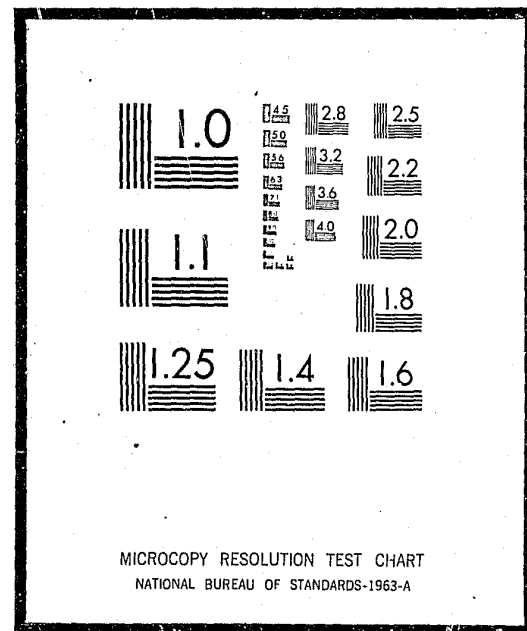


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STATE OF NEW YORK -

1973

SEVENTH ANNUAL REPORT

of the

CRIME VICTIMS

COMPENSATION BOARD - Annual

Report, 1973





STATE OF NEW YORK
EXECUTIVE DEPARTMENT
CRIME VICTIMS COMPENSATION BOARD
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ALBANY, NEW YORK 12206
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MAX L. NISSMAN

RUSSELL G. OSWALD

FRANK A. SEDITA

THOMAS D. CONOLE
SECRETARY TO THE BOARD

To the HONORABLE MALCOLM WILSON
Governor

and

To the HONORABLE LEGISLATURE OF THE
STATE OF NEW YORK

I have the honor to submit the Seventh Annual Report of the
Crime Victims Compensation Board for the year 1973 rendered
pursuant to the provisions of Article 22, Section 623 of the Executive
Law.

Respectfully,

Stanley L. Van Rensselaer
Chairman

Albany, N.Y. April 1, 1974

SEVENTH ANNUAL REPORT

of the

CRIME VICTIMS COMPENSATION BOARD

TO: HON. MALCOLM WILSON,
GOVERNOR OF THE STATE OF NEW YORK

and

THE HONORABLE LEGISLATURE OF THE
STATE OF NEW YORK

SIRS:

The Crime Victims Compensation Board, a pioneer in the field of compensation to victims, had its inception in 1967. By edict of the New York State Legislature, the program was conceived as a means of putting into action the theory that something should be done for the victim of a violent crime, with particular emphasis on the medical expenses and wage losses that were being incurred by an unfortunately large portion of our society. The fact that those suffering the injuries, both financial as well as physical, were those who could least afford it was foremost in the legislators' minds when the New York program was implemented.

Since that time, the Crime Victims Compensation Board, working within budgetary limitations never exceeding 2.2 million dollars to date, has handled thousands of claims, granting awards in some 35% of the cases entertained.

The Board has registered a steady increase in the number of claims filed year-

ly. This rapid growth rate was again reflected in 1973-1974 when claims increased from 1762 to 2065, a numerical jump of 303 and a percentage jump of 17.3%.

Further, there is little doubt but what the number of claims received by the Board will continue to rise. Many groups, too numerous to mention, act as referral agencies with regard to the filing of claims with the Board. Mentioning hospitals, police departments, VOCAL and the Crime Victims Service Center would not exhaust the list. The Board is always anxious and willing to develop liasons with criminal justice, municipal and civic agencies in our common effort to aid the innocent victims of crime.

It should be mentioned in passing, that in addition to the 2065 claims received listed above an additional 244 claims were received during fiscal 1973-1974 but could not be accepted by the Board because of statutory prohibitions outlined

in Article 22 of the Executive Law. Reasons for rejecting these claims included: the claim being filed over one year after the incident upon which it was based occurred, less than \$100 in out-of-pocket medical expenses and claimant not having lost two continuous weeks' earnings, no police report having been filed and no physical injury accompanying the incident. In all the aforementioned instances, the prospective claimant is informed in writing that he may refile his claim should it later develop that he can submit evidence to the Board which will remove the reason for the claim's initial rejection.

Mindful of its duty as the repository of a public trust, the Board has developed a thorough screening process with regard to the acceptance of claims, both to protect the public interest in the area of fraudulent claims being filed and to husband the Board's time in accepting only those claims which fall within our statutory confines. In this regard, claims are screened in response to telephonic inquiries as well as written requests for claim forms which are patently unacceptable. These latter two categories would number in the hundreds by conservative estimate.

