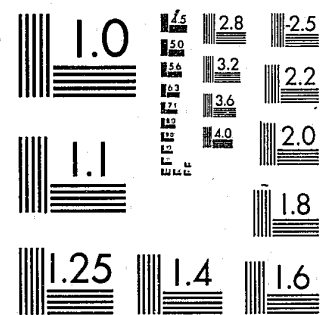


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THE LEGISLATURE - STATE OF NEW YORK

Legislative
Commission
On
Expenditure
Review

Crime
Victims
Compensation
Program

75611



Program Audit
April 1979

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LEGISLATIVE COMMISSION
ON EXPENDITURE REVIEW**

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Program Audit
April 1979

SUMMARY AND CONCLUSIONS

For over a decade, financial compensation has been available to victims of violent crime in New York State. Yet, an October 1975 audit of the program run by the Crime Victims Compensation Board (CVCB) found that a small portion of victims were eligible for the program. The prior audit by the Legislative Commission on Expenditure Review (LCER) also found that many who were eligible did not file claims for compensation. Lack of public awareness was cited as one reason for low program use. Failure of victims to meet eligibility requirements was another.

Legislative Intent

Legislative change effective in 1977 was intended to remedy these problems. Eligibility requirements eased. These included (1) minimum allowable out-of-pocket ex-

penses for medical care of \$100 and (2) a minimum of two weeks' lost earnings or support.

Police were also mandated to inform violent crime victims of the program when crimes were reported.

Legislative actions also liberalized other eligibility requirements and sought to secure for victims monies earned by criminals for portrayal of their crimes.

As of 1978, a person was eligible for an award if he or she suffered personal injury as a direct result of a crime committed in New York State. Dependents of victims who died as the result of crimes were also eligible for awards. The crime must have been reported to the police and a claim filed with CVCB within the specified time periods. Serious financial hardship must exist.

Awards can be granted for: (1) medical expenses, (2) funeral expenses, and (3) loss of earnings or support. No maximum award has been set for medical expenses; for funeral expenses the maximum is \$1,500 and for loss of earnings or support, it is \$20,000. Awards must be reduced for payments made to victims from other sources such as health insurance and workers' compensation.

Excluded from awards are victims of crimes committed by motor vehicle operators unless the injury was intentionally inflicted. Those victimized by their family members are also excluded.

Program Awareness

CVCB serves more victims now than it did at the time of the prior LCER audit.

From 1974-75 to 1977-78, there was:

- A 134 percent increase in claims filed, from 2,341 to 5,489;
- An 89 percent increase in CVCB original

decisions for awards or no awards, from 2,399 to 4,539;

- A 63 percent increase in expenditures, from \$3.1 million to \$5.1 million.

Although claims filed have increased, so has the number of eligible victims. Analysis of this undertaken for LCER is directed at New York City where over three-quarters of CVCB's claims originate. The estimates made are for potentially eligible victims, since available data do not allow all CVCB decision criteria for review of claims to be used. For example, it is not possible to determine if those potentially eligible could demonstrate serious financial hardship.

The estimate of those potentially eligible under the 1978 eligibility requirement is

26,754. If this estimate is precise, CVCB served about 20 percent of those who potentially qualified for compensation in 1977-78.

More importantly, it is also estimated that 40 percent of the pool of potentially eligible victims became eligible as a result of legislative efforts to expand eligibility to many in need of assistance. By comparison, Table S-1 shows that those actually receiving awards from CVCB in the last quarter of 1977-78 who could not meet prior requirements equalled 17 percent of successful claimants. In order to conclude that CVCB is granting awards to all those it need serve from its extended target population, the estimate of those potentially eligible under present requirements would have to be in error by 23 percent or more.

Table S-1

Impact of Program Implementation of Changed Legislation on Eligibility for Awards: Awards to Those Filing Claims After Eligibility Changes Who Met Prior Requirements (January through March 1978 Awards)

	Number	Percent
Met Prior Out-of-Pocket Expense Requirement ^a	172	50.4
Met Prior Loss of Earnings ^b or Support Requirement	66	19.4
Met Both Prior Requirements ^c	46	13.5
Did Not Meet Prior Requirements	57	16.7
Total	341	100.0

^a\$100 or more of unreimbursed medical and/or funeral expenses.

^bTwo continuous weeks or more of lost earnings or support.

^cOnly one of these requirements had to be met for eligibility under prior legislative intent.

CVCB had reported in its 1977-78 Annual Report that:

Notwithstanding the increase in claims submitted to us, we note that not all of what appear to be eligible victims of

crimes committed in New York State are filing claims.

While CVCB's program has not served all eligible victims, ample legislation had been enacted to increase victim awareness of the

