon Dandes	Corporate Vice President, Rich Products
Justine David	Public Relations Specialist, Mower Agency
Andy Davis	COO, ECMC
Peter DeJesus	President, WNY Area Labor Federation, AFL-CIO
Pastor Larry Donalson	Pastor, Greater Works Christian Fellowship
Tim Hogues	Neighborhood Resident
Cedric Holloway	Director, Johnnie B Wiley Sports Pavilion
Willie Hutch	Neighborhood Resident
Kimberly Johnson	Chair of the Board of Trustee for the Buffalo & Erie County Public Library
Mark Manna	Western Area Director, UFCW Local One
Lindsay M. McKenna, Esq.	Bond, Schoeneck & King
Tiara Parker	Pulse Survivor
Pastor Kinzer Pointer	Pastor, Agape Fellowship Baptist Church
Kim Rapp	Victim Advocate
Daphne Ross	Sr. Director, Say Yes to Education
Judge Rose Sconiers	Incoming Chair, Community Foundation for Greater Buffalo
Patty Thomas	Board, Thurman Thomas Foundation
Thurman Thomas	Board, Thurman Thomas Foundation
Chantele Thompson	Chief Diversity Officer, Mayor Byron Brown's Office
Francisco Vasquez	Former CEO, Child and Family Services of Buffalo
Brad Watts	Community Relations Manager, People, Inc.
Samantha White, Esq.	Legal Aid of Buffalo
Mike Biehler, Esq.	Tops Markets
Diane Colgan	Tops Markets

Final Protocol

July 26, 2022

This is the Final Protocol, which will govern distribution of the Buffalo 5/14 Survivors Fund (the Fund). It was developed by the Fund Administrators, incorporating relevant and appropriate feedback from the Steering Committee, the survivors and victims, and the general public, including those present at the Town Hall meeting held by the Administrators on July 21, 2022.

The money paid by the fund is a gift to which no person has a legal claim or entitlement. All aspects of this Final Protocol including, without limitation, the classifications of applicants, distribution criteria, application process, and timetable, may be revised and are subject to the full and complete discretion of NCF, which serves as Fund Administrator. The level of benefits paid within each category of eligibility is determined by the steering committee.

The Fund was enhanced through the generosity of businesses, foundations, and individual donors. It will be used to assist the families of the victims who were killed, the victims who were physically injured requiring hospitalization, the victims who were physically injured and treated on an outpatient basis, and the victims who were present at the Tops market grocery store during the shooting (the Shooting) on May 14, 2022. The National Compassion Fund, LLC is a subsidiary of the National Center for Victims of Crime, a 501(c)(3) nonprofit organization (Federal Tax ID #30-0022798).

ALL APPLICATIONS MUST BE SUBMITTED ONLINE NO LATER THAN SEPTEMBER 14, 2022, TO BE ELIGIBLE TO RECEIVE PAYMENT. IF THE VICTIM IS UNDER THE AGE OF 18 OR IS A VULNERABLE ADULT, A PARENT OR GUARDIAN MUST APPLY ON THE VICTIM'S BEHALF.

The amounts awarded from the Fund will take into consideration variables that include: (1) the balance in the Fund when it is closed for donations on September 20, 2022; (2) the completion of the review of all submitted applications; and (3) the review and approval by the Administrators. The Administrators reserve all rights to determining the validity of all information submitted by applicants.

Neither citizenship nor immigration status will be considered in determining an applicant's eligibility.

SECTION ONE: ELIGIBILITY

AREA OF ELIGIBILITY

Individuals in the categories listed below will be deemed to have been "present" and eligible for payment if they were physically present inside or in the parking lot of the Tops Market grocery store located on Jefferson Avenue (as indicated by Figure 1 below) at the time of the shooting.