WORKLOAD—A 17.3% increase in the number of claims received during 1973-1974 only partially reflects the concomitant increase in the actual workload facing the Board. Indeed, in response to this circumstance the Board found it necessary to open a new office in Buffalo to facilitate the handling of claims in the Niagara-Erie County area. Hence, the Board now works out of three offices situated in Albany, New York City and Buffalo.

The Albany office is the Board's main base of operations. Not only are all claims

received and screened there, but all follow-up letters and forms requesting additional information from claimants and/or their attorneys are set up and mailed from this office. These include requests for reports from doctors, hospitals, employers and police departments. In addition the claimant is requested to sign and have notarized a financial resources affidavit in compliance with the need requirement established by Section 631-6 of Article 22, of the Executive Law. After this information is received, the claim is then sent to the New York City office if it falls within the down-state area encompassing New York City or Nassau, Suffolk or Westchester County. If the claim has its origin within the confines of Syracuse to the west or Yonkers south, it remains in the Albany office to be assigned to an investigator working out of the main office. All claims emanating from the western part of the state, including Niagara, Erie and Monroe Counties are assigned to the investigator covering that area.

The Albany office is also responsible for maintaining all records as well as overseeing the Board's day-to-day operations. These duties include, but are not limited to, budgetary matters including the preparation of our annual budget request as well as supplemental or deficiency requests which are necessitated, and the maintenance of all personnel records and payroll preparations. In addition, the finance unit is responsible for such administrative tasks as the ordering of supplies, payment or rentals due and other administrative costs incurred by all three offices.

Apart from this, the finance unit sets up decisions rendered by the Board for payment as well as preparing for payment 288 death and protracted claimants who are receiving monthly payments from the Board. Additional medical costs incurred by claimants are also forwarded to the

Department of Audit and Control for payment by the finance unit.

NEW YORK CITY—Some 75 to 80% of the claims filed with the Board have their origin within the area covered by the New York City office. As a consequence, after being set up and processed in Albany they are forwarded to the New York office to be assigned to one of the eight staff investigators assigned there. In addition, a supervising investigator and senior investigator also operate out of this office.

The reinvestigations necessary to continue payments on death and protracted claims are presently conducted by a field investigator from the New York office.

In view of the large proportion of claims initiating in the New York area, a majority of the Board Hearings are reviews of decisions made by the three Board Members handling these claims.

OPEN CLAIMS—The Board is still faced with the ever-increasing number of open claims. The intake continues to increase and without additional personnel it has been impossible to reduce the number of open claims.

In fact at the end of the fiscal year 1972-1973 there were 990 open claims. At the end of this past fiscal year, 1973-1974, this number had increased to 1168.

We continue to follow the program of closing out claims where we do not receive information following the receipt of the claim and the follow-up letter as will be seen under the heading **DISPOSITION OF CLAIMS**.

The more serious types of injuries from gunshot wounds, stabbings and others are more carefully screened and followed where it is evident that there is a valid

claim and that the claimant, in all probability, would be entitled to an award.

The assignment of claims to an investigator has been reviewed and it has been determined that the assignment of more than 50 claims does not produce the intended results.

The Board has taken the position that once a claimant files he has some responsibility and must furnish that information which is within his control. This matter has been constantly reviewed and there has been found no way to properly investigate claims and reduce the open claims with the personnel authorized.

TYPES OF CRIME—This year there was a total of 2065 claims all of which involved personal physical injuries or death. There are many reasons attributed to the commission of the crime, including a vast number which occur as the result of robberies.

One claimant was the victim of a person demanding marijuana. When the victim stated that he did not have any and did not use it he was shot. This is the type of senseless crime that we have seen on more than one occasion.

Another incidence occurred when the claimant was grabbed from behind. After the claimant had given all of his money he was shot.

Some of the claims are of such a heinous nature that it is difficult to imagine their having been committed. A claimant was followed by her two assailants into the vestibule of a building and with the perpetrator shouting only these words, "O.K., this is the one," his accomplice, a woman, threw acid on the claimant. She sustained severe burns on the scalp, the

left side of her face, her left eye, neck, left hand, chest, upper left arm, as well as her clothing. No reason has been found for this assault.

Some of the claims are of such a shocking nature as to be outrageous. A claimant boarded the train following his workday. Unfortunately for him he soon fell asleep. He was awakened by a blow to his head and found his clothing on fire. He sustained second and third degree burns over his legs and was out of work for a long period of time.

There are also claims of a sadistic nature involving youths. A 12 year old boy alone on the street in broad daylight was approached by two older boys. He was asked if he had any money and before he could answer, one of the boys grabbed him, held his mouth so that he could not scream while the other one threw a liquid on him and then set him on fire. This boy has extensive burns over his body and will require untold medical treatment which undoubtedly will result in much scarring.

