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RESEARCH BULLETIN

**CRIMINAL INJURIES
COMPENSATION
IN
SOUTH AUSTRALIA**

Office of CRIME STATISTICS

Attorney-General's Department

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U.S. Department of Justice
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PREFACE

This bulletin on the South Australian Criminal Injuries Compensation Scheme is part of a two year program of research on victims and the criminal justice system being undertaken by the Office of Crime Statistics. It presents findings both from an analysis of files relating to applications for compensation and from interviews with claimants.

One of the major priorities of the South Australian Government, and of the Attorney-General the Hon. C.J. Sumner M.L.C., has been to ensure that victims of crime are accorded greater rights and respect within the criminal justice system. Reforms include:

- . formulation of principles on victims' rights, with which all government departments must comply;
- . review of bail, sentencing and other legislative procedures, to ensure greater recognition of victims' needs;
- . introduction of Victim Impact Statements, which will ensure that sentencing courts are aware of the effects of the offence on the victim;
- . introduction of a Victims of Crime Levy, to provide additional funds for criminal injuries compensation and to be paid by every person convicted of a criminal offence.

Clearly, there is strong commitment in South Australia to improving the position of persons affected by crime. The purpose of the Office of Crime Statistics' research is to ensure that, as far as possible, this program can be guided by systematic knowledge on victims' problems and needs.

An initial draft of this bulletin was written by Ms. Gloria Rossini and the text finalised by Ms. Julie Gardner. Ms. Christine McMahon performed the data analysis and Ms. Kate McIlwain conducted the literature and file searches. Thanks are due to the project steering committee: Mr. Ray Whitrod, Ms. Helen Paige and Mr. Mark Pathe; members of the word processing section of the Attorney-General's Department who patiently typed the final report and innumerable drafts; and to Ms. Lesley Giles who prepared the report for publication. The project was supported by the Criminology Research Council which provided a grant for an extra interviewer to be employed for twelve weeks. Views expressed in this report are the responsibility of the author and are not necessarily those of the Council.

Last, but definitely not least, sincere thanks to all those claimants who gave freely of their time in order to be

interviewed about their experiences with criminal injuries compensation. Your views and opinions will assist future victims.

Dr. A.C. Sutton,
DIRECTOR,
OFFICE OF CRIME STATISTICS

February 1989

SUMMARY

1. This study reviews the Criminal Injuries Compensation Scheme in South Australia. The scheme provides a monetary payment to compensate those who suffer injury (or in some cases financial loss or grief) as a result of becoming a victim of crime.
2. The Criminal Injuries Compensation Act was passed in 1969 and over the last 19 years has undergone a number of changes. Amendments in 1986, broadened eligibility criteria to include claims for grief by way of solatium, and in 1987 the maximum amount payable was raised to \$20,000. Since 1985 the scheme has been supported by a Criminal Injuries Compensation Fund. Sources of revenue for the fund include payment of a proportion of prescribed fines, proceeds from the confiscation of assets obtained from crime, general State Government revenue, and the imposition of a 'victims levy' on all fines or expiations paid in South Australia.
3. The purpose of this study is to review the scheme's operation and assess whether claimants are satisfied with the current procedures. Questionnaires administered to a sample of applicants covered their experiences with various aspects of the compensation scheme. In addition, departmental files were reviewed for details of claims and associated outcomes.
4. Results do not indicate a need for radical restructuring of the system. The process does not appear to be overly cumbersome or difficult for victims, although applicants increasingly were dissatisfied if their claim had taken more than 12 months to finalise. One aspect which was subject to criticism was the maximum amount payable : \$10,000 at the time of the study.
5. Recommendations at the end of this bulletin identify several other aspects of South Australia's Criminal Injuries Compensation Scheme which have the potential for further investigation and improvement.

1. INTRODUCTION

It is now almost two decades since South Australia's first Criminal Injuries Compensation Act came into effect. Enactment of this legislation signalled the beginning of a major shift toward according victims of crime greater rights and recognition within the justice system.

Since its proclamation the Act has been amended on several occasions and there has been protracted debate, within the media and elsewhere, about the justice and effectiveness of the compensation provisions. Often, these discussions have been triggered by particular instances where payments have seemed inadequate, or apparently deserving individuals were deemed ineligible. Less often has comment been informed by an overview of the administration of criminal injuries compensation or by wide ranging discussions with the claimants.

This bulletin reports on research which provides such data. By analysing more than five hundred files from a three year period, and interviewing more than one hundred people who had applied under the scheme, it summarises both the way criminal injuries compensation works in South Australia and claimants' main perceptions and concerns. In addition, the report locates the State's compensation system in a broader historical context and compares local findings with research in other countries. All too often, debate on victims and other criminal justice issues is prompted by fiction rather than fact, or by the wholesale transportation of findings from other jurisdictions. It is hoped that this publication, while by no means providing all the answers, will provide the basis for a more balanced perspective on criminal injuries compensation issues.

1.1. Concept of Criminal Injuries Compensation

Before commencing this assessment it is useful briefly to clarify what is meant by criminal injuries compensation, and to review the rationale for state involvement. Although the concept of compensation by offenders for harm or loss caused by their actions has been long established in most societies, the notion of the state assuming a responsibility is relatively recent. Today the term "compensation" commonly refers to a monetary payment awarded by the state to recompense victims for injury and in some cases, loss or grief as a result of criminal

offences. In most instances the state attempts to recover these costs from the offender. The term "restitution" is mainly used when referring to an order by the Court for the offender to make payment in money, or sometimes services, to the victim. Generally restitution orders are made at the time of sentence.

The past few decades have seen the establishment of compensation schemes in most Western countries eg. the United States of America, Great Britain, New Zealand, Canada and Australia. At least three rationales have been advanced for state involvement:

- the provision of compensation is an Act of Grace by the state;
- the state has an obligation to provide compensation because of its failure to prevent criminal activity and protect its citizens from victimisation;
- aiding victims' physical, emotional and financial recovery is part of the state's overall welfare responsibility to its citizens.

In South Australia, compensation generally has been seen as an Act of Grace by the state. This is articulated by Jacobs J. in Kingston-Lee v Hunt and others and the State

"It is essentially humanitarian in motive; it recognises that many criminal offenders are without means and accordingly imposes the primary burden of compensation upon the State; but because the State has no liability in law to the victim, apart from the statute, compensation is in the nature of an exgratia payment." ((1986) 42 SASR 136)

As Jacobs points out, by recognising the difficulties in recovering money from offenders who often lack the means to pay, compensation schemes also help to complement restitution awards. This principle was emphasised in the 1985 Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. In a discussion paper prepared by the Secretariat it was argued that the state had a responsibility to provide financial compensation to victims of crime when such payment could not be met by the offender or from other sources (United Nations, 1985).

1.2. Research on Criminal Injuries Compensation

Despite these ideals, researchers assessing criminal injuries compensation in Europe and the United States have been critical of methods (e.g. publicity, eligibility requirements) and results (e.g. number and quantum of payment). Some (Elias (1983); Doerner (1980); Van Dijk (1985)) even suggest that far from benefiting victims, the experience of going through the compensation 'system' may actually engender dissatisfaction. Elias (1986) in particular contends that rather than relying on monetary 'hand-outs', victims of crime would be better served if compensation resources were redirected into practical support services for victims such as counselling and crisis intervention programmes. Shapland (1984) notes that in the United Kingdom compensation is seen as "sympathetic charity" and not a "right", and as such there is an emphasis on preventing fraudulent claims. The U.K. scheme was poorly publicised, and among her sample over half of those victims wanting to apply for compensation did not know how to go about it. In contrast to the United States however, Shapland's sample of victims did not become dissatisfied with the overall criminal justice system if they had been through the compensation process, regardless of the outcome of their application.

"It seems that victims are quite sophisticated in distinguishing between the various parts of the system and in attributing credit and blame to each part separately." (Shapland 1985, p. 168).