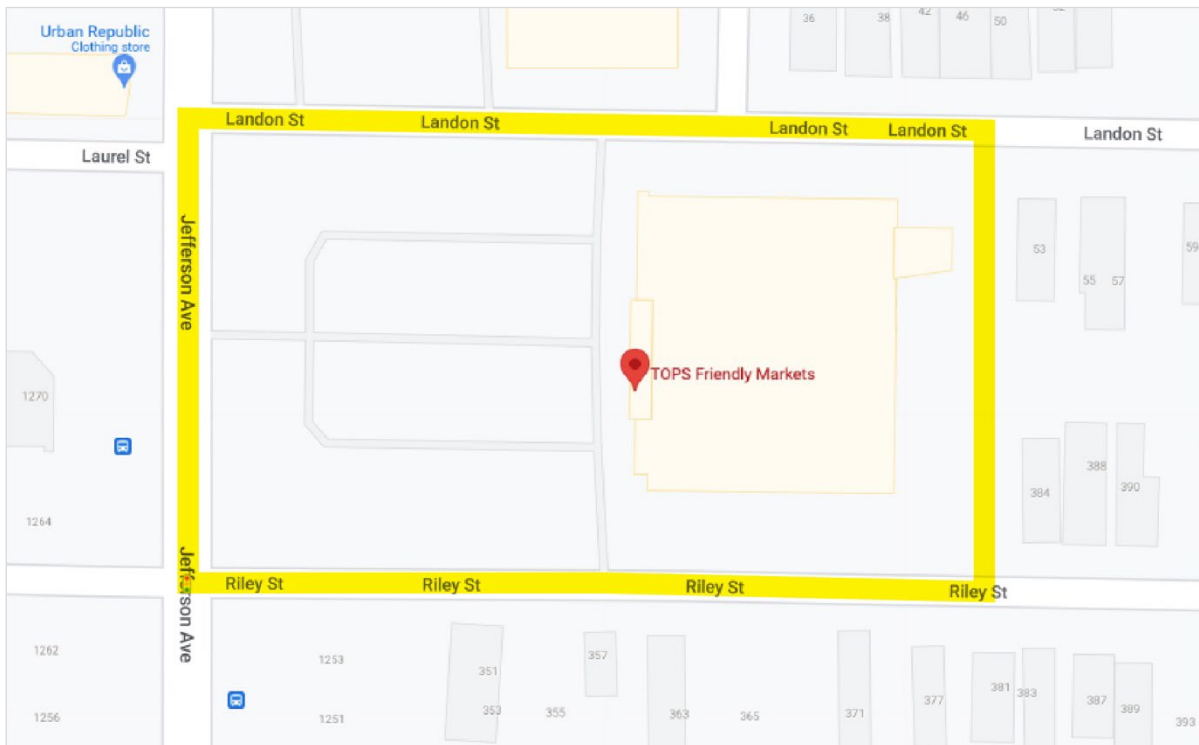


Figure 1

CATEGORIES OF ELIGIBLE APPLICANTS (ELIGIBILITY IS LIMITED TO ONE CATEGORY)

A. Application for Legal Heirs of Those Killed

Eligible applicants for deceased victims killed as a result of the Shooting will receive the highest level of payment under the scope of this Final Protocol. A final payment determination will be made upon receipt of all pertinent data and is subject to all comments above.

B. Individual Physical Injury Applications for Victims Wounded by Gunfire

Eligible applicants who were physically present within the area of eligibility designated in figure 1 above at the Tops Market grocery store at the time of the Shooting and were physically injured by

gunfire, which shall be defined as being hit by bullets or shrapnel, will receive payment under this Final Protocol.

C. Individual Physical Injury Applications of Victims Treated on an Out-Patient Basis

Eligible applicants who were physically present within the area of eligibility designated in figure 1 above at the at the Tops Market grocery store at the time of the Shooting, who suffered non-gunshot wound physical injuries as a result of the Shooting, and who received medical treatment no later than Saturday, May 21, 2022, will receive a payment under this Draft Protocol.

D. Individuals Present at the Site Experiencing Psychological Trauma

Any individuals who were present at the store at the time of the Shooting and experienced psychological trauma, and whose presence at the site was validated by law enforcement no later than September 14, 2022, are eligible to receive payment under this Final Protocol.

E. Tops Employees Not Present at the time of the Shooting

Tops employees assigned to store on Jefferson Avenue as of 5/14/2022, but who were not present within the area of eligibility at the time of the Shooting will be eligible for payment under this protocol.

SECTION TWO: PROCESS AND PROCEDURES

Eligible applicants must file an application in order to receive a payment from the Fund. **ALL APPLICATIONS MUST BE SUBMITTED BY THE DEADLINE OF SEPTEMBER 14, 2022;** however, the Fund Administrators reserve the right in their sole discretion to grant a deadline extension.

When completing the application, applicants will specify the category of the applicant: for deceased victims, for physical injury by gunfire, for other physical injury, for psychological trauma, or for Tops employees who were not present at the time of the shooting. In their application, applicants must choose only one distribution category for which they are eligible.

Each eligible applicant should submit only one application per victim. An applicant may submit more than one application only on behalf of separate victims. For example, a person who was present or injured may submit their own application. They may also submit an application on behalf of a minor (if that person is the designated parent or legal guardian of the minor) or on behalf of a family member who was killed (if they are the designated representative).