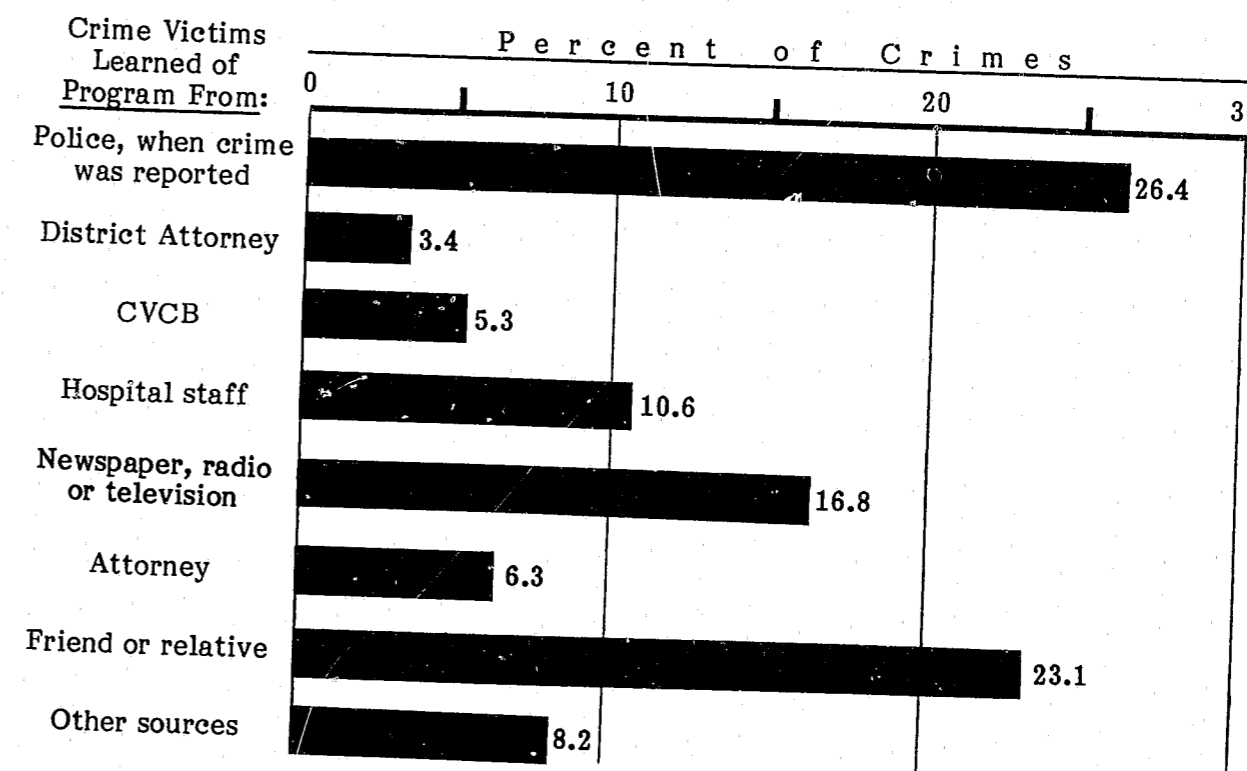
program. A 1976 amendment to the law requires every police officer receiving the report of a violent crime to provide information about the program to the victim.

While gains have been made in victim

awareness of the program, 26 percent of crime victims receiving awards in the last quarter of 1977-78 learned of the program from the police. Almost as many, 23 percent heard of it from friends or relatives (Chart S-1).

Chart S-1

How Crime Victims Became Aware of CVCB's Program 1977-78 (N = 208)



Program Administration

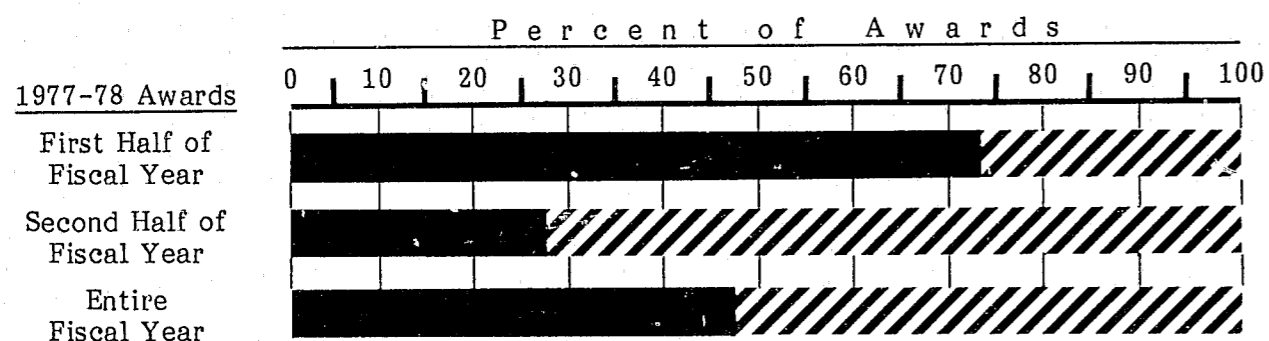
The increased number of claims filed resulted in delays in their processing during 1977-78. For claims filed in April 1977, seven to eight months elapsed before 72 percent of them were processed and 13 percent remained open after the 1977-78 fiscal year ended. By comparison, claims filed in 1974-75 had all been closed at the end of that fiscal year (71 percent by the sixth month).

For claims filed in April 1978, 64 percent were decided five months following receipt, and over 50 percent by the third month after they were filed. This represents the best record by CVCB in any period used in LCER's analysis of timeliness.

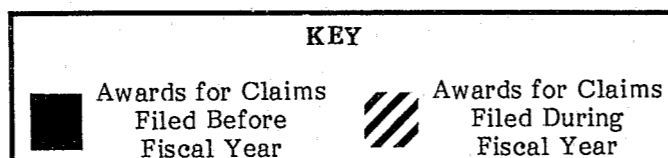
This review of time to process claims includes both allowed and disallowed claims. CVCB workload for those claims resulting in awards is shown in Chart S-2. For 1977-78, about half of original decisions resulting in

Chart S-2

CVCB's Completed Original Awards* Workload
by the Year Allowed Claims Were Filed
(1977-78 Awards)



*Does not include original decisions for "No Award" and awards granted as a result of Amended Decisions and Complete Board Reviews.



awards were for claims filed before that fiscal year. The first half of 1977-78 was almost fully devoted to the prior year's claims.

This represents a problem for CVCB and for claimants likely to receive awards because CVCB original decisions, although increased in number, do not keep pace with claims filed in the same fiscal year. Further, there is an additional waiting period from date of decision to date of actual payment.

This has meant that for those granted awards in the last quarter of 1977-78 for claims filed that same year, the time lapsed from claim filing to payment averaged 6.9 months. The time period that some of these claimants waited for payment ranged from two to 14 months from claim filing.

Reasons claims were not closed, for a sample open from three months to one year, were provided for those under investigation and for others available to Board members for decision. Reasons cited included workload--most frequently cited for open claims in the latter group.

A long standing CVCB policy is for the Chairman to devote his time to agency administration. The four other Board members concentrate on making original decisions on claims.

Review of CVCB files and logs indicated that claim increases and workload problems are compounded by inadequate information on claim status for effective monitoring of open claims. There are claims that could be processed or decided if the need for action were known. For example, there were several instances where action was prompted by claimants' inquiries on claim status. Although there are plans for computerization of CVCB files, cumbersome handwritten records were in use throughout the period reviewed in this audit.