Australian criminal compensation schemes have been the subject of several reviews in the past few years. In South Australia, the Committee of Inquiry on Victims of Crime (1981) expressed concerns about the maximum then available for payment, and delays in processing applications. After examining the New South Wales scheme the New South Wales Task Force on Services for Victims of Crime (1986) recommended changes to its operation; mainly to adopt a tribunal system similar to that operating in Victoria. In 1987 the Victorian Parliament's Legal and Constitutional Committee reviewed compensation (A report to Parliament upon Support Services for Victims of Crime) and made several recommendations which included increasing the maximum amount payable and modifying the compensation tribunal's procedures. Generally the emphasis in these Australian reports has been on reviewing legislation and methods of payment rather than on collecting empirical data into claimants' experiences and attitudes.

1.3. Development of Criminal Injuries Compensation in South Australia

The notion of providing compensation and restitution to victims can be traced to the middle ages. During this time the criminal law was enforced, in part, by the offenders paying "bot" and "wer" as compensation to victims and their kin. By the 19th Century however, this practice had effectively ceased and the criminal law became enforced through a public system of punishment: "the severity of criminal penalties in England for hundred of crimes - death or transportation - effectively foreclosed any chance for victims to obtain tort damages." (Henderson 1985, p. 941).

In modern times the need for compensation to victims was first raised in the 1950s. Margery Fry, an English Magistrate, argued initially that compensation to victims should be paid by offenders, and later adopted the approach that the state should finance compensation because most offenders could not meet the cost of providing adequate restitution. New Zealand was the first country to introduce compensation legislation in 1963. In 1969 South Australia became the third State in Australia to enact legislation which provided State funded compensation to people who become victims of certain criminal offences (Criminal Injuries Compensation Act (1969)). In introducing the 1969 Bill in South Australia, it was argued that:

"...the criminal law is directed at the protection of society and the reformation of the offender and does not provide the innocent victim of criminal activity with any recompense for personal injury that has been unjustly inflicted upon him ... Because criminals usually have no assets, or their assets are inaccessible, the Bill provides for the payment of compensation up to amounts of \$1,000 from the general revenue of the State." (Parliamentary Debates, 1969, p.1434).

There was considerable support for legislation of this nature, and debate centred principally on the \$1,000 maximum payable under the Act. This amount was considered by some members of Parliament as being too low, particularly when compared to compensation available under, for example, Worker's Compensation Legislation. Since the legislation was introduced the maximum level of compensation has been raised

three times: to \$2,000 in 1972; \$10,000 in 1978; and to \$20,000 in 1987.

Prior to the 1969 Bill, enactment of legislation which allowed for compensation for the effects of criminal activity had not been unknown in South Australian law. Under Section 299 of the Criminal Law Consolidation Act, a convicted person could be ordered to pay compensation for loss of property to any person aggrieved by the commission of a crime. Similar provisions for compensation to victims existed under the Police Offences Act (Sections 42, 45, 46, and 48) and the Road Traffic Act (Section 44). There were however three unique aspects to the new Criminal Injuries Compensation Act: (1) it provided compensation for personal injury; (2) it allowed compensation to be claimed in situations where an offender had not been apprehended; and (3) it provided State funds for this purpose whilst retaining the right of the victim to a civil remedy. The Bill in effect recognised that the State had a duty toward victims of crime.

2. THE CRIMINAL INJURIES COMPENSATION PROVISIONS

Although the Criminal Injuries Compensation Act has been amended on several occasions the broad philosophy remains consistent with the approach first stated in 1969. Main parameters of the legislation are as follows:

2.1. Compensation claimants

Section 7 of the Act provides for two classes of claimants for compensation:

- A victim of an offence in respect of the injury arising from the offence. Injury is defined under Section 4 as physical or mental injury, and includes pregnancy, mental shock and nervous shock.
- Dependants or close relatives affected by the death of a victim. Dependants may claim in respect of the financial loss suffered by them, a spouse or putative spouse (or where the deceased was less than 18 years of age at the date of the death, a parent of the deceased) can apply for an award of compensation for grief by way of solatium.

2.2. Amount of compensation payable under the Act

The Act stipulates both a minimum and a maximum amount of compensation. No order for compensation can be made where the amount would be less than \$100

(s.10). Maximum amounts payable are \$20,000 in respect of compensation for injury (s.8(c)) and \$4,200 or \$3,000 by way of solatium for a spouse/putative spouse or parent respectively (s.8(b)). In determining the application and quantum of compensation the Act specifies that the Court should have regard to any conduct on behalf of the victim that directly or indirectly contributed to the commission of the offence or to the injury to the victim. No order for compensation can be made if the police were hindered to a significant extent in carrying out their investigations by the claimant's failure, without good reason, either to report the offence within a reasonable period of time or to co-operate properly with investigations. In the case of an offence committed by more than one offender, and/or a series of offences constituting a single incident, only one order for compensation can be made.

2.3. Process of applying under the Act

Applications for compensation must be made within three years of the day on which the offence was committed; or in the case of a dependant of the victim, or an application for a solatium payment, within twelve months of the date of the death of the victim. In 1987 after concern over a growing backlog in scheduling court hearings to hear criminal injuries compensation applications a new division - the Criminal Injuries Compensation Division - was established within the District Criminal Court to deal specifically with compensation claims. A 'mention date' for an application to be examined by the division is usually set about three months from lodgement of the claim. There are sometimes adjournments before the claim is finalised however. This can be for a number of reasons, including that the victim still is undergoing medical treatment or that affidavits or medical reports are incomplete. If an offender is involved in a criminal trial related to the case in question it is usual (although not essential) to wait for the outcome of the trial.

The majority of compensation claims are decided without the need for a formal court hearing. Hearings only occur in the cases where there is a need to adjudicate issues relating to the validity or amount of the claim.

2.4. Criminal Injuries Compensation Fund

In 1985 a Criminal Injuries Compensation Fund was created. This comprised a prescribed percentage of

finances, and proceeds from the confiscation of assets obtained as a result of crime, with any deficit to be made up through State revenue. In 1987 amendments to the Act allowed for funds to be obtained through the imposition of a levy on all fines paid or expiated in South Australia. The 'victims levy' ranges from \$5.00 for expiated offences to \$30.00 for indictable offences.

2.5. Court or Tribunal

In recent years there has been considerable discussion about methods used in administering compensation payments. Two types of scheme currently operate in Australia: court based schemes as adopted in South Australia and a tribunal approach such as operates in Victoria. Arguments advanced in favour of a tribunal have been that it allows a quicker assessment of applications, greater consistency in this assessment, less formality with the hearings, and that it reduces the need to have a solicitor involved in the claim. The Act however, as interpreted in South Australia, was not intended to lead to lengthy litigation.

"The Act, despite the complexity and obscurity of some of its provisions, is meant to provide a relatively simple form of relief to victims of crime. The amount they can recover is limited to \$2,000 [as it then was], so that lengthy and costly proceedings and hearings are to be avoided if possible. The involvement of the Crown Solicitor is no doubt intended, inter alia, to secure the public revenue, and guard against false or unwarranted claims." (In Re E (1976) 14 SASR 179).

Since the Act was introduced there has been a steady increase in the number of compensation claims paid (Table 1). It is difficult however, to provide a reliable estimate of how many potential applicants actually apply for criminal injuries compensation. Van Dijk's study in the Netherlands (1985) estimated that 25% of the potentially eligible crime victims filed a claim. It was hypothesised that the main reason for the low application rate was a lack of awareness of the scheme by most victims. Similarly the New South Wales Task Force on Services for the Victims of Crime (1986) noted that the level of applications was not consistent with the level of reported crimes of personal violence and made recommendations for increasing publicity (Recommendation 29).

**TABLE 1 - NUMBER OF CLAIMS PAID AND AVERAGE (MEAN)
AMOUNT AWARDED: CRIMINAL INJURIES
COMPENSATION SCHEME, 1 JULY 1979 - 30 JUNE 1988**

Year	Number of Claims Paid	Total Payments	Average Amount Awarded (\$)
1979/80	32	87,879	2,746
1980/81	112	107,544	960
1981/82	153	588,646	3,847
1982/83	230	970,000	4,217
1983/84	240	937,186	3,905
1984/85	278	1,350,791	4,859
1985/86	282	1,231,966	4,369
1986/87	265	1,352,657	5,104
1987/88	318	1,498,068	4,711

Source: Attorney-General's Department, South Australia.