The process and procedures for consideration of eligible applications will be as follows:

A. The Fund will be administered by NCF. The Final Protocol to govern the Fund and a link to submit an online application for benefits will be emailed to all known potential applicants who have signed up for the Fund's contact list on the NCF website

(<https://nationalcompassion.org/fund/buffalo/>). The Final Protocol and information concerning the application process will also be available on the NCF website beginning on July 27, 2022. Representatives from NCF (the Fund Administrators) will administer and process the applications. Only one application should be submitted by, or on behalf of, each victim. All applications must be completed and submitted to the Fund Administrators (along with all required supporting documentation detailed in the application) no later than September 14, 2022. Questions regarding the completion of an application should be sent via email to Buffalo@NationalCompassion.org.

B. A public meeting was conducted by the Fund Administrators on Thursday, July 21, 2022, at 6:00 p.m. at City Honors School located at 186 E. North Street, Buffalo, NY 14204. At the meeting, there was an explanation of the Draft Protocol and the application submission process, and Fund Administrators invited input and comments from potential applicants and the general public. Information collected from these group meetings, various communications, and correspondence between the applicants, other interested parties, and the Fund Administrators were considered in creating this Final Protocol.

C. Access to the application online will be available at <https://nationalcompassion.org/fund/buffalo-survivors-fund/> around August 16, 2022. Applicants who lack access to the internet are invited to call the toll-free applicant assistance number at 855-4VICTIM (855-484-2846) for guidance on alternative filing assistance.

D. In the event that an applicant submits an incomplete or deficient application (e.g., the applicant failed to include required documentation or failed to fully complete the application), a representative from the Fund Administrators' office will send an e-mail notification to the applicant in an effort to resolve any such deficiencies.

E. Shortly after the deadline for submission of all financial contributions and the final review and determination of all eligible applications by the Fund Administrators, payments will be issued. The Steering Committee will approve a Distribution Plan that allocates 100% of donated funds to the validated applicants and authorize the Fund Administrators to disburse the payments, by check or electronic transfer, to each eligible applicant. Applicants may not rely on the timing of any payment. The Administrators, the Steering Committee, and NCF shall have no liability whatsoever for any damage of any kind arising out of or resulting from the timing of any payment from the Fund.

F. Applications for deceased victims.

1. Applications for deceased victims with a Last Will & Testament: If the deceased victim had a Last Will & Testament, the personal representative legally authorized to administer the Estate must submit the application, along with a copy of the Will and the Fund will issue payment in accordance with the Will.
2. Applications for deceased victims with no Last Will & Testament:

- a. If a personal representative has been appointed to administer the Estate, such personal representative must submit the application and provide the information set out below.
- b. If there is no court appointed personal representative and the deceased victim was married at the time of death, the deceased victim's spouse or legal partner will submit the application and provide the information set out below.
- c. If there is no court appointed personal representative and the deceased victim was not married, one application should be submitted on behalf of all of the deceased victim's heirs and provide the information set out below.
- d. For deceased victims who did not have a Last Will & Testament, the application shall include information pertaining to individuals (e.g. spouse, children, parents, siblings) who may be eligible to receive compensation under the local intestacy law of the jurisdiction where the deceased victim was domiciled. In circumstances where the deceased was, at the time of their death, engaged to be married, cohabitating with an intimate partner, or separated from a spouse, the Fund Administrators may, in their discretion, require a fiancé or intimate partner to be included in the class of heirs for purposes of making a distribution from the Fund. Each application for a deceased victim who did not have a Last Will & Testament must include a proposed plan of distribution of the funds among the deceased's legal heirs and beneficiaries. The proposed plan will be distributed to all known legal heirs, beneficiaries, and fiancé or cohabitating intimate partner, each of whom must consent to the proposed distribution.

G. A minor child's application must be submitted and signed by a parent or legal guardian. If an application is required for a vulnerable adult lacking legal capacity, it will require proof of representative capacity, such as a power-of-attorney, guardianship, and appointment of guardian or attorney *ad litem*. Where funds paid on behalf of a minor child under Category A or B, the legal guardian must petition the Surrogate Court to be appointed Guardian of the Property. Funds will be held jointly with the Surrogate Court, and paid to the Guardian of the Property for the benefit of the minor. Minor applicants In Categories C, D, and E, will have funds paid to the minor's custodian for deposit into a custodial account pursuant to the New York State Uniform Transfer to Minors Act.