Purpose and Cost of Awards

The average award for 1977-78 was \$1,810, of which loss of earnings or support constituted \$1,131 and medical payments, \$679.

Program costs associated with payments to victims and with program administration are listed on Table S-2.

Of the costs associated with this program, those for medical payments received the most scrutiny by LCER because no maximum amount has been set.

CVCB relied upon a flexible case-by-case

review to try to achieve cost containment. The Medical Fee Specialist, first retained in 1978 for this purpose, was assigned to the review of additional medical payments primarily (those made after the original award). Data developed by LCER indicate that original medical payments occur four times more frequently than those termed additional.

Table S-2

Crime Victims Compensation Board
Expenditures: 1975-76 through 1977-78
Appropriation: 1978-79
(Exclusive of Fringe Benefits)

Fiscal Year	Expenditures			Percent	
	Administration	Payments to Victims	Total	Administration	Payments to Victims
1975-76	\$553,488	\$2,979,071	\$3,532,559		
1976-77	603,781	3,220,267	3,824,048	16	84
1977-78	739,318	4,313,077	5,052,395	16	84
1978-79*	845,600*	5,446,600*	6,292,200*	15	85
				13	87

*Appropriation.

Findings and Conclusions

The program has had increased claims filed and awards made. The program has not yet served all those eligible for an award because claims filed, although increased, do not represent all those now eligible.

Responsibility for making victims aware of CVCB's program has been assigned to the police. For those receiving awards during the last quarter of 1977-78, 26 percent learned of the program from the police.

Increased decisions have not kept pace

with increased claims resulting in an average waiting period of 6.9 months for those paid for awards made in the last quarter of 1977-78 for claims filed that year.

CVCB has made improvements in the timeliness of claims processing, but there have been instances of delay caused by increased claims, workload problems and inadequate monitoring of open claims.

Recent efforts at cost containment of medical expense components of claims have been focused on additional, not original medical payments.

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FOREWORD

The Legislative Commission on Expenditure Review was established by Chapter 176 of the Laws of 1969 as a permanent legislative agency for among other duties, "the purpose of determining whether any such department or agency has efficiently and effectively expended the funds appropriated by the Legislature for specific programs and whether such departments or agencies have failed to fulfill the legislative intent, purpose and authorization." This program audit, Crime Victims Compensation Program, is the seventieth staff report.

Since this program was last studied by LCER in 1975, legislation was enacted to increase victim awareness of the program and to expand the number of victims eligible for compensation. Claims filed have increased and so has victim awareness. Nevertheless, a survey of crime victims receiving awards found that 26 percent learned about the program from police. Almost as many--23 percent--found out from friends or relatives. The 1977 legislation had made the police responsible for informing victims of the program.

Those claimants receiving awards since changes were enacted to liberalize eligibility for compensation were mostly (83 percent) those who could have met the prior requirements. Estimates of those potentially eligible indicate that more could be served from the expanded target population. Yet, the program has not always been able to keep pace with claims already filed.

The estimates of potentially eligible victims were provided to LCER by Dr. James Garofalo, formerly Director, Statistical Analysis Center, New York State Division of Criminal Justice Services and now Director, Research Center East, National Council on Crime and Delinquency. We thank Dr. Garofalo for his important contribution.

We also wish to thank the staff of the Crime Victims Compensation Board for providing an analysis of crime victims programs in other states and a Spanish translation of LCER's crime victim survey questionnaire.

In accordance with Commission policy, this report focuses on factual analysis and evaluation. Recommendations and program proposals are not presented since they are in the realm of policymaking and therefore the prerogative of the Legislature.

This audit was conducted by Stuart Graham, Chairman, Robert Fleischer, Elaine Fromer and Mark Sander. Richard Spaulding served as general editor while James Haag handled layout and production. Overall supervision was the responsibility of the Director.

The law mandates that the Chairmanship of the Legislative Commission on Expenditure Review alternate in successive years between the Chairman, Senate Finance Committee and the Chairman, Assembly Ways and Means Committee. Senator John J. Marchi is Chairman for 1979 and Assemblyman Arthur J. Kremer is Vice Chairman.

April 23, 1979

Troy R. Westmeyer
Director

I INTRODUCTION

A program to compensate victims of violent crime has existed in New York since 1966. The program of New York's Crime Victims Compensation Board (CVCB) was the second state program to evolve. As of December 1978, there was still no federal program to reimburse states providing such aid to crime victims, despite congressional consideration of such legislation.

The New York program was the subject of the October 31, 1975 program audit, Financial Aid to Crime Victims by the Legislative Commission on Expenditure Review (LCER).¹

Changes in this program prompted this current study--the first update of an LCER program audit to assess the impact of changed legislative intent, and of increased program cost and use.

Legislation

CVCB was created to review claims submitted by victims of violent crimes for the purpose of financially compensating those in need of assistance. The declaration of policy and legislative intent stresses that the State provides such aid "as a matter of grace" and not as an obligation:

The legislature recognizes that many innocent persons suffer personal injury or death as a result of criminal acts. Such persons or their dependents may thereby suffer disability, incur financial hardships, or become dependent upon public assistance. The legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the legislative intent that aid, care and support be provided by the state, as a matter of grace, for such victims of crime.²

CVCB's powers and duties are exclusively focused on the process of financially assisting crime victims.³ It is not mandated to coordinate other crime victims programs in New York (see Appendix B for information on such programs), or to play an advocacy role for the victim.

Within the original scope of the program, there have been significant changes in legislation. The 1975 LCER program audit demonstrated that relatively few violent crime victims were either eligible for the program or aware of its existence.⁴ Chapter 952 of the Laws of 1976 liberalized prior eligibility requirements and mandated the dissemination of program information to crime victims.