3. EVALUATION OF CRIMINAL INJURIES COMPENSATION IN SOUTH AUSTRALIA

Although there have been several reviews of the various criminal injuries compensation schemes throughout Australia, to date there has been no major survey which asks claimants themselves about their needs, experiences and attitudes towards the compensation process. The current study aimed to address this problem. Interviews were conducted with a sample of claimants for compensation and additional information was obtained from an analysis of files held in the Attorney-General's Department.

3.1. Methodology

A sample of 547 applications for compensation, consisting of every file registered with the Attorney-General's Department during three six month periods (1 January to 30 June 1984, 1985 and 1986) was analysed according to selected criteria (Appendix 1). Variables examined include details related to the offence, amount of compensation awarded, and whether the claim was contested. Applicants for compensation during those time periods also were forwarded letters inviting them to be interviewed. No attempt was made to interview children under 18 years; applicants from overseas, and applicants with no contact address in the files.

Victims were asked to comment on a number of issues relating to criminal injuries compensation (Appendix 2). These included: details of the claim; the outcome and their reaction; satisfaction with aspects of the scheme (e.g. the speed with which the application was handled); factors taken into account in assessing the application; the scheme as part of a court based procedure, and opinions on alternate compensation and restitution arrangements.

Of the 387 applicants invited to participate, 110 agreed to be interviewed: a response rate of 28%. This relatively low response in part reflected the fact that many victims who had lodged claims in earlier time periods could not be contacted.

TABLE 2 - RESPONSE TO REQUEST FOR INTERVIEW: CLAIMANTS FOR COMPENSATION: 1 JANUARY - 30 JUNE 1984, 1985, 1986.

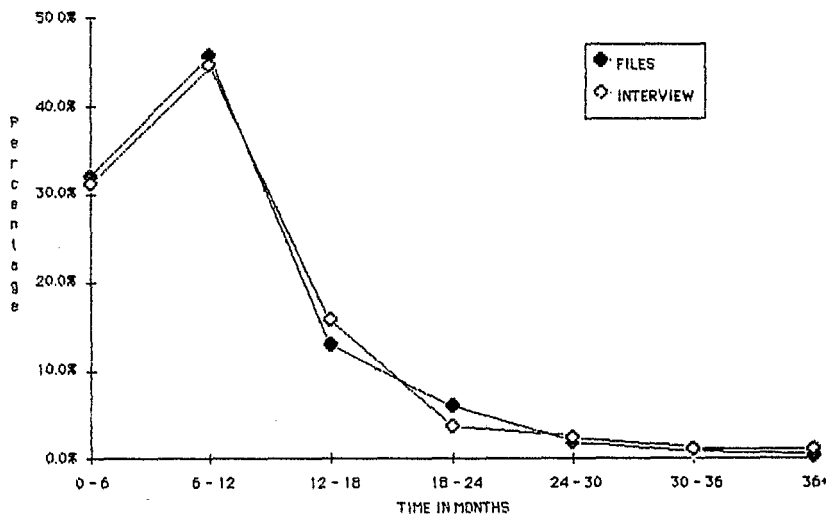
	Number	Percentage
Yes	110	28
No	55	14
More information - did not respond	12	3
Letter returned	61	16
No response	149	39
TOTAL	387	100

3.2. How representative was the interview sample?

To determine whether the victims who responded to requests for interviews were representative of claimants for criminal injuries compensation generally comparisons were made with file information on four criteria: sex; offence type; time elapsed from application to order; and whether compensation was awarded.

Results indicated that the interview sample generally was representative of the distribution of all compensation claimants (Appendix 3). The slight overrepresentation of males in the interview sample reflects the smaller proportion of rape victims participating in the survey (3.6% compared with 7.3% in the files). For both samples the majority of claimants were victims of assault. Comparison of the time from application to the order suggests that the interview sample is not biased in favour of applicants whose cases took longer to process (Graph 1).

GRAPH 1 - CLAIMANTS INTERVIEWED AND INFORMATION OBTAINED FROM COMPENSATION FILES: TIME IN MONTHS FROM APPLICATION FOR COMPENSATION BEING LODGED TO FINALISATION OF THE CLAIM



There was one factor - outcome - on which samples differed. Compared with the file data a far higher percentage of interviewees were awarded compensation (Table 3). It should be noted however, that significantly more file than interview cases had not yet been finalised - perhaps because people whose compensation claims had not yet been resolved were hesitant to participate in a survey conducted by the Attorney-General's Department. Reviewing table 3 (opposite page) it is likely, that once all the file cases have been completed, outcome distributions for the two groups will be similar.

TABLE 3 - COMPENSATION CLAIMANTS INTERVIEWED AND INFORMATION FROM COMPENSATION FILES: OUTCOME OF COMPENSATION APPLICATION, 1 JANUARY - 30 JUNE 1984, 1985, 1986

Compensation awarded?	File Sample		Interview Sample	
	Number	Percentage	Number	Percentage
Yes	356	65.1	90	81.8
No	54	9.9	7	6.4
Not finalised	131	23.9	13	11.8
Missing	6	1.1	-	0.0
TOTAL	547	100.0	110	100.0

The two populations were similar in terms of amounts of compensation paid (Table 4). Information from the files showed that over half the applicants granted compensation received payments of under \$4,000, with the average (mean) amount being \$4,242.63. Much the same situation existed among the claimants interviewed, the average amount awarded to interviewees being \$4,478.47.

TABLE 4 - COMPENSATION CLAIMANTS INTERVIEWED AND INFORMATION FROM COMPENSATION FILES: AMOUNT OF COMPENSATION PAID, 1 JANUARY - 30 JUNE 1984, 1985, 1986

Amount awarded	File Sample		Interview Sample	
	Number	Percentage	Number	Percentage
Less than \$4,000	201	56.1	41	47.7
\$4,000 - \$7,999	92	25.7	29	33.7
\$8,000 and over	65	18.2	16	18.6
TOTAL	358	100.0	86	100.0

3.3. Are applicants for compensation representative of crime victims generally?

Several Australian surveys have shown that some segments of society are more likely to be affected by crime. Results from a survey conducted by the Australian Bureau of Statistics (Victims of Crime Australia 1983, ABS, 1986) reveals that males are more likely to become victims than females and that

higher levels of victimisation occur for people aged between 15-29 years (particularly in the 20-24 year age group). Unemployed people also have higher rates of victimisation than other employment groups. Moreover survey data on the relationships between victims and offenders indicates that almost half of the victims of threatened or actual attacks (i.e. assault, sexual assault and robbery) had seen the offender previously.

To assess whether applicants for compensation are representative of crime victims generally, the above findings were compared with data extracted from the file sample on age, sex, employment status, and victim/offender relationship.

On factors such as age, sex and employment status there was broad comparability. A high proportion (72%) of applicants were male, the single largest group of applicants was aged between 18-24 years (30%) at the time of the offence, and compensation applicants were more likely to be employed (74%) than unemployed or not in the labour force. However, the file data indicated that compensation applicants differ from crime victims generally in terms of their relationship with the offender. Assault victims who apply for compensation are more likely to have been victimised by a stranger (68%) than by someone they have seen previously - a direct contrast to ABS statistics which show that victims of actual or threatened attack are more likely to be assaulted by an offender known to them (57%).

TABLE 5 - VICTIMS OF ACTUAL OR THREATENED ATTACK,
AUSTRALIA 1983* AND INFORMATION FROM COMPENSATION
FILES, 1 JANUARY - 30 JUNE 1984, 1985, 1986:
VICTIM/OFFENDER RELATIONSHIP

Relationship	A.B.S.**		File Sample	
	Number ('000)	Percentage	Number	Percentage
Stranger	204.0	44.6	284	56.9
Injured at work	-	0.0	68	13.6
Seen before - not a relative	220.2	48.2	116	23.2
Relative	41.5	9.1	31	6.2
TOTAL	457.3	100.0	499	100.0

* Australian Bureau of Statistics, Victims of Crime Australia 1983, Table 5.2.

** Total may not add up to 100% as persons could have been victims of more than one offence involving a different offender relationship.

Unlike other States, South Australian courts are not required to take prior relationship between offender and victim into account when determining compensation. Nonetheless, the possibility that a victim may have had a contributory role in the offence, or not assisted police in investigations, increases when an offender is not a stranger and this may deter some victims from applying. The ABS survey noted that seven out of ten victims who knew the offender - compared with just 56.0% of victims who did not see or know the perpetrator - chose not to tell the police of the incident. It can be assumed that this greater reluctance to inform police of an incident which involved acquaintances or relatives also would mean a greater reluctance to file for compensation.