There are other types of crime where awards are made for horrible injuries of apparently senseless origin. A claim was filed by a 55 year old man who upon finding a strange object on his doorstep called the police. The police arrived and one of them picked up the box at which time it exploded. The claimant received injuries to his arms, has undergone operations and is scheduled to undergo more reconstructive surgery in the future in an attempt to repair his arm. It is doubtful if he will ever be able to return to work. The policeman lost both legs and will be prevented from ever working again at a gainful occupation. Neither will be able to support his family from his previous occupation. The policeman will have to live on Workmen's Compensation and the claimant on Social Security and benefits from this Board.

Muggings which also includes robberies continue to constitute a great number of claims. This year there were 920 as against 837 the year before.

Murders also have increased in the number of claims from 300 to 328.

Assaults with guns also continue to increase, going from 305 to 381. Stabbing incidents have increased from 295 to 391.

PROCESSING AND INVESTIGATIONS—No doubt the key to the entire Crime Victims program as set up in this state is the thorough, fact-finding investigation which must be undertaken on each claim that is accepted by the Board. In view of the previously mentioned precautions which the Board employs to safeguard against fraudulent claims, it can be easily understood that this process is after a long and sometimes painstaking task. The reasons for this are manifold. For instance, a claimant may balk at submitting the financial resources affidavit required by the Board considering it an invasion of his privacy, or he may be reluctant to meet with the investigator to discuss his case, fearing that doing so might reveal a degree of culpability on his own part. Through this labyrinth of circumstances the investigator must wend his way toward his ultimate goal of gathering enough information to enable him to write a final report on the claim to be submitted to the Board Member for decision.

Presently, the investigative staff of the Board, through diligent efforts closes an average of between 15 to 17 claims per month in both the New York and Albany offices. The Board feels that this record, often accomplished in the face of an individual workload exceeding the recommended 50 claims, is but yet another indication of the concerted effort by all to handle the ever-increasing number of claims received by the Board.

REPORTS TO THE POLICE—Our statute mandates that all crimes which form the basis of a claim with this Board must be reported to the police within 48 hours of occurrence, unless the Board, for good cause shown, finds the delay to have been justified. Within the last year, there were 11 claims disallowed by the Board for failure to comply with this stricture. In addition, the statute provides that there must be a finding by the Board Member that a crime, definable as such under our state's Penal Law, was committed before an award can be made. Hence, 15 claims were disallowed by the Board for failure to meet this standard.

FAILURE TO COOPERATE—The rules of the Board require that claimants and their attorneys must fully cooperate with the investigators, agents and representatives of the Board and the police in order to be eligible for an award. When this requirement is not adhered to the Board or Board Member may be left with no choice but to deny the claim. The following examples would serve to illustrate this point.

In one instance a man, age 31, was assaulted and sustained bullet wounds to his back. His alleged assailant, whom he identified, was a neighbor who resided in the same building. The claimant stated to the Grand Jury that the alleged perpetrator threatened to shoot him and upon his leaving her apartment she apparently did so. Based on this, the case was dismissed for insufficient evidence. Later the claimant retracted his statements before the Grand Jury, emphasizing that he hadn't "seen" who shot him and stating it was his wish to avoid any trouble. From this set of facts a recommendation was made to the Board Member that no award be given based on non-cooperation with the police.

Our second example had its origin in a bar where the claimant was awaiting his meal. While doing so a fight broke out during the course of which the claimant received stab wounds which required 50 sutures to close. Subsequently, the police report indicated that the claimant refused to identify his assailant or to sign a complaint and on this basis the claim was disallowed by the Board Member. The claimant then appealed, and when again informed by the Board of the necessity for him to cooperate by filing a police report, did so with the result that an amended decision was written by the Board Member granting the claimant an award which absorbed his medical expenses.

Finally, a young man was walking along a street when two men approached him, guns in hand, and demanded money. Claimant reached in his pocket whereupon one of the assailants shot him in the abdomen. The incident was duly reported to the police who later informed the Board that although the claimant filed a report, he was subsequently very evasive and negative when detectives attempted to interview him. Perhaps his past record as a drug addict influenced his behavior. Under the circumstances, the rules mandated that his claim be disallowed for failure to cooperate with the police.

PROVOCATION—The statute mandates that before an award can be made there must be a determination as to whether the claimant contributed to the infliction of his injuries. There are incidents in which it becomes difficult and requires intensive investigation. The one exception is in an instance where a claimant is acting as a Good Samaritan in preventing a crime or aiding in the apprehension of the perpetrator. There were 6 Good Samaritan claims filed during the current year.

The first indication that the claimant did in any way contribute to his injuries arises from an examination of the claim form.

The second indication normally comes from an examination of the police report.

In the event that there is any question of provocation from either source, it then becomes the primary responsibility of the investigator. There is no reason to pursue the normal course of investigation with all of the attendant information being obtained until provocation is either found or eliminated since there can be no award if there is provocation.