In a memorandum in support of the legislation, a principal sponsor noted:

New York State has been a pioneer in the area of compensation to the victims of crime and can boast of having one of the first crime victims compensation boards in the country. And yet this fact is relatively unknown to the majority of citizens in the State. It is the purpose of this bill to publicize the existence of the Board. . . Another provision eliminates the present \$100 minimum. . .in order to receive any award at all. . .⁵

In approving the bill the Governor highlighted its significance:

The bill, which is the product of a cooperative effort among members of the Legislature and the Chairman of the Crime Victims Compensation Board, will significantly increase the State's effort to provide meaningful assistance to the innocent victims of crime, who are too often neglected in our criminal justice planning. The bill will increase the amount of assistance the State can provide to crime victims, will make the eligibility requirements more reasonable, so more people can qualify, and will require the dissemination of information concerning the State's Crime Victims Compensation Program, so that deserving individuals are not denied benefits to which they are entitled, merely because they are unaware of the Program.⁶

The specific changes were:

- Removal of requirements that victims have \$100 minimum out-of-pocket loss or at least two continuous weeks of lost earnings or support;
- Increase in maximum award for lost earnings or support from \$135 to \$250 per week and increase in the total allowable award for such loss from \$15,000 to \$20,000;
- Increased time for filing of a claim from 90 days to one year, or upon CVCB approval, two years from the date of the crime or, when applicable, from the date of the victim's death;
- Required provision of information about the program by the police at the time the crime is reported by the victim, including application forms for filing of claims with CVCB;
- Increase in time allowed for reporting crimes from 48 hours to one week unless CVCB finds good cause for further delay in reporting;
- Expanded assistance to provide counseling services for victims suffering traumatic shock as a result of the crime;
- Limited the grounds available to the Comptroller and the Attorney General for challenge of CVCB awards while allowing a judicial review process to claimants of CVCB decisions under Article 78 of Civil Practice Law and Rules.

Other recent changes in legislation would allow payment for loss of support or earnings to exceed \$20,000 if the excess amount is fully reimbursed by federal funds (Section 631, Executive Law) and would secure for CVCB funds earned by criminals for portrayal of their crimes to compensate the victims of such crimes (Section 632-a, Executive Law). This last change is commonly known as the "Son-of-Sam" law, after the notorious killer whose expected profits from his crimes prompted the introduction of this law.

Eligibility

Those allowed to apply for compensation from CVCB include: (1) the victim of violent crimes committed in New York; (2) the surviving spouse, parent or child of a

victim who died as a direct result of the crime; and (3) any others dependent for principal support upon a victim who died because of the crime.

The crime must have been reported to the police within one week of its occurrence (unless CVCB rules to extend this period for good cause), and the claim must have been filed with CVCB within one year after either the crime was committed or after the death of the victim (unless CVCB rules to extend this period for good cause).

The claimant must also demonstrate that "serious financial hardship" will result from lost earnings or support, or from out-of-pocket expenses caused by personal injury or death of the victim without CVCB compensation.

Awards

Awards must include all unreimbursed medical expenses directly related to the crime. There is no maximum dollar amount set on payments for medical expenses and no time limit fixed for incurring them. Awards for loss of earnings or support are limited to a maximum total award of \$20,000 and a maximum weekly award of \$250. Awards for funeral payments are limited to a maximum of \$1,500.

By legislative intent awards are not to exceed actual loss borne as a result of the crime and are to be reduced by collateral payments. These are payments made to the victim for the same loss from sources other than CVCB, such as payments from: (1) the criminal for restitution, (2) insurance and (3) other public funds, such as those available under workers' compensation.

In the view of CVCB's Counsel (expressed to LCER in a letter dated January 12, 1979), the reductions for collateral payments are for those already received by the claimant, or for those certain or likely to be received. These would include:

Worker's Compensation, Disability, Medicaid where it appears that the claimant was already enrolled in the program or would qualify for the program requirements, private medical insurance, Medicare, Unemployment Insurance, VA Benefits, Union, Company or Fraternal benefits, life insurance, pensions, Social Security, Retirement Benefits, and NYC Good Samaritan Benefits.

CVCB's Counsel points out that efforts to reduce awards for collateral payments must not subvert basic legislative intent: "within the limitations and restrictions provided for... to compensate claimants in amounts equal to 'actual loss sustained.'" CVCB, therefore, does not hold up payment of awards awaiting what is viewed as "speculative or highly problematical possible sources of future compensation to the claimant."

Audit Focus

Program implementation of changed legislation and increased program size are highlighted in this update. In addition to developing tables for comparison to prior CVCB results from CVCB files and logs, the audit also extracts information on the more recent, successful claims filed with CVCB, since these show not only the existing situation but likely future emphasis as new claims are filed at a rate that makes them certain to be an important component of CVCB's future workload. This is because claims have increased 244 percent since 1970-71 (the base year used in LCER's prior audit).

Awards have not kept pace with claims filed despite a substantial increase in the number of awards made. Table 1 shows that in 1977-78, it was not until the sixth month of that fiscal year, September, that CVCB's awards went primarily to new claimants (i.e., those filing claims in the same fiscal year). Further, over the entire fiscal year, 52 percent of CVCB's awards were for claims filed in the same fiscal year. Therefore, numerous claims filed in 1977-78 remained for 1978-79 disposition. (A review of the sixth month of fiscal year 1978-79 showed that the same trend still existed--53 percent of awards were for claims filed in that fiscal year, while 47 percent were for the prior fiscal year). As a result of devoting the first half of the fiscal year to claims filed the prior year, those granted awards in the last quarter of 1977-78 for claims filed the same year waited payment 6.9 months, on the average, from the date of claim filing. For some claimants, the time lapsed ranged from two to 14 months. (Once a decision for award is rendered, the claimant must still await actual payment. See Chapter II.) Table 1 does not reflect all CVCB awards; it includes original awards only. (See Tables 29 and 30 for information on amended awards and those made after complete Board review.)

Table 1

CVCB's Completed Awards* Workload
by the Year Allowed Claims Were Filed
(1977-78 Awards)

Month of Award	Percent of Awards for Claims Filed		Total Number of Awards
	Before 1977-78	During 1977-78	
April, 1977	99	1	83
May	98	2	104
June	88	12	104
July	75	25	91
August	52	48	144
September	45	55	137
October	46	54	116
November	33	67	154
December	30	70	110
January, 1978	25	75	129
February	21	79	117
March	18	82	187
Fiscal Year	48	52	1,476

*Does not include original decisions for "no award" and awards granted after Amended Decisions and Complete Board Reviews.