From the interviews with compensation applicants it was possible to make some assessment of the ways information about criminal injuries compensation is reaching the "general population" of crime victims. Interviewees indicated that their contact for the scheme had been the police (28.2%), solicitors (27.3%), or relatives/friends (17.3%). Only four applicants stated that they had known about the scheme prior to their victimisation. Slightly more major assault victims had heard about compensation from the police than their own solicitor, whilst for "assault unspecified" this trend was reversed. This may indicate that police officers are mentioning criminal injuries compensation only to victims involved in more serious cases.

3.4. Payments under the Criminal Injuries Compensation Fund

The key issues in considering actual payments under the Criminal Injuries Compensation Fund were:

- what factors affect whether compensation is granted?
- what factors influence the size of the compensation payment?

and

- are victims satisfied with the amount received?

The legislation specifies three factors which can influence whether compensation is granted: contribution by the victim to the offence or injury; failure, without good reason, to report the offence; and failure to assist police with their investigations. Files were analysed to assess the effect these factors had on awards for compensation. Of the information available, the

application was contested by the Crown in only a minority of cases - less than three percent, and was subsequently refused in only 1.7% of cases. Table 6 shows reasons for contesting the application and whether compensation was granted.

TABLE 6 - COMPENSATION APPLICATIONS CONTESTED:
REASONS FOR CONTESTING BY OUTCOME OF APPLICATION,
1 JANUARY - 30 JUNE, 1984, 1985, 1986

	Compensation granted (4 cases)	Compensation refused (7 cases)
Amount sought too high	-	1
Victim failed to report to police	1	4
Victim failed to cooperate with police	-	3
Application beyond time limit	1	1
Proof of offence/s	1	1
Other	1	2

NOTE: Totals do not add up to total cases as more than one reason can be given for each case.

One case missing.

Generally, compensation was not granted in cases where the victim failed to report or co-operate with police. The importance of these provisions has been underlined in Schmidt v. State of S.A. (1985) where it was stated that:

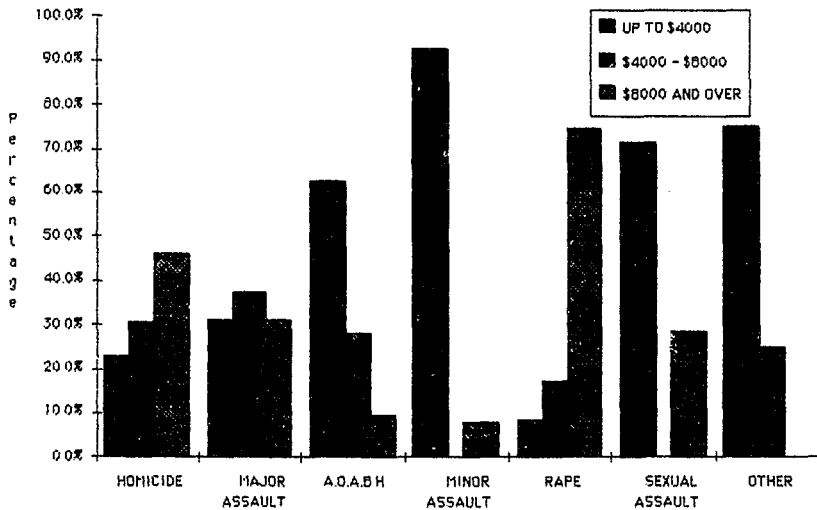
"Parliament intends that each person who suffers injury by criminal conduct against him should promptly report the offence to the Police. Parliament intends that where possible the State should have recourse against the offender. Often that recourse will be an empty remedy but in the hope that the State will sometimes recover some of its disbursement Parliament wants every effort made to identify each offender." ((1985) 37 SASR 570).

In 23 cases (4.2% of the total) the claimant's conduct (e.g. provoked offender, retaliated, previous disputes with offender) was taken into account in making the order. For thirteen of these cases there was either no effect on the application or the amount

was reduced, six applicants withdrew after their conduct was questioned, and four out of the twenty three cases did not result in compensation.

Several variables were reviewed in order to consider factors which could influence the size of the compensation payment. Offence type is a significant factor - rape victims were more likely to be awarded \$8,000 or over (close to the maximum at that time) while victims of less serious assault (actual bodily harm and minor assault) more often received less than \$4,000 (Graph 2). No significant relationship was found between amounts awarded and factors such as the type of physical injury, emotional effects, financial loss, and victim/offender relationship.

GRAPH 2 - COMPENSATION APPLICATIONS GRANTED: PERCENTAGE OF CLAIMANTS WITHIN EACH OFFENCE GROUP BY AMOUNT AWARDED



One issue which courts have discussed over the years is the appropriate method for assessing levels of compensation. One of the earliest cases Re v Poore (1973), reviewed and rejected the proposition that the maximum should be reserved for the worst cases. In Re v Poore, Hogarth J. outlined the following method of assessment.

"A court should have regard to the damages which would be awarded if they were claimed in a civil

action, and then if the court is satisfied that they would exceed \$1,000 [as the maximum then was] without taking into account any element of punitive damages, the court should award the maximum permissible under the section. If the amount so assessed does not exceed \$1,000, then the order should be for the amount assessed." ((1973) 6 SASR 308).

In Pettit v Noble (1974), Reilly J. outlined the following approach for distinguishing between aggravated and punitive damages:

"It seems to me that an assault may be aggravated by the circumstances in which it was perpetrated. An assault causing minor, or indeed no, physical injury but perpetrated in circumstances producing serious embarrassment or humiliation to the person assaulted would attract damages commensurate both to the assault and the accompanying embarrassment and/or humiliation. The damages appropriate to the factors of embarrassment and/or humiliation would, as I understand the distinction, be properly classified as aggravated damages. On the other hand, extreme violence alone could attract exemplary or punitive damages "to serve one or more of the objects of punishment - moral retribution or deterrence ... In a civil action for damages I think the applicant would have been entitled to punitive damages, which, however, on the authority of Farrelly are excluded in an application for compensation under the Criminal Injuries Compensation Act, 1969-1972." ((1977) 16 SASR 543).

Thus in assessing payment under the Act it would appear that each case is considered on its facts and aggravated damages assessed, although offence type appears to provide a rough guide to the level of payment awarded.

Victims were asked whether they were satisfied with the amount they received in compensation. The majority awarded compensation indicated that they were not satisfied in some way with the amount (71%), saying that the payment was inadequate for the suffering and injuries they had received.

"It was nothing for all the suffering" (victim of an assault awarded \$3,000).

"Because my sight has worsened since the offence and my nerves are still no better" (victim of an assault awarded \$5,000).

"I still can't breathe through my nose and I will have to have another operation" (victim of an assault awarded \$3,740).

Some victims also felt that the payment did not take into account the extent to which the crime had affected them and caused a significant change in their life style.

"I still relive the offence - no compensation for life not being the same" (victim of a robbery awarded \$6,000).

"There are lots of things I can't do now that I used to enjoy doing" (victim of an assault awarded \$7,300).

"Not enough if someone is forced to be without work for a prolonged length of time" (victim of a robbery/sexual assault awarded \$10,000).

"I'm a changed person, angry - no justice in it" (victim of an assault awarded \$5,000).

TABLE 7 - COMPENSATION CLAIMANTS INTERVIEWED WHO RECEIVED COMPENSATION: AMOUNT AWARDED BY WHETHER AMOUNT ADEQUATE

Amount Awarded	Amount Adequate		TOTAL
	YES	NO	
Less than \$2,000	8	10	18
\$2,000-\$3,999	5	15	20
\$4,000-\$5,999	4	11	15
\$6,000-\$7,999	1	10	11
\$8,000-\$9,999	2	4	6
\$10,000 and over	1	8	9
TOTAL	21	58	79
Percentage	26.6	73.4	100.0

NOTE: Seven cases missing.