However, in some instances there is a question as to the degree of the claimant's contribution. If it is partial then the investigation continues in the normal course. Most instances of provocation are found where there is an argument between the claimant and the assailant. Although there were only 18 claims rejected on a finding of provocation, several examples will reflect the incident where it defeated the claim.

A 62 year old woman filed a claim for injuries stating that she had also been robbed and raped. The facts, however, reflected that she took up with two men in a tavern whom she did not know, left with them and continued on to another tavern. The Board Member rejected the claim stating that her conduct had contributed to her circumstances, and that an award would thus be inappropriate.

The father of an 18 year old boy stated in his claim that his son had been shot. The investigation showed that the boy had driven with some friends from New Jersey into New York for the purpose of purchasing drugs. They drove into one of the high crime rate areas of the city and

the boy was shot in an argument and melee. The Board Member also rejected this claim.

A 23 year old man was stabbed and died as a result of his wounds. The investigation proved that he and a friend, both alcoholics, had engaged in a fight. Again, the Board Member rejected the claim.

In a fourth case, a widow filed a claim on behalf of herself and two infant children reciting that her husband had received gunshot wounds from which he died. The investigation produced the facts that the victim, following an argument with a person of his acquaintance, went home, obtained his revolver and then returned where an altercation ensued, both firing guns as a result of which her husband died. Again, the Board Member had no alternative but to reject the claim.

STANDARD OF PROOF—The statute mandates that no award can be made unless a claimant has incurred a minimum out-of-pocket loss of \$100.00 or has lost at least two continuous weeks earnings or support. However, as might be expected, many claims are submitted which require the Board Member and the investigator to thoroughly probe both the claimant's medical reimbursement sources and employment record in order to make a determination as to whether any outstanding medical bills or lost wages incurred fall within the statutory eligibility. Too, the requests for reimbursement emanating from claimants in such cases are often of such a recondite nature as to require a delicate balancing act on behalf of both the investigator and the Board Member. The statutory admonition must be adhered to; however, the Board Members' decisions are malleable enough to make allowance for claims which spring from unusual factual patterns. Further, strict rules of evidence do not apply and

the Board Member is not limited in the scope of his examination to only evidence which a court would accept. This increased elasticity serves to underline the fact that the Board does not operate under an adversary relationship in its dealings with claimants. Each claim is considered unique. Due allowance and latitude are employed to assure that the efforts of the Board and the claimant complement each other every step of the way in the decisional process.

In one instance, claimant, a 27 year old man, while shopping for clothing was enticed by his assailant to leave the store under the ruse that the article which he was looking for was in another store a few blocks away. When he arrived at the other store, the assailant's accomplice approached him and put a razor to the claimant's throat forcing him to accompany them to an apartment located on the fifth floor of a building. Sensing a chance to escape, claimant leapt from a fifth floor window, landed on the pavement, and suffered severely debilitating injuries. The quaint twist in this claim and the matter which proved difficult to prove was encased in the fact that the claimant was a partner in the operation of a farm back in Costa Rica. All partners, and their wives, were actively engaged in the farm's management and the claimant's inability to do his share would cause a labor as well as financial hardship to be visited upon the farm's owners. The claimant had no finances to pay for help to take care of his own duties and in accordance with the statute it was the finding of the Board that the indebtedness for help was reasonable in the sum of \$200.00 a month for other services necessary as a result of the incident. (Section 626) Here, given the fact that there are no income tax returns required in Costa Rica, the Board was still able to find a sufficient quantum

of proof to allow for an award for the claimant's loss of income.

In still another claim filed by a woman who was the victim of a purse snatching accompanied by debilitating physical injuries, an initial award was rendered compensating the claimant for over \$2,300.00 in unreimbursed medical expenses. Over a year later, the claimant requested that her claim be reopened, informing the Board investigator that she now wished to file a claim for lost earnings based on a prospective job possibility which went by the wayside as a result of the injury which formed the basis of her claim with the Board.

Succinctly, claimant contended that the dentist was going to employ her as an administrative aide at the rate of \$175.00 per week in an effort to rebuild his practice. There were few substantive facts readily available to the Board for scrutinizing. Claimant had never started work. She had never received a cent from the dentist. In the alternative, the Board summoned both the claimant and the dentist to our New York office and took depositions from them relative to the employment question. The dentist substantially upheld the claimant's contentions. Nonetheless, further investigation and evidence adduced at a Board hearing, revealed that the dentist had not heretofore or thereafter employed an assistant at any salary approaching that which he had contemplated paying our claimant. The claimant contended that this was attributable to her uniqueness as a bill collector and office organizer. Weighing all the foregoing, the Board spent considerable time discussing the problems inherent in their decision before concluding that the claimant had not proven that her prospective employment would have eventuated absent her intervening injuries. The

Board also felt that a contrary finding would be a hazardous precedent.