Source: LCER staff from CVCB, Monthly List of Decisions by Board Member, April 1977 through March 1978.

Nevertheless, original awards comprise the bulk of CVCB's workload as measured by their quantity and CVCB staff effort required to process them. More importantly, this part of CVCB's workload provides the best indicator of program execution of changed legislative intent.

Public awareness of CVCB's program was probed by surveying crime victims who received compensation from CVCB for claims filed after changed legislative intent sought to increase such awareness and via estimates of the relationship between claims filed with CVCB and all potentially eligible crime victims.

Information on other crime victims programs in New York and in other states is also included (see Appendix C).

Findings

- Legislative change effective in 1977 removed or liberalized prior victim eligibility requirements in an attempt to compensate more victims of violent crime.

- Legislation effective in 1977 mandated that CVCB program information be provided to victims by police when violent crimes were reported.

- Other changes included the "Son-of-Sam" law requiring profits earned by criminals from depictions of crimes be turned over to CVCB to compensate victims of the crimes portrayed.

- In 1977-78, 52 percent of original awards went to individuals filing claims in the same year. The other 48 percent were for claims filed in prior fiscal years. This is because original awards have not kept pace with an even greater increase in claims filed.

II CRIME VICTIMS COMPENSATION BOARD

Since the last LCER audit, CVCB has all new members, with the Chairman assuming his position as of June 1978. Appointed by the Governor with the consent of the Senate to seven-year terms, the five Commissioners have the responsibility for approving or denying awards to crime victim claimants.

There are six CVCB offices with two in New York City and one each in Albany (the main office), Buffalo, Syracuse and Mineola. The office in upper Manhattan was established with the help of community organizations and those in Syracuse and Mineola are operated through the auspices of district attorneys' offices.

Claims filed in Rockland and Westchester counties were recently added to the New York City area office which now accounts for well over three-quarters of CVCB's workload. As a result, all Board members, except one who handles upstate claims in the Buffalo office, conduct their business in New York City and the chairman has shifted his "home" office to the City with Albany now his "visiting" office. In addition to the executive secretary, the assistant to the chairman, and office staff, all six claims examiners and 13 of the 17 investigators are in the NYC Office. Three of these are Spanish-speaking.

Located in the Albany office are the finance and personnel staff, the medical fee and vocational rehabilitation specialist, the Board's counsel, and supervising investigator and an investigator. Investigators are also located in Buffalo and Syracuse (see Chart 1).

The supervising investigator's geographic separation from the examiners and most of the investigators suggests limitations on the extent to which sufficient supervision can be provided to the New York City staff. A previous audit by the State Comptroller found the need for "improved supervision of the investigators...to assure that claims are handled on a timely basis and that there are uniform work practices."¹

Review of Claims

In its first five years of operation CVCB assisted claimants in collecting and filing the information needed to support a claim. However, when the level of claims assigned to the New York City office increased to the point that the investigators there, could no longer both obtain and verify claims data, this assistance to the Downstate claimant was discontinued at the end of 1971; and the claimant became responsible for obtaining the data.

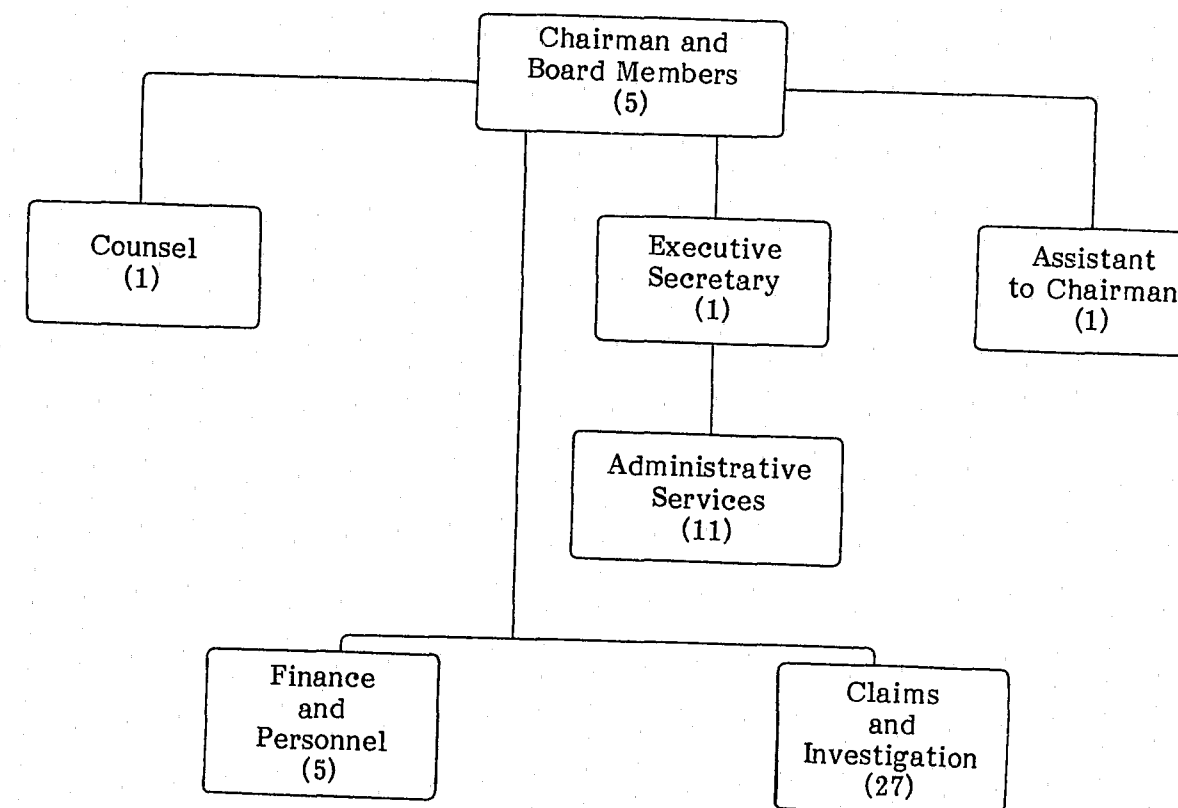
Not only did this revised New York City office assistance policy contribute to a decrease in the percentage of Downstate claimants receiving awards, but it also caused a slowdown in the completion and processing of claims resulting in a greater number of open claims.