Analysis of the interview data revealed no significant correlations between whether claimants felt that the amount awarded was adequate and such variables as: degree and type of emotional stress or physical injury reported; offence type; or expenses incurred. The actual level of compensation also did not seem to affect whether victims were satisfied with the amount (Table 7). Of the 27% who said the amount was adequate nearly two thirds had received less than \$4,000 while eight out of the nine victims who received the maximum or more did not think it was adequate. Although victims were not asked about the amount of money which they felt would have been adequate, the difference between the amount sought and the amount awarded was examined. As would be expected over three quarters of those victims who were awarded less than they sought were not satisfied with the amount.

Two-thirds of the applicants interviewed indicated that they did not know what factors were taken into account in assessing their application for compensation. The majority (57.8%) of these considered that some information should have been provided to them: either because it would provide them with a better understanding of the situation; because of interest; or because they felt they had a right to know. One in three applicants felt that information relevant to their case - mainly long term effects or emotional stress - had not been taken into account in assessing the application.

3.5. The recovery of costs from the offender

For cases where compensation was awarded, file data showed that in 94 cases (26.5%) costs had been recovered from the offender, the amount being recovered usually amounting to \$40 or less per month. There were 261 cases where no costs had been recovered : in 124 cases this was because the offender was not known, in 64 cases because the offender had not been located, and financial hardship was cited as the main reason in 42 cases (Table 8).

TABLE 8(a) - COMPENSATION CLAIMS AWARDED: RECOVERY OF COSTS FROM THE OFFENDER,
1 JANUARY - 30 JUNE 1984, 1985, 1986

Costs recovered	Number*	Percentage
Yes	94	26.5
No	261	73.5
TOTAL	355	100.0

* One case unknown.

TABLE 8(b) - COMPENSATION CLAIMS UNRECOVERED FROM
OFFENDER: REASONS* FOR UNRECOVERY,
1 JANUARY - 30 JUNE 1984, 1985, 1986

Reasons for unrecovery	Number	Percentage**
Offender not known	124	47.5
Offender not located	64	24.5
Financial hardship	42	16.1
Offender acquitted/ not charged	9	3.4
Offender deceased	7	2.7
Cost not yet served	21	8.1
Unknown	1	0.4

* More than one reason possible.

** Based on 261 cases. Percentage will total more than 100% as more than one reason given.

3.6. The process of applying under the Criminal Injuries Compensation Scheme

Most applicants applied for compensation within a year of the offence, which at the time of conducting the survey was the prescribed time limit. Using the file data it was possible to construct a distribution of times elapsed between the date of application and the date when claims were finalised. This showed that almost eight out of ten claims were finalised within a year, with one in three completed in less than six months. Although factors such as the court where the offender was sentenced, the offender's plea, and whether the application was contested were analysed, none were found to have significant influence on the length of time it took for a claim to be finalised.

Compensation applicants interviewed were evenly divided (51% satisfied, 49% not satisfied) in terms of satisfaction with the speed at which their application had been handled. Most claimants were satisfied if the process had taken less than six months (72%), and more were dissatisfied if it took longer (Table 9). This result was statistically significant ($X^2 = 21.01, df = 5, p > .01$).

TABLE 9 - COMPENSATION CLAIMANTS INTERVIEWED:
LENGTH OF TIME FROM APPLICATION TO HEARING THE
OUTCOME BY DEGREE OF SATISFACTION WITH THE SPEED

Time until finalised	Satisfied	Not Satisfied	Total
Less than 6 months	13 (72.2%)	5 (27.8%)	18
6 months - 1 year	17 (81.0%)	4 (19.0%)	21
1 year - 18 months	13 (59.1%)	9 (40.9%)	22
18 months - 2 years	2 (18.2%)	9 (81.8%)	11
2 years and over	5 (26.3%)	14 (73.7%)	19
TOTAL	50 (54.9%)	41 (45.1%)	91

NOTE: Numbers in brackets refer to row percentages. 10 cases where the matter had not yet been finalised are omitted from the table.

Victims who were not satisfied with the speed with which their application was handled were asked whether they had been given an explanation for the delay - of these about half had received an explanation. The main reasons provided were: court adjournments, collection of evidence, and offender related matters (e.g. the offender absconding, or unable to be located). Only 19% of the victims indicated that the delay caused them problems, mainly that it made the situation more stressful and frustrating.

Victims also were asked about problems in providing information - such as affidavits, medical reports and other details relating to the offence - in support of their applications. Only a minority (23%) reported any difficulty in supplying this information.

Under the current procedures victims usually apply for compensation through a solicitor. This was the practice adopted by 98% of the applicants interviewed. Only five respondents indicated they had any problems in engaging a solicitor to act for them. Most applicants (69%) were satisfied with the action taken by the solicitor. Even though the victims now had experience of the compensation process, only 14 (13%) felt comfortable with the idea of handling a future claim by themselves - mainly because applicants felt they had insufficient knowledge and understanding of procedures.

3.7. Compensation and the court system

Awards for compensation are normally considered only after the offence has been investigated and if appropriate, the offender prosecuted. The majority of applicants interviewed (84%) were satisfied with this approach. Among the eleven victims who were not happy the main reasons given were they felt it made the process too long (6 cases), and that it should be possible to decide a claim regardless of the outcome of the trial (2 cases). Applicants also were asked whether they saw it as fair that the Government, after investigating and prosecuting the case, was in a sense "on the other side" when considering the victim's application for compensation. Two-thirds accepted that this was appropriate. There were some negative reactions however: that it shouldn't be necessary to prove the injury; that it was a shock to the victim; or that it was "two faced". When asked whether compensation should be provided automatically to victims of any criminal offence 47% of applicants thought this should be the case. People who had found the compensation process more difficult than they had expected were more likely to favour automatic compensation. Among those who felt that a compensation claim should be assessed and not awarded automatically (51.8% of applicants) the main criteria considered relevant were: proof of the offence or injury; seriousness of the offence; and whether there was any contributory conduct on the part of the victim - similar criteria to those provided by current legislation.

There was some confusion among claimants interviewed about whether they attended court in regard to their compensation claim. Close inspection revealed that just under 3% of victims interviewed had been required to appear in court to support their application for compensation. This figure helps put into perspective the claims that court-based schemes are too formal in nature, with victims being bewildered by complex rules of evidence and procedure.

3.8. Overall assessment of compensation procedure

A key question put to victims was whether they found the compensation procedure more or less difficult than they had expected. Respondents were closely divided on their assessment of this issue: 40% thought the process more difficult than expected; 39% felt it was less difficult, and the remainder found it as expected (Table 10).

TABLE 10 - COMPENSATION CLAIMANTS INTERVIEWED:
DIFFICULTY OF COMPENSATION PROCEDURE

Was the process of claiming compensation more or less difficult than expected?	Number*	Percentage
More difficult	42	40.4
Less difficult	40	38.5
As expected/no expectation	22	21.1
TOTAL	104	100.0

* Six cases missing.

Experience in making this particular claim had not deterred the majority of respondents (82%) from being prepared to lodge another application for compensation if necessary. This held true even among victims who had found the process difficult, felt they received an inadequate amount, were unhappy with the time taken, or whose claims were either refused or not finalised (Table 11). Thus it appears that even if they feel they have some basis for complaint, most victims do not emerge from the compensation process alienated and disenchanted.

TABLE 11 - COMPENSATION CLAIMANTS INTERVIEWED:
EXPERIENCES WHEN CLAIMING COMPENSATION BY
LIKELIHOOD OF REPEATING THE PROCEDURE IN
THE FUTURE

Has your experience in making this claim made any difference to making another application for compensation?	Experiences			
	Compensation more difficult than expected	Process took too long	Amount awarded inadequate or not finalised	Compensation claim not awarded
No (i.e. will make another claim)	29 (74.4%)	39 (81.3%)	50 (84.7%)	12 (70.6%)
Yes (i.e. will not claim again)	10 (25.6)	9 (17.6)	9 (18.8)	5 (29.4)
TOTAL	39 (100.0)	48 (100.0)	59 (100.0)	17 (100.0)

NOTE: Numbers in brackets refer to column percentages.

Results such as these highlight the need for caution when transporting findings from research conducted elsewhere into the local context. Although the concept of compensation is similar in most countries, operation of schemes and the expectations of citizens can vary. As mentioned earlier some overseas research (Elias 1983; Doerner 1980; van Dijk 1985) has highlighted far reaching dissatisfaction among victims participating in the compensation process. The current research does not warrant similar conclusions for South Australia.