SERIOUS FINANCIAL HARDSHIP—The serious financial hardship, or "need requirement" as it has been termed by many, forms the cornerstone of a problem which has not leant itself to an easy solution in the Board's seven years. Briefly, it is required of the Board Member to discern if the claimant will not suffer serious financial hardship if not granted an award. This negatively posed concept forms the basis of more appeals to the Board than any other reason for denial. Too, if the requirement for showing need were eliminated as many desire, the Board is in agreement that the budgetary impact would not be substantial. With an eye to the impending enactment of the Federal Crime Victims Compensation legislation (S-800), hopefully this year, and its inclusion of a need requirement phrased in the less stringent language of "financial stress from pecuniary loss," the Board will then be able to enlarge the number of claims eligible to receive awards.

Nonetheless, it should be pointed out that the Board, in every case, seeks to include within its umbrella an increasing number of middle-income victims who have been law-abiding citizens and taxpayers.

DEATH AND PROTRACTED—

These two types of claims are the only ones that are mandated by law to receive an award in periodic payments. No claimant receives an award for the maximum amount of the statute, namely, \$15,000.00, for loss of earnings and/or in the case of death loss of support. This is a reasonable and proper manner since the statute is to provide for that loss in the same way that it would have been received by the claimant had he continued working, or in the case of death by the decedent had he continued working.

There are many instances where the Board is aware that a lump sum award of the maximum amount would actually not be helpful to the claimant, or the survivors, as they would be inclined to either using the money in a spendthrift fashion, or perhaps be subject to having the same taken away from them through various and nefarious methods. The latter would be particularly true in the case of a widow upon whom someone would use these methods to obtain the money.

It has been the practice of the Board and will continue to be the practice to reinvestigate these claims periodically. In a protracted claim, the payment will be authorized by the Board only so long as the claimant is prevented from attending to his usual duties and receiving wages for work in his usual position. Medical examinations and/or reports are obtained from the claimant, or his physician, except in cases such as a paraplegic.

In the death claim, the Board is concerned with the use of the money being paid to the survivors, principally a wife and/or children. These payments are continued by the Board when the reinvestigation reflects that the widow is maintaining the home with the children under her care. In addition, the reinvestigation is made to determine whether she has remarried and this is followed after an interview with the widow, by examining marriage records, both under her married and maiden name, in some instances where a woman can obtain a marriage license using either name. The Board is also interested in whether the children are attending school regularly and where any of the above is found to be lacking appropriate action is taken.

The number of these claims continues to increase and it has been necessary to have one investigator assigned solely to making reinvestigations in these claims.

The Board has also been able to secure the help of other states that have a crime victims program to make investigations under their personnel. The Board is grateful to the New Jersey and the Maryland Boards for having rendered these services. As more states enact such a program it will be continued and used to avoid the necessity of travel wherever possible. The following schedule reflects the increase in each type of claim for the last four years:

| | 2/28/71 | 2/28/72 | 3/31/73 | 3/31/74 |
|------------|---------|---------|---------|---------|
| Death | 100 | 129 | 152 | 188 |
| Protracted | 112 | 105 | 75 | 101 |
| Totals | 212 | 234 | 227 | 289 |

Although there are claims where the maximum has been paid or the payments have been stopped for one of several reasons, still with the increased number of claims the ones remaining under investigation, as shown above, increases each year. Following is a table reflecting the payments that have been stopped for the reasons opposite the same:

| Reason cut off: | °P.I. °°D | |
|----------------------------------|-----------|----|
| \$15,000 maximum reached | 4 | 9 |
| "held" for overpayment | 2 | 2 |
| Claimant deceased | 1 | 1 |
| "stopped" due to reinvestigation | 11 | 10 |
| "held" pending reinvestigation | 4 | 3 |
| "held" pending new address | 1 | 0 |

° Personal Injury Protracted
 °° Death Protracted

DISPOSITION OF CLAIMS—The number of decisions of all types continues to increase. There were 1887 decisions made on original investigations. In addition, there were 167 amended decisions and 83 Board decisions.

Of the original decisions, there were 766 awards and, in addition, there were 50 awards made in claims which had been disallowed where the claimant had failed to furnish information upon which eligibility and/or jurisdiction could be determined, making a total of 816.

There were 125 awards made in amended decisions. There were also 7 Board decisions reversing the original decision disallowing the claim and making an award, making a total of 948 claimants receiving an award.