In an attempt to alleviate the problem the policy was changed from one of claimant responsibility for collecting data to one of shared responsibility between the claimant and CVCB.

In 1978, the NYC office staff was increased with the establishment of a Claims Examiners Unit whose purpose as stated in the CVCB Annual Report for 1977-78 is "to obtain necessary documentation for the initial assessment of the validity of claims and

Chart 1

Organization of the New York State Crime Victims Compensation Board *



*As of November 1978, the Crime Victims Compensation Board had a staff of 51 with offices in Albany, Buffalo, New York City (2), Syracuse and Mineola.

Source: CVCB, November 30, 1978.

eligibility of claimants. . ." and to prepare "initial determinations for Emergency Awards." This has decreased the workload of New York City office investigators.

The Albany office which receives all claims for recording and for Board member assignment, acknowledges receipt of claims and requests claimants to make an appointment within ten days with the assigned investigator if from Upstate or with a claims examiner if from Downstate.

As of the 1977-78 fiscal year, a new screening process was introduced. Prior to logging claims for assignment, CVCB's clerical staff insures that they are valid claims for filing. Claims are not accepted for filing that are obviously ineligible; for example,

claims for crimes outside New York State, or from ineligible claimants would be screened out. Duplicate claims and those without sufficient information to contact the claimant would also not be accepted. Previously these would have been counted as claims filed and would have added to the workload of investigators and Board members. Sometimes the process of logging New York City office claims in Albany results in delays in processing claims. (However, the Albany office functions as a centralized source of information for the program.)

Upon contact by the claimant or usually by the examiner, if the victim is elderly, the examiner requests from the claimant such necessary information as hospital and/or medical bills, the claimant's tax return, birth certificate, disability benefit statements, medical insurance reimbursement statements, etc. At the interview the examiner fills out the Claimant's Affidavit Form and determines what additional information and documentation is needed from the claimant or can be obtained by the examiner.

At this point in the process the examiner assesses the eligibility or ineligibility of the claim and determines what direction it will take (i.e., no serious financial hardship, ineligible claimant, provocation, award for medical only, funeral only, loss of earnings or support only, etc.).

Those claims judged ineligible are submitted to a Board member for review and a decision. Those which are judged eligible are submitted to the senior investigator for review and ultimate assignment to an investigator for verification of information, uncovering possible fraud, complicity, and ultimately determining whether or not an award should be made. In other CVCB offices, the same process is followed without the use of claims examiners. Instead, investigators are responsible for the initial examination of claims.

Once an award is made, a copy of the decision must be sent to the State Department of Law and the Department of Audit and Control for approval within a 30-day period. In order to decrease the waiting time experienced by claimants (which CVCB reports averaged 52 days from the date of a decision to the issuance of a check) the award decision is now sent to both agencies simultaneously and vouchers for payment of award decisions are submitted when the 30-day period has expired, if no objection is received.

Table 2 reflects improvement in the lot of Downstate claimants since the last year of the prior LCER audit. While there is still variation in the proportion of Upstate and Downstate claims culminating in awards, the narrowing of the gap suggests more uniform processing of claims and the effect of providing New York City claimants with greater assistance in completing their claims applications. (The prior audit had detailed the adverse impact of providing different levels of assistance to Downstate and Upstate claimants.)

Table 2 also shows that while awards have increased in numbers, they have declined as a proportion of total decisions. (The reasons for this are detailed in the next section.)

Table 3 shows the increase in CVCB staffing and annual claims received between 1970-71 and 1975-76, 1976-77, and 1977-78. Excluding Board members, the staff increased from 23 in 1970-71 to 46 in 1977-78, or 100 percent. In the same period claims increased from 1,594 to 5,489 or 244 percent. (Since 575 claims were rejected in the screening process, actually 4,914 claims were accepted for filing in 1977-78.)

Table 2
Crime Victims Compensation Awards
and No Awards--Upstate and Downstate
1974-75 and 1977-78

	Upstate ^a			Downstate ^b		
	Award	No Award	Total	Award	No Award	Total
1974-75						
Decisions	207	224	431	703	1,265	1,968
Percent	48	52	100	36	64	100
1977-78						
Decisions	372	661	1,033	1,104	2,402	3,506
Percent	36	64	100	31	69	100

^aIncludes all areas of State except New York City and Nassau and Suffolk counties.

^bIncludes New York City and Nassau and Suffolk counties.

Source: LCER staff from Table 1, LCER, *Financial Aid to Crime Victims*, October 31, 1975 and CVCB Information, August 16, 1978.

Table 3
Increases in Crime Victims Compensation Board
Staffing and Claims
1970-71 to 1977-78

Fiscal Year	Staff			Claims Filed		
	Upstate ^a	Downstate ^b	Total ^c	Upstate	Downstate	Total
1970-1971 ^d	3	8	23	404	1,190	1,594
1975-1976	3	11	30	509	2,610	3,119
percent increase from 1970-1971	--	38	30	26	119	96
1976-1977	4	10	32	772	3,478	4,250
percent increase from 1970-1971	33	25	39	91	192	167
1977-1978	4	19	46	1,098 ^e	4,391 ^e	5,489 ^e
percent increase from 1970-1971	33	138	100	172	269	244

^aRepresents investigators assigned to all areas of State except New York City and Nassau and Suffolk counties.

^bRepresents investigators (and in 1977-1978 examiners) assigned to New York City and Nassau and Suffolk counties.

^cExcludes Board members.

^dYear ended February 28.