Finally, the study asked applicants to comment on what they saw as the most positive or negative aspect of criminal injuries compensation. It was generally agreed that the most positive aspect was that compensation was available, and that injuries sustained and other effects are recognised in some way by the Government.

Negative comments on the scheme focussed on two major areas: that amounts received were insufficient or maximum levels were inadequate, and the time taken for many applications to be finalised.

3.9. Alternate systems for compensation and restitution

As well as assessing victims' experience of the current system, the interview study asked victims to comment on alternatives.

Four different options for handling criminal injuries compensation were outlined for victims. These would involve:

- the victim making an application to the court for an award of compensation at the end of the offender's trial;
- a scheme administered by a tribunal;
- the victim making a private claim through the court;
- the victim being involved in mediation with the offender.

Response to these options are shown in table 12. There was no clear preference towards making an application to the court at the end of the offender's trial. Victims favouring this approach noted that it would streamline the process (eg. "all relevant information is at hand", "saves doing it twice"), but 41% felt it would confuse or complicate the claim. The most favoured option was a tribunal: two thirds of the victims favoured such an approach, mainly

because they felt it would be quicker, less stressful and would involve no court contact. The majority of victims did not support the idea of a private claim because of financial considerations; ie. it would be difficult to actually enforce an order and recover money from an offender. Victims were adamant that they would not want to be involved in mediation with offenders:

"I'd feel threatened - the offender has the upper hand psychologically."

"There would be lots of problems - the emotional input would be difficult."

"He's so smart and he might trick me and I don't want to trust him."

"Sounds like left wing Department for Community Welfare bull..."

TABLE 12 - COMPENSATION CLAIMANTS INTERVIEWED:
ALTERNATIVE APPROACHES TO THE CURRENT SCHEME BY
RELATIVE PREFERENCE

Alternative approaches	Better	Worse	Total
Application to court during trial	51 (58.6%)	36 (41.4%)	87 (100%)
Tribunal	61 (73.5%)	22 (26.5%)	83 (100%)
Private claim	14 (17.3%)	67 (82.7%)	81 (100%)
Mediation	5 (5.1%)	93 (94.9%)	98 (100%)

NOTE: Numbers in brackets refer to row percentage.

One unexpected result from the study was that although three quarters of claimants interviewed had received support only from relatives and friends, few felt the need for other services (professional counselling; crisis care; emergency financial assistance; support from other victims, etc.). This contrasts with previous research - particularly by Elias (1986) - which suggests that service referrals and crisis intervention centres are more useful than monetary hand-outs. Clearly, applicants for criminal injuries compensation are a far from typical sample

of victims. Nonetheless, the present finding is a salutary reminder that some people can be more resourceful and self-reliant in dealing with crime than victimologists often tend to believe.

4. CONCLUSIONS

Victims interviewed in this study had two main criticisms of the current scheme. These were that maximum levels of compensation payable and actual amounts of compensation received were too low, and that too much time was taken before applications were finalised. Victims who found the procedure more difficult than they had expected did so because of the time factor, and when asked to list the worst aspect about the compensation process a third mentioned the length of the process or red tape. It should be noted however, that despite these criticisms the majority of claimants were satisfied with the speed with which their claims had been handled. Analysis of files indicates that the majority of claims are finalised within a year - a third being resolved in less than six months. When one considers the time needed to collect reports and other information relevant to the claim, this would suggest that the procedure currently being adopted is not overly cumbersome or lengthy.

Information from the Crimes Compensation Tribunal in Victoria (Annual Report 1987-88) mentions that applications usually are listed for hearing within seven months of their lodgement, although adjournments can occur while waiting on the outcome of a criminal trial or completion of medical treatment. The differences in speed between a court based, as opposed to tribunal approach, does not seem to be as significant as advocates of the tribunal systems may believe.

5. RECOMMENDATIONS

Although the majority of victims expressed a preference for a tribunal approach, the fact that most did not find the court process a problem when filing for a criminal injuries compensation payment suggests that radical change to the existing system is not warranted. There are however other suggestions and concerns which are worth investigation.

A. INCREASE MAXIMUM AMOUNT OF COMPENSATION PAYABLE

As mentioned throughout this report many victims are not satisfied with the amounts of compensation awarded for serious crimes. Since the survey was undertaken the maximum limit has been doubled. Nonetheless, the recent introduction of the 'victims levy' may now be producing enough funds for the limit to be further increased.

B. STANDARDISED PAYMENTS FOR GRIEF

Currently the solatium payment for loss of a child (\$3,000) is less than that for loss of a spouse (\$4,000) and a similar situation exists in the Wrongs Act, 1936. The possibility of making the payment consistent for both a child and a spouse should be explored.

C. PUBLICITY FOR THE SCHEME

The relatively small percentage of claimants who heard about criminal injuries compensation from police suggests that there may be a need for law enforcement authorities to provide more information about the scheme to victims. The recent publication and distribution of a pamphlet for victims of crime which contains information about compensation may rectify this problem.

D. INFORMATION ABOUT A VICTIM'S CLAIM

The majority of claimants would like to have received information about factors taken into account in assessing their applications. At least some of the relevant information is on departmental files, and the feasibility of developing a simple system to inform victims about their cases could be explored.

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APPENDIX 1 - CRIMINAL INJURIES COMPENSATION STATISTICAL
COLLECTION

- 1. Docket number and check code

- 2. Date of application

- 3. Applicants name: Initials
Surname

- 4. Sex of applicant (1. Male 2. Female).....

- 5. Applicants date of birth and/or age
in years at time of offence

- 6. Offence type (see code)

- 7. Date offence committed

- 8. Number of offenders.....

- 9. Date C.I.C. hearing set down for

- 10. Docket Number.....

Offence Details:

- 11. Number of offenders.....

- 12. Means of Assault.....

- 13. Plea.....

- 14. Outcome.....

- 15. Court.....

- 16. Date of Disposition.....

Details of Claim:

17. Claimant's occupation.....

18. Offender/victim relationship.....

19. Claim in respect to
Physical Injury _____

Emotional problems _____

Financial loss _____

Grief _____

20. Solicitor for claimant _____

21. Was the application contested?

22. If contested application, reason/s.....

23. Was the claimant's conduct taken into account
in making the order?

24. If yes, nature of claimant's conduct.....

25. Effect of conduct on order.....

26. Date order made.....

27. Was compensation granted?

If compensation not granted, give details of:

28. Amount sought.....

29. Reason/s for not granting compensation.....

If compensation granted:

30. Amount sought.....\$

--	--	--	--	--	--
31. Details of payment (total).....\$

--	--	--	--	--	--
- Interim payment.....\$

--	--	--	--	--	--
- Exgratia payment.....\$

--	--	--	--	--	--
- Compensation payment.....\$

--	--	--	--	--	--
- Disimbursements\$

--	--	--	--	--	--
32. Costs incurred.....\$

--	--	--	--	--	--
33. Have any costs been recovered from the offender?
34. If yes, amount.....\$

--	--	--	--	--	--
35. If no, reason/s

--	--

APPENDIX 2 - CRIMINAL INJURIES COMPENSATION QUESTIONNAIRE

CRIMINAL INJURIES COMPENSATION QUESTIONNAIRE

1. Age

- | | |
|--------------------------------|----------------------------------|
| <input type="checkbox"/> 18-20 | <input type="checkbox"/> 41-50 |
| <input type="checkbox"/> 21-25 | <input type="checkbox"/> 51-60 |
| <input type="checkbox"/> 26-30 | <input type="checkbox"/> Over 61 |
| <input type="checkbox"/> 31-40 | |

2. Sex

- | | |
|-------------------------------|---------------------------------|
| <input type="checkbox"/> Male | <input type="checkbox"/> Female |
|-------------------------------|---------------------------------|

3. Marital Status

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> Never Married | <input type="checkbox"/> Divorced |
| <input type="checkbox"/> Married | <input type="checkbox"/> Widowed |
| <input type="checkbox"/> Separated | |

4. Nationality

.....

5. What is your occupation?

.....

6. What type of offence were you involved with?

.....
.....

7. What injuries or other effects did you sustain as a result of the offence (use the following as a checklist)?

Physical injuries, specify.....
.....