As will be seen from the schedule following, the greater number of claims disallowed continues to be for those claimants who fail to furnish the information upon which any decision other than disallowing the claim could be made. The reasons for the denial are set forth:

| | |
|--|-----|
| Withdrawn | 63 |
| Member of Family | 18 |
| Provocation | 18 |
| No principal support | 7 |
| No minimum requirements | 160 |
| No serious financial hardship | 110 |
| No crime | 16 |
| No police report | 15 |
| Workmen's Compensation pending | 71 |
| Claimant ineligible | 4 |
| Failed to furnish information | 547 |
| Over one year | 3 |
| Death not causally related to incident | 1 |
| Failed to apply for benefits available | 1 |
| Claimant now deceased | 4 |
| Good Samaritan | 6 |

| | |
|--|----|
| Claimant not innocent victim | 6 |
| Unable to locate claimant (after filing claim) | 29 |
| Injury not causally related to incident | 3 |
| No cooperation under rules of Board | 11 |
| Motor vehicle accident | 1 |
| Claimant out of country (information on return) | 1 |
| Claimant out of State (information on return) | 1 |
| Receipt of income tax return pending | 7 |
| Duplicate claim | 5 |
| Medicaid and Medicare pending | 4 |
| Insurance carrier decision and Union coverage pending | 4 |
| Veteran's Administration pension pending | 3 |
| Will probate pending | 1 |
| Victim was perpetrator | 1 |

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There were three different types of awards. The average award for the personal injuries, or lump sum award, this fiscal year was \$1370.80, consisting of medical expenses and loss of earnings.

The additional medical expenses continue to increase. In many instances, the decision is made to provide the claimant with his loss of earnings rather than to wait until the unreimbursed medical expenses are determined. Blue Cross and Blue Shield take a long period in many instances before the amount left for the claimant to pay can be determined. Since the statute mandates that before any award can be made there must be a finding of serious financial hardship, the Board has taken the position that once the loss of earnings is determined a decision should be made leaving the medical expenses to be paid after Blue Cross and Blue Shield, or any other insurance benefits, are determined.

The cost of hospital, medical, nursing home and other related expenses continues to increase. It is anticipated that hospital charges may increase by some 16%, physician's fees by 9% and nursing home charges by 14%. It is, therefore, anticipated that the medical costs in every area will increase during the coming year and the same has been experienced during this fiscal year.

It should also be noted that the loss of earnings and/ or support has increased this year over the previous year and with new statutes increasing the minimum wage scale, taken in connection with the new labor contracts, there will undoubtedly be an increase in the loss of earnings and/ or loss of support.

Both of these increases for medical, etc. and loss of earnings has already been set forth in the request in the supplemental budget. It was also necessary to request additional money in the deficiency budget to meet payments of decisions for awards made prior to the end of the fiscal year.

The original death award, which includes medical and/ or funeral expenses and loss of earnings from the date of death up to the time of the decision, amounted to \$3971.50. This is an increase of approximately \$600.00 over the previous year.

The original protracted personal injury claim award amounted to \$3811.25, which includes the medical expenses and the loss of earnings from the time of the incident to the date of the award which is approximately \$400.00 less than the previous year.

The Board in accordance with the statute determines the loss of earnings and/ or support as the take-home pay of claimant and/ or the decedent.

EMERGENCY AWARDS—The committee which drafted the statute took into consideration those people who were in dire need of aid immediately and before the normal investigation could be completed.

The provision for granting an emergency award set forth in the statute was that such claim is one wherein an award probably will be made and undue hardship would result if an immediate payment was not made. It is discretionary with the Board Member to whom the claim is assigned to make that determination.

However, no emergency award is made until a preliminary investigation is made to determine whether the claimant is eligible and, so far as can be determined, the innocent victim of a crime, that the crime resulted directly in the physical injuries and police records reflect that the crime was promptly reported.

The Board has followed the statute. Perhaps a few examples will show the facts under which an emergency award has been granted.

A 48 year old woman who was employed and was supporting her 17 year old daughter, sustained stab wounds of the chest. She was without funds with which to meet her rent, pay for her heat and was facing eviction. Taking the foregoing into consideration, the Board granted an emergency award.

A 23 year old man who received gunshot wounds which resulted in paralysis, was married and had three small children. He was without funds to pay his household expenses. An emergency award was made.

A 53 year old woman who was shot when three youths attempted to rob her

was faced with eviction and had no food in the house. She too, received an emergency award from the Board.

In another instance, a 60 year old man was severely beaten. He was supporting his sister and was granted an award to cover food and rent.

Of course, the amount that is given in an emergency award is always deducted from the decision when the same is made in accordance with the statute.

Within the last fiscal year a total of 24 emergency awards were granted by the Board.

AMENDED DECISIONS—These decisions are made some time following the original decision. It becomes necessary when the claimant advises that he has either additional medical expenses which has not been provided for, or which were not known at the time of the decision and in many instances where the claimant submits information reflecting loss of earnings subsequent to the date of the decision. This may occur by reason of surgery that was not anticipated at the time of the original decision.

Whenever a claimant sends information requesting further reimbursement either for medical expenses or loss of earnings, the claim is reopened, reassigned to an investigator for the purpose of determining the validity of the same.