H. An application filed for a physical injury applicant must include an authorization to release medical information which confirms: (i) the date of initial treatment, (ii) the date of admission to the hospital if applicable, (iii) the date of discharge from the hospital if applicable, and (iv) the nature of the injury and contemporaneous evidence from the treating professional that the injury was sustained as a result of the Shooting.

I. An application filed for psychological trauma must have the applicant's presence at the Tops market grocery store at the time of the Shooting corroborated by Tops employment records or by law enforcement records. The Fund Administrators (rather than the applicant) will be responsible for validating this information.

J. NCF, its Fund Administrators, and the Steering Committee will use reasonable efforts to maintain confidentiality of all information submitted by applicants but cannot guarantee confidentiality. Applicants are asked to consider any personal ramifications should any information submitted under this Final Protocol become publicly available.

K. Applicants in Category A (Legal Heirs of those killed) may request an advance payment of \$25,000 per decedent. Applicants in Category B (injury) who were hospitalized overnight may request an advance payment of \$10,000. Applicants in Category C and Category D may request an advance payment of \$3,500. All advance payments will be deducted from the final distribution amount for the category in which the applicant is validated.

L. The Fund cannot provide tax advice to those receiving payments from the Fund. The Fund Administrators recommend consulting a tax advisor for any questions regarding tax liability for these payments.

M. When all distributions of payments have been completed, a full examination of the Fund will be conducted according to Agreed Upon Procedures by an independent auditing firm. The results of these Agreed Upon Procedures will be made available to all applicants, donors, and the general public, along with a Final Report from the Fund Administrators.

SECTION THREE: OUTREACH AND COMMUNICATION

A. The National Compassion Fund (NCF) may conduct outreach to victims of the Shooting by telephone, mail, in person, and other forms of electronic communication to provide them with information on the application process, to answer questions related to the filing of applications, to assist victims in curing deficiencies on applications, and to work to ensure that all eligible persons who wish to submit applications are able to do so before the September 14, 2022, filing deadline. NCF does not guarantee that all who may be eligible will be contacted, nor does it guarantee that all eligible persons who are in contact with NCF will be included in the Final Distribution. It is the responsibility of the applicant to make sure that the application is timely filed and received. Contact information that is held by law enforcement or healthcare professionals is never shared with NCF, and there should be no assumption that anyone who is eligible will be contacted simply because they have shared their contact information with either law enforcement, the Red Cross, or any other service provider. Contact information must be shared with NCF via the Fund-specific online contact form.

B. The Final Protocol and application information will be disseminated to all known victims who have signed up for the online contact form on <https://nationalcompassion.org/fund/buffalo-survivors-fund/>. The Fund Administrators will work directly with applicants as requested so that applications are submitted by the September 14, 2022, deadline.

C. Applicants may request to schedule optional meetings face-to-face or by telephone with the Fund Administrators. All applications will be processed during the period between August 16, 2022, and October 14, 2022. All applicants requesting meetings with the Fund Administrators before the application is processed will be afforded such a meeting during the period between August 11, 2022, and September 14, 2022. Meetings will be scheduled at mutually convenient times and locations. To request a meeting, please email a request to Buffalo@NationalCompassion.org.

SECTION FOUR: PROPOSED BUFFALO TIMELINE

- May 14, 2022 – Shooting occurs
- June 10, 2022 – First meeting of Steering Committee; approve Draft Protocol
- June 20, 2022 – Publish Draft Protocol and public comment period begins
- July 21, 2022 – Town Hall Meeting and public comment period ends
- July 25, 2022 – Steering Committee meets to approve Final Protocol
- July 26, 2022 – Final Protocol published to NCF website for survivors, victims, and interested parties
- August 16, 2022 – Application is available online. Application instructions are disseminated to all known applicants and potential applicants.
- **August 16 – September 14, 2022 – Applications completed (with required documentation) and submitted to the Fund Administrators**
- August 11, 2022 – September 13, 2022 – All personal meetings requested with the Fund Administrators completed
- August 16, 2022 – October 14, 2022 – All applications reviewed by the Fund Administrators. Recommendations for payments to eligible applicants submitted to the Steering Committee for independent review and approval.
- **September 14, 2022 – Deadline for submission of applications**
- September 20, 2022 – Fund closes to donations
- October 19, 2022 – Steering Committee approves Funds Distribution Plan
- October 24, 2022 – Distribution of payments to approved eligible beneficiaries begins on a rolling basis
- Three weeks after the end of the month in which all disbursements are completed – Independent auditing firm conducts examination of Fund according to Agreed Upon Procedures