Emotional stress, specify.....
.....

Family stress, specify.....
.....
.....

Employment difficulties, specify

.....
.....

Housing problems, specify

.....
.....

Other, specify

.....
.....

8. Did any of the above injuries or other effects result in:

- overnight/couple of days in casualty
- a period of hospitalisation
- medical care extending over more than two weeks
- other prolonged effects which required treatment/intervention, specify

.....
.....

9. Did the offence occur as part of your employment?

- Yes
- No

If yes, give details.....

.....
.....

10. Prior to the offence, was there any previous contact between you and the offender?

- Yes
- No

If yes, what type?

.....

11. How did you first hear that you could apply for Criminal Injuries Compensation through the State Government?

- from the Police
- from a solicitor
- from the Government Prosecutors
- from a relative/friend
- from the media
- other, specify

.....
.....

12. Did you consider other ways of seeking compensation in relation to the offence?

- | | Yes | No |
|------------------------------------|--------------------------|--------------------------|
| Workers compensation | <input type="checkbox"/> | <input type="checkbox"/> |
| Private claim against the offender | <input type="checkbox"/> | <input type="checkbox"/> |
| Other, specify..... | | |

If yes, what happened in relation to the above?

.....
.....

13. Details of your Compensation Claim:

(a) What was your compensation claim in respect to (e.g. physical injury, stress)?

.....
.....
.....
.....

(b) How much money did you apply for (if known)?

\$.....

(c) Were you awarded compensation?

- Yes No Application not finalized

(d) If you were awarded compensation:

(1) How much money were you awarded?

\$.....

(2) What expenses did you have to meet from the compensation money?

.....
.....

(3) How much did you actually receive in your pocket after paying out to meet expenses?

\$.....

(4) Do you think the amount you received was adequate

Yes No

If no, why.....
.....
.....

(e) If you were not awarded compensation:

(1) What were the reasons given to you?

.....
.....
.....

(2) Did you consider these reasons valid?

Yes No

If no, why
.....

14. (a) What were the actual financial costs to you related to the offence (i.e. the actual occurrence of the offence and related factors such as reporting the offence, being involved in the investigation, appearance at court)?

\$ (estimate)

Damage to clothes, spectacles etc.
Damage to property
Loss of wages
Hospital/medical costs
Transport costs
Child minding costs
Others, list
.....
.....
.....

(b) How did you meet these costs?

.....
.....

(c) Did this cause financial difficulties for you?

Yes No

If yes, what were these difficulties?

.....
.....

15. (a) When did you apply for compensation

.....

(b) When did you hear about the outcome of your application?

.....

(c) If compensation was awarded, how long did it take to receive the payment once the Court order was made?

.....

(d) Were you satisfied with the speed with which your application was handled?

Yes No

If you were not satisfied with the speed with which your application was handled:

(1) Were you given any explanation for the time which it took for your application to be dealt with

Yes No

(2) What were these reasons (if any) and did you think these were adequate?

.....
.....
.....

(3) If you felt you experienced a delay with your application or payment, did this cause any problems for you?

Yes No

If yes, what were they.....

.....
.....

16. (a) What information did you have to supply in support of your application for compensation?

.....
.....
.....

(b) Did you experience any difficulties in supplying this information?

Yes No

If yes, what were these difficulties?

.....
.....
.....

17. (a) Do you know what factors were taken into account in assessing your application for compensation?

Yes No

(b) If you know what factors were taken into account:

(1) What factors were considered relevant?

.....
.....
.....

(2) Did you see these factors as being important to your compensation claim?

.....
.....
.....

(c) If you do not know what factors were taken into account:

Do you think you should have been given this information?

Yes No

If yes, why?

.....
.....
.....

18. Do you think there was information relevant to your claim that wasn't taken into account?

Yes No

If yes, what was this information?

.....
.....
.....

19. (a) Did you have to attend court in support of your application for compensation?

Yes No

(b) If yes, were there any aspects of the Court hearing which you were not happy about?

Yes No

If yes, please list these factors

.....
.....
.....

20. Prior to this compensation claim, had you previously been involved in any court hearings?

Yes No

If yes, give details

.....
.....
.....

21. (a) Did you get your own solicitor to handle your application for compensation?

Yes No

(b) If you got your own solicitor to handle your application:

(1) Did you experience any difficulties in getting a solicitor to represent you?

Yes No

If yes, what difficulties did you experience?

.....
.....

(2) Did the solicitor provide you with details of what he/she did?

Yes No

If yes, what did the solicitor do?

.....
.....

Were you satisfied with this action?

.....
.....

(3) Could you consider a situation where you could handle a compensation claim without the help of a solicitor?

Yes No

What are your reasons for this?

.....
.....
.....

(c) If you did not get your own solicitor to handle your application:

(1) Why did you choose to handle your application yourself

.....
.....
.....

(2) Could you consider a situation where you would need the help of a solicitor to handle your compensation claim?

Yes No

What are your reasons for this?

.....
.....
.....

22. (a) Awards for Criminal Injuries Compensation are normally considered after the offence has been investigated and an offender prosecuted. In your case, was an offender located and prosecuted?

Yes No

(b) When did the offence occur?

.....

(c) Were you happy that your application was considered after the investigation and where appropriate the offender was prosecuted?

Yes No

If no, what were your reasons for being unsatisfied?

.....

.....

.....

23. How did you feel about the fact that the Government after investigating and prosecuting your case was in a sense on the other side when considering your application for compensation?

.....

.....

.....

24. (a) Under the current system for compensation the Government tries to recover money from the offender if this is possible. Have you been informed about the outcome of the Government's attempts to recover the money?

Yes No Not applicable

(b) If you have been informed about the outcome:

(1) What is the outcome?

.....

.....

.....

(2) Do you think this outcome is satisfactory?

Yes No

If no, why,

.....
.....

(3) If the offender is paying money, do you think the financial arrangement is satisfactory?

Yes No

If no why,.....

.....
.....
.....

(c) If you have not been informed about the outcome:

(1) Do you feel you should have been informed about the outcome. Please give your reasons.

.....
.....
.....

25. (a) Looking back on the procedure, was the process of claiming compensation

More difficult
 Less difficult

than you expected.

(b) What are your reasons for this

.....
.....
.....

26. (a) What do you think is the most positive thing, if any, about the compensation process.

.....
.....
.....

(b) What do you think is the worse thing, if any, about the compensation process.

.....
.....
.....

27. Has your experience in making this compensation claim made any difference as to whether, in the future, you would:

(a) Report a similar offence to the police?

Yes No

If yes, what difference?

.....
.....
.....

(b) Help the police with their investigations?

Yes No

If yes, what difference?

.....
.....
.....

(c) Give evidence at court?

Yes No

.....
.....
.....

(d) Make another application for compensation if you again became the victim of a criminal offence?

Yes No

If yes, what difference?

.....
.....
.....

28. Do you think compensation should be provided to victims of any criminal offence automatically?

Yes No

If no, what factors do you think should be taken into account in compensating victims?

.....

29. There are a number of reasons why compensation could be provided by the State. Can you indicate how important you think each of the following reasons are?

	Not important	Some What important	Quite important	Very important
(a) To recover any financial loss related to the offence (eg. medical costs, loss of wages etc.)	1	2	3	4
(b) As compensation for the physical injuries caused by the offence.	1	2	3	4
(c) As compensation for the mental distress caused by the offence.	1	2	3	4
(d) As a way of the State acknowledging its responsibility for those injured through an offence.	1	2	3	4
(e) As a way of making the offender accountable for his/her actions.	1	2	3	4
(f) As a way of helping the victim adjust to his/her pre-offence state.	1	2	3	4
(g) Other, please list				

.....

30. There are other possible ways in which compensation could occur. Can you comment on whether the following would be better or worse for crime victims in comparison to the State Government Compensation Scheme under which you applied? Please give your reasons.

(a) For the victim to make an application to the court for an award of compensation during the offenders trial.

.....
.....
.....

(b) For the victim to make application to the Government and have this dealt with by officers without going through the court system (e.g. a Tribunal)

.....
.....
.....

(c) For the victim to bring a private claim against the offender through court.

.....
.....
.....

(d) The victim and offender meet with other and discuss an appropriate method of compensation (eg. payment of money, offender to work for victim or in the community as a way of compensation).