^eClaims rejected in a new screening process were 575; therefore 4,914 were accepted for filing. Classification of all claims received into Upstate and Downstate represents an estimate using proportions of Upstate and Downstate claims accepted.

Source: LCER staff from Table 2, LCER, *Financial Aid to Crime Victims*, October 31, 1975 and CVCB Information, September 12, 1978.

The major increase in staff and claims since 1970-71 is in the NYC office where there are 11 more employees, an increase of 138 percent to handle 3,201 more claims, an increase of 269 percent.

The number of claims per NYC office investigator rose from 174 to 231 annually from 1974-75 to 1977-78 while the number of claims per Upstate investigator increased from 106 to 275 in that same period.

Eligibility Criteria

In the period reviewed in the prior LCER audit (1970-71 through 1974-75), 62 percent of the claims acted upon by CVCB were rejected for failure to meet eligibility criteria. As Table 4 indicates, such rejections had increased to 67 percent during 1975-76 through 1977-78. Thus only 33 percent of CVCB's original decisions were for awards during this three-year period. However, this represented 3,571 awards in three years, while during the previous five-year period, fewer awards were made (3,401). This trend toward an increased number of awards has continued in the first six months of 1978-79 as Chart 2 demonstrates. Nevertheless, from the 1970-71 through 1974-75 period to the 1975-76 through 1977-78 period, a five percent increase in awards was offset by a 30 percent increase in disallowed claims.

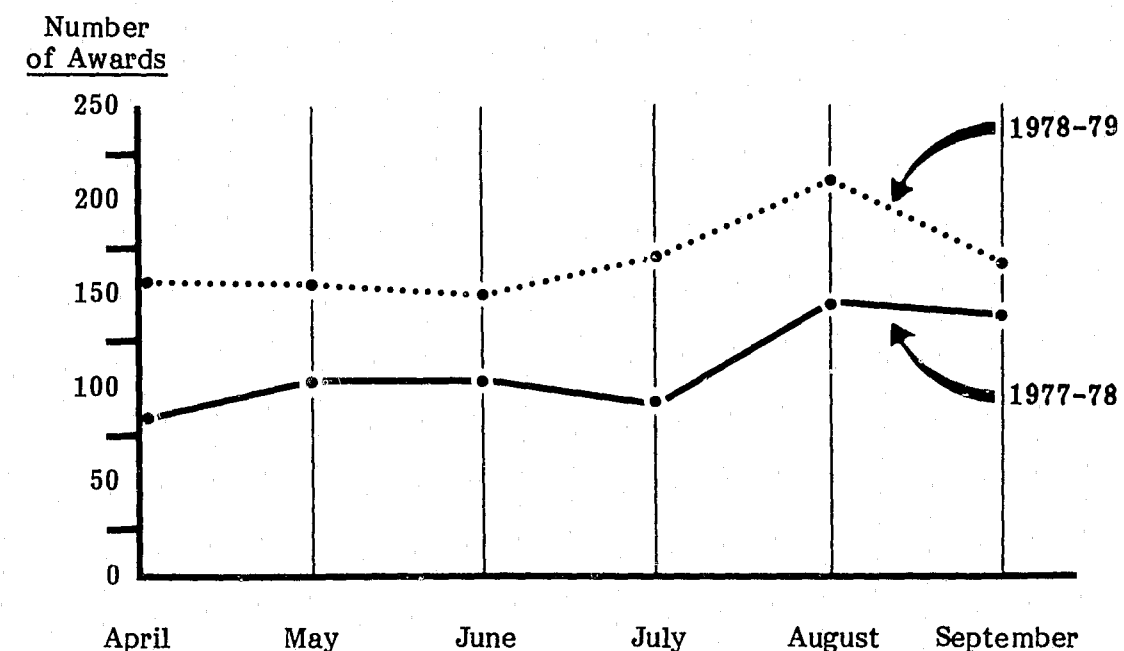
Table 4

Claims Allowed and Disallowed
1970-71 through 1977-78

Fiscal Year	Claims			Percent		
	Allowed	Disallowed	Total	Allowed	Disallowed	Total
1970-1971 through 1974-1975	3,401	5,477	8,878	38	62	100
1975-1976	853	1,682	2,535	34	66	100
1976-1977	1,242	2,376	3,618	34	66	100
1977-1978	1,476	3,063	4,539	33	67	100
1975-1976 through 1977-1978	3,571	7,121	10,692	33	67	100

Source: LCER staff from Table 4, LCER, *Financial Aid to Crime Victims*, October 31, 1975 and CVCB information, August 16, 1978.

Chart 2
Comparison of Original Awards Granted in
First Six Months of Fiscal Years
1977-78 and 1978-79



Source: LCER staff from CVCB Award Log.

The reasons for rejection of claims have shifted since the prior LCER audit as shown in Table 5. A major shift is shown in the "other" category--a category that did not even require separate listing of its contents in the prior audit. Over 50 percent of the claims in this category were rejected because there were no compensable losses outstanding.

Changes also occurred in categories related to ineligible claimants and claims. In 1974-75, 27 percent of claims were rejected for ineligibility. But in 1977-78, even though prior eligibility requirements had been removed, claims found to be ineligible had increased to 31 percent--950 out of 3,063 claims. This explains the greater increase in claims disallowed than in those allowed.

While there was a slight decline in the proportion of claims rejected because of missing or pending information, the great majority of those rejected continues to be for these reasons--58 percent in 1977-78 compared to 61 percent in 1974-75. These claims may be reopened and awards made, once such missing or pending information is supplied.

Needed pending information results from CVCB's role as compensator-of-last resort--claimants must often exhaust other avenues of reimbursement before CVCB aid can be made available. This has an impact on the timeliness of the process.