During this fiscal year there were 167 amended decisions in which 125 received awards.

There have been instances in which the reinvestigation becomes long, arduous and difficult. Claimants in good faith have requested additional aid but are unable to substantiate that either the medical ex-

penses and/ or the loss of earnings are a direct result of the injuries received in the original incident.

In some instances, where loss of earnings is claimed, the investigation becomes difficult when it can not be proved that the time that the claimant states he lost from his employment was the direct result of the injuries received in the original incident.

The Board has continued to provide for additional medical expenses where the same can be anticipated from the reports at the time the original decision is made. Without this provision the number of investigations that would have to be made and claims reopened would be substantially greater. By providing for the additional medical, there is much time saved not only in stenographic work, but in the investigation.

In other instances, it is known that there will be further and future medical expenses that will require surgery at some time. In these instances the decision provides that before the claimant submits to any surgery that he submit his doctor's certification the same is necessary as well as stating the reasonable cost and the anticipated time that he will be unable to pursue his normal duties. This gives the Board the opportunity then to have the Board's physician make a recommendation with respect not only to the operation, but also the cost. It is only after this information is furnished that the Board gives authorization for such treatment and/ or surgery.

RIGHT TO REOPEN—The problem with respect to closing a claim when the information has not been furnished continues to increase. Even though a careful screening of each claim where the information is not furnished is done, there seems to be a growing number of claimants who after receiving a short form de-

cision disallowing their claim then start sending information in. The Board attempts to make every effort to prevent the necessity of closing claims in this manner. More than the one letter is always sent; first, furnishing them the forms and then if the information is not received within a reasonable time, a follow-up letter advising the claimant that the Board will have no other recourse than to close the claim unless the forms are returned. In those claims in which it would appear from the face of the claim that the claimant is eligible and that he does meet the minimum requirements of the statute, further effort is made by telephone and/ or letter to attempt to get the information so that a decision can be made rather than disallowing it. The Board feels that this actually saves time and obviates the necessity of having to reopen the claim later on.

The Board has continued to close claims when the Workmen's Compensation Board, Social Security and other insurance programs are available and pending. A review of the financial resources statement in some instances indicates that with the benefits available there would not be serious financial hardship.

This fiscal year there were 258 claimants who were given the right to reopen, some on a conditional requirement and others without any conditions.

It is not known how many of these will cooperate with the Board or furnish the information necessary to render a decision in these claims, but it is an additional workload and a carryover that has to be faced.

BOARD HEARINGS—The Board continues to be lenient when a claimant asks for a hearing before the Board. In every instance where a claim has been disallowed on the ground of serious finan-

cial hardship the claimant is afforded a hearing.

There are, however, many times that a claimant will request a hearing before the Board giving as his reason that he has more than \$100 unreimbursed medical expenses and/ or has lost more than two continuous weeks of earnings. In these instances, and others of a similar character, the claimant is advised that instead of having a Board hearing the claim will be reopened so that he may submit the information in writing. In the case of medical expenses the bills would be submitted or in case of lost earnings his employer's statement might be submitted to the Board together with a doctor's statement. This obviates having a hearing and gives the claimant the time to submit the information so that a decision can be made. Earlier in our experience we had granted hearings under these conditions at which time the claimant simply came in and made a statement but did not submit proof or verification, so that the only recourse was to reopen with the provision that the information be furnished. The Board felt that it was unnecessary for the claimant to make the trip and incur the expenses attendant to a hearing.

There are other instances when claimants request a hearing wherein it is apparent from their letter that they do not understand the statute. In those cases the claimant is contacted by telephone, if possible, or otherwise by letter explaining the statute. Not invariably, claimants, when they understand that the Board is unable within the framework of the statute to make an award, withdraw their request for a hearing. The Board feels that this is a better way to treat the claimants than to have them go to the trouble and expense of appearing only to be advised the same thing.

In other instances where the claimant refuses to submit his financial resources statement he is generally contacted. He is then advised that since the statute requires a finding of serious financial hardship before an award is made, there is really nothing the Board can do to help him unless he is willing to submit his financial resources information. This situation occurs more often with the self-employed businessman who takes the position that the Board has no right to view his income tax return. Once the claimant realizes the situation, oftentimes he then furnishes his income tax and the claim is reopened, reinvestigated and an amended decision is made. Again, this obviates the necessity of the claimant making a trip and appearing before the Board and being told what is needed.

There are many other instances in which Board hearings are not set up but the claimant is advised of what is really needed for his claim to be reconsidered, reinvestigated and re-evaluated.

This year there were 83 Board hearings; 41 decisions affirmed, 8 decisions reversed and awards made, 22 were reopened and 12 adjourned.