.....
.....
.....

31. If you were involved in the last method of compensation you would have to have contact with the Offender. What would be your reaction to this?

.....
.....
.....

32. Compensation is one area of assistance that victims of crime may require. What other assistance did you receive or feel you should have received following the offence?

	Received	Should have Received but didn't	Not Needed
(a) Emergency medical care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Long term Physical rehabilitation (eg. surgery)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Crisis Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Professional counselling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Emergency financial assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) Alternate housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) Alternate employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(h) Child care assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(i) Travel assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(j) Support from other victims of crime	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(k) Support from relatives /friends	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(l) Protection by the police	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(m) Advice/support on court appearances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(n) Others (list)

.....

33. If you didn't receive the assistance you required, can you give the reasons why?

.....

34. Do you think you should have been told about the availability of these services at the time of the offence being reported to the Police? Please comment.

.....
.....
.....

35. Recognising that Government funds for victims are limited, of all the things the Government could spend money on, can you nominate, in order of importance, the three areas which the Government should be developing to improve the position of victims of crime.

.....
.....
.....
.....

35. Any other comments you wish to make?

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.....
.....
.....

APPENDIX 3 - COMPENSATION CLAIMANTS INTERVIEWED AND INFORMATION OBTAINED FROM COMPENSATION FILES: COMPARISON ON SEX, OFFENCE TYPE AND TIME FROM APPLICATION TO ORDER, 1 JANUARY - 30 JUNE 1984, 1985, 1986.

	File Sample		Interview Sample	
	Number	Percentage	Number	Percentage
SEX				
Male	391	71.5	87	79.1
Female	156	28.5	23	20.9
TOTAL	547		110	
OFFENCE TYPE				
Assault (total)	444	81.2	91	82.7
- Grievous bodily harm (include attempted murder)	27	4.9	1	0.9
- Actual bodily harm	402	73.5	15	13.6
- Minor	21	3.8	-	-
- Unspecified	-	-	75	68.2
Rape	40	7.3	4	3.6
Indecent assault	19	3.5	4	3.6
Unlawful sexual intercourse	2	0.4	-	-
Robbery	-	-	4	3.6
Kidnapping abduction	6	1.1	1	0.9
Arson	1	0.2	1	0.9
Relative of Homicide	20	3.7	1	0.9
Other	9	1.6	4	3.6
TOTAL	547		110	
TIME FROM APPLICATION TO ORDER				
Less than 6 months	115	21.0	26	23.6
6 months - 1 year	164	30.0	37	33.6
1 year - 18 months	47	8.6	13	11.8
18 months - 2 years	21	3.8	3	2.7
2 years - 2 yrs 6 mths	7	1.3	2	1.8
2 yrs 6 mths - 3 years	3	0.5	1	1.0
3 years and over	1	0.2	1	1.0
Missing	189	34.6	27	24.5
TOTAL	547		110	

APPENDIX 4 - COMPENSATION CLAIMANTS AND VICTIMS OF PERSONAL
CRIME, SOUTH AUSTRALIA 1983: AGE AT TIME OF
OFFENCE.

Age at Time of Offence	File Sample		Victims of Personal Crime, South Australia*	
	Number	Percentage	Number	Percentage ('000)
Under 20	99	22.7	20.7	18.9
20 - 24	92	21.1	23.6	21.5
25 - 34	106	24.3	26.5	24.2
35 - 44	67	15.3	16.5	15.1
45 - 59	56	12.8	15.0	13.7
60 +	17	3.9	7.2	6.6
TOTAL	437	100.0	109.5	100.0

* Source: Australian Bureau of Statistics, VICTIMS OF CRIME AUSTRALIA 1983, Table 2.2.

APPENDIX 5 - COMPENSATION CLAIMANTS AND VICTIMS OF PERSONAL
CRIME, AUSTRALIA 1983: SEX AND OCCUPATIONAL
STATUS

	File Sample		Victims of Personal Crime, Australia ('000)	
	Number	Percentage	Number	Percentage
SEX				
Males	391	71.8	229.7	65.2
Females	156	28.5	122.9	34.9
TOTAL	547	100.0	352.6	100.0
OCCUPATIONAL STATUS				
Unemployed	66	13.3	49.3	14.0
Employed	297	59.8	219.2	62.2
Not in Workforce	134	27.0	84.0	23.8
TOTAL	497*	100.0	352.5	100.0

* Fifty cases missing.

** Australian Bureau of Statistics, VICTIMS OF CRIME AUSTRALIA, 1983 Table 2.5.

APPENDIX 6 - PUBLICATIONS OF THE SOUTH AUSTRALIAN OFFICE
OF CRIME STATISTICS (FEBRUARY, 1989)

Series 1: Crime and Justice in South Australia
- Quarterly Reports

- Vol. 1 No. 1 Report for the Period Ending 31st December,
1978 (February, 1979)
- Vol. 1 No. 2 Report for the Period Ending 31st March, 1979
(June, 1979)
- Vol. 1 No. 3 Report for the Period Ending 30th June, 1979
(September, 1979)
- Vol. 2 No. 1 Report for the Period Ending 30th September,
1979 (December, 1979)
- Vol. 2 No. 2 Report for the Period Ending 31st December,
1979 (March, 1980)
- Vol. 2 No. 3 Report for the Period Ending 31st March, 1980
(July, 1980)
- Vol. 2 No. 4 Report for the Period Ending 30th June, 1980
(September, 1980)
- Vol. 3 No. 1 Report for the Period Ending 30th September,
1980 (December, 1980)
- Vol. 3 No. 2 Report for the Period Ending 31st December,
1980 (May, 1981)
- Vol. 3 No. 3 Report for the Period Ending 31st March, 1981
(July, 1981)
- Vol. 3 No. 4 Report for the Period Ending 30th June, 1981
(September, 1981)

Series 11: Summary Jurisdiction and Special Reports

- No. 1 Homicide in South Australia: Rates and Trends in
Comparative Perspective (July, 1979)
- No. 2 Law and Order in South Australia: An Introduction to
Crime and Criminal Justice Policy (First Edition)
(September 1979).
- No. 3 Robbery in South Australia (February, 1980)

- No. 4 Statistics from Courts of Summary Jurisdiction:
Selected Returns from Adelaide Magistrate's Court:
1st January - 30th June, 1979 (March, 1980)
- No. 5 Statistics from Courts of Summary Jurisdiction:
Selected Returns from South Australian Courts:
1st July - 31st December, 1979 (September, 1980)
- No. 6 Statistics from Courts of Summary Jurisdiction:
Selected Returns from South Australian Courts:
1st January - 30th June, 1980 (December, 1980)
- No. 7 Statistics from Courts of Summary Jurisdiction:
Selected Returns from South Australian Courts:
1st July - 31st December, 1980 (September, 1981)
- No. 8 Statistics from Supreme Court and District Criminal
Courts: 1st July 1980 - 30th June, 1981
(November, 1981)
- No. 9 Homicide and Serious Assault in South Australia
(November, 1981)

Series A: Statistical Reports

Odd numbered reports (1-23): Statistics from Criminal
Courts of Summary Jurisdiction
(covering 6 monthly periods from
1 January, 1981 through to 31
December, 1986)

Even numbered reports (2-22): Crime and Justice in South
Australia (Police, Corrections,
Higher Criminal Court and
Juvenile Offender statistics)
(covering 6 monthly periods from
1 July, 1981 through to 31
December, 1986)

Series B: Research Bulletins

- No. 1 Shoplifting in South Australia (September, 1982)
- No. 2 Law and Order in South Australia, An Introduction to
Crime and Criminal Justice Policy (Second Edition)
(October, 1986)

- No. 3 Bail Reform in South Australia (July, 1986)
- No. 4 Decriminalising Drunkenness in South Australia (November, 1986)
- No. 5 Criminal Injuries Compensation in South Australia (February, 1989)

Series C: Research Reports

- No. 1 Sexual Assault in South Australia (July, 1983)
- No. 2 Evaluating Rehabilitation: Community Service Orders in South Australia (May, 1984)
- No. 3 Victims of Crime: An Overview of Research and Policy (November, 1988)

Series D: Social Issues Series

- No. 1 Random Breath Tests and the Drinking Driver (November, 1983)