CRIME VICTIMS COMPENSATION BOARD—When the New York State Board came into being on March 1, 1967, there was only one state, California, with a program. Essentially, the California scheme provided for benefits under the Aid to Dependent Children Program. After the enacting of the New York statute in 1966, Massachusetts, Maryland, Hawaii, New Jersey, Alaska, Illinois, Georgia and Washington have such programs. Nevada's program is limited to instances where one is acting in the capacity of a Good Samaritan. Rhode Island has a statute which is prospective in nature and will only become operative after Federal

legislation is enacted. Twelve other states have also prepared statutes for crime victims compensation.

As has been pointed out, the Federal Crime Victims Compensation legislation, although acted upon in the Senate, has yet to meet with House approval. This Board has been in constant touch with Federal officials in regard to this legislation, which would grant the states with crime victims programs up to 75% of the total cost of the state program that qualifies. Every effort has been utilized by the Board to promote the passage of this much needed legislation.

The Crime Victims Compensation Board conceives of itself as the small agency that does big things for those who can least afford to suffer hardship from a violent injury. The Board looks forward to playing an ever-increasing role in providing victims with a measure of serenity and financial security in the years ahead.

The Board has continued to publicize the New York State program through newspapers in the state as well as some out of state. There were 16 special articles written on the Crime Victims Compensation Board within the past year.

The Board has also continued to distribute its brochure and in the coming year expects to have some of its brochures printed in Spanish for the New York City area.

The Board has been invited on a number of occasions to make public appearances to inform the public of our program. The Chairman has made two appearances on radio stations and has also presented several papers concerning the Crime Victims Compensation Board using our state as a prime example. There have

been appearances before the Minnesota and Pennsylvania legislatures. The Chairman has also testified before the House of Representatives subcommittee that is presently studying a Federal statute. One of the more interesting experiences the Board had was when the Chairman delivered a paper before the Council of State Governments at Tampa, Florida, which was later published in the State Government, Council of State Governments, Winter Issue of 1974. The Board also cooperated and furnished information for an article that appeared in Fordham Urban Law Journal in the Spring of 1973 (Vol. 1-#3).

In addition to the public becoming more aware of the program, there have been several agencies that are aiding in supplying information as well as aiding the claimants in preparing claim forms. There are presently two in New York City, VOCAL and The Crime Victims Service Center. The latter is operating under L.E.A.A. monies in the Borough of Bronx.

The interest in this type of legislation continues to increase and grow throughout the United States and information is constantly being furnished to various states.

The study that was made by the Battelle Memorial Institute has now been published in a hardback volume which gives a great deal of attention to the New York State program and also discusses the other states which have such programs as well as the Federal proposed legislation. It is also interesting to note that the foreign jurisdictions Great Britain, New Zealand, Australia, Scandanavia and Canada are discussed. This book, written by Herbert Edelhertz and Gilbert Geis, is of special value and is the latest and more informative information available and is highly recommended to anyone wishing

to glean a further understanding of Crime Victims Compensation programs.

BOARD AND STAFF—The Board is again grateful to Hon. Donald Hirshorn, Assistant Attorney General who has been assigned the Board's work by the Attorney General, the Hon. Louis J. Lefkowitz. As the number of claims and decisions have increased his office has cooperated in response to the Board's requests promptly.

The Board is also appreciative of not only the cooperation, but the suggestions made by the Hon. Robert Summers, Director of Local Assistance Audit. His duties have likewise increased and it was at his suggestion that Audit and Control would handle the mailing of all of the checks under the decisions to the creditors and/or the claimant. This has been helpful in view of the fact that the finance unit of the Board has had difficulty meeting the requirements of paying the creditors and the claimants promptly.

The law enforcement agencies in the state, counties and cities have been most cooperative and helpful to the Board in furnishing not only the official report but all information in and during the investigation.

With the number of claims continuing to increase it has been impossible to process the claims as promptly as the Board wishes. With the increase it has been necessary to ask personnel in the office to perform duties outside of their scheduled duties. This has been most helpful and the Board is thankful for the assistance.

Without any substantial increase in the office personnel, the coming year will require closer supervision and attention and the cooperation of every one of the employees.

The Board is still hopeful at this time that there will be Federal legislation passed and in force before the next fiscal year. As has been stated here before, there have been several states that have enacted legislation and there are several others who have submitted legislation but have not as yet passed the same into law.

The proposed Federal legislation as presently drafted will be somewhat more lenient in the need requirement which will allow a more flexible program with awards to those people who are in need of aid to cover their medical expenses, loss of earnings and, in case of death, loss of support.

Dated: Albany, N.Y.
April, 1974

Stanley L. Van Rensselaer
Chairman

Board Members:
Max L. Nissman
P. Vincent Landi
Russell G. Oswald
Frank A. Sedita

Secretary to Board:
Thomas D. Conole

END