Table 5
Reasons Claims Disallowed
1974-75 and 1977-78

Reason Claim Disallowed	Claims Disallowed		Change	
	1974-75	1977-78	Number	Percent
Failure to File Information	839	1,580	741	88
No Minimum Dollar Loss	200	189	-11	-6
No Serious Financial Hardship	104	82	-22	-21
Workers' Compensation Pending	72	152	80	111
Case Withdrawn	55	107	52	95
No Police Report	25	21	-4	-16
No Crime	22	48	26	118
Provocation	35	66	31	89
Ineligible Claimant	10	69	59	590
Other	127	749	622	490
Total	1,489	3,063	1,574	106

Source: LCER staff from Table 5, LCER, *Financial Aid to Crime Victims*, October 31, 1975 and CVCB information, October 12, 1978.

No Serious Financial Hardship. There has been a decrease in those denied compensation because of failure to meet financial hardship criteria. Since the form used to file a claim notes that a serious financial loss must have occurred, and that applicants with "substantial assets" will probably not qualify for an award, it is likely that potential applicants with financial resources have screened themselves out (see a copy of this form in Appendix D).

Certainly, Table 6 indicates a dramatic difference in financial resources between those rejected for no serious financial hardship and those receiving awards. While 90 percent of those receiving awards had no reported assets, or assets of \$10,000 and under, 96 percent of those rejected had assets of \$11,000 and over.

The prior LCER audit had noted CVCB's liberal policy of defining serious financial hardship. Assets such as a home and car are excluded from CVCB's criteria. Moreover, even if financial resources exist, CVCB can find serious financial hardship if out-of-pocket expenses and/or loss of earnings or support directly related to the crime would lower the claimant's standard of living beyond one viewed as "reasonable."²

Program Implementation of Elimination of Prior Eligibility Requirements. Of the prior eligibility requirements no longer in effect, or modified, those most likely to cause a significant increase in claims allowed were elimination of the \$100 unreimbursed out-of-pocket loss (primarily for medical expenses), and the two continuous weeks lost earnings or support criteria. In fact a 1977 major national study of crime victims compensation concludes:

Table 6
Comparison of Financial Resources of
Those Receiving and Those Denied Awards
Due to No Serious Financial Hardship

Claimant's Net Assets ^a	Claimants Receiving Awards ^b		Claimants Denied Awards ^c	
	Number	Percent	Number	Percent
None	72	78.3	--	--
\$10,000 and under	11	11.9	2	4.4
\$11,000-30,000	1	1.1	8	17.8
\$31,000-50,000	--	--	7	15.5
\$51,000-70,000	--	--	9	20.0
\$71,000-100,000	--	--	8	17.8
Over \$100,000	--	--	8	17.8
Not available	8	8.7	3	6.7
Total	92	100.0	45	100.0

^aRepresents assets reduced by those exempted by CVCB: home, family automobile, etc.

^bClaimants receiving awards in February 1978 for claims filed in 1977-78.

^cClaimants denied awards in 1977-78 for claims filed in that fiscal year; the 45 denied claims filed in 1977-78 represent 55 percent of the total number of claimants (82) denied awards that year for no serious financial hardship.

Source: LCER staff from CVCB statistical log for 1977-78 and claimants files for awards received in February 1978.

One finding of particular significance bears repetition at this point. For both net medical expenses and loss of earnings, it is clear that the preponderance of dollar losses is borne by comparatively few victims. Consequently, it appears that minimum loss requirements would be quite effective in "weeding out" the majority of potential claims involving losses of either type.³

The same finding was previously presented in the 1975 LCER audit by one of the authors of the national study--among New York City crime victims in 1972-73, 3,468 victims reporting their crimes to police had lost more than two weeks' earnings, and no victim reporting the crime to the police whose medical expenses were known had net medical expenses of \$100 or more. By contrast, 12,937 had medical expenses less than \$100 and lost less than two weeks' earnings.⁴

While the increased claims filed with CVCB would therefore be expected to result from elimination of these eligibility requirements, Table 7 shows that 83 percent of awards made in the last three months of 1977-78 for claims filed in that same fiscal year (i.e., after eligibility requirements were removed) went to claimants who met the former

eligibility requirements. Only 17 percent would previously have been ineligible. To verify this surprising finding, LCER staff reviewed awards made in the sixth month of 1978-79 for claims filed in 1978-79. This more recent information shows that 81 percent of awards went to claimants who met the prior requirements--only 19 percent did not.

Table 7

Impact of Program Implementation of Changed Legislation on Eligibility for Awards: Awards to Those Filing Claims After Eligibility Changes Who Met Prior Requirements (January through March 1978 Awards)

	<u>Number</u>	<u>Percent</u>
Met Prior Out-of-Pocket Expense Requirement ^a	172	50.4
Met Prior Loss of Earnings ^b or Support Requirement	66	19.4
Met Both Prior Requirements ^c	46	13.5
Did Not Meet Prior Requirements	<u>57</u>	<u>16.7</u>
Total	341	100.0

^a\$100 or more of unreimbursed medical and/or funeral expenses.

^bTwo continuous weeks or more of lost earnings or support.

^cOnly one of these requirements had to be met for eligibility under prior legislative intent.

Source: LCER staff from CVCB award log and files for claimants receiving awards from January through March 1978 for claims filed in 1977-78.

Table 8 shows that of those not meeting prior eligibility requirements (as per Table 7) 75 percent had received awards from CVCB of \$100 or less. Nevertheless, the proportion of such cases is not substantial. Further, as the national study concluded on the need to eliminate these same eligibility requirements:

The disallowance of these lesser claims is generally justified in terms of the disproportionate administrative expenses that they would entail.

The invocation of cost-effective arguments at this juncture in the discussion of victim compensation is unfortunate for a number of reasons. In the first place, to assume that the "weeding" process, itself,

entails no administrative expense is clearly fallacious. Second, and more important, the efficiency perspective overlooks some of the underlying principles and aims of compensating victims of crime.⁵

CVCB does not maintain data on the administrative cost per claim. The 1977-78 estimated cost per claim derived from allocating the personal services segment of CVCB's administrative costs including a fringe benefit estimate to all claims filed is \$147. However, LCER's claims file review shows greater costs associated with decisions for claims allowed.

Table 8

Awards to Claimants Who Did Not Meet Prior Eligibility Requirements (January through March 1978)

<u>Amount of Award</u>	<u>Percent</u>
\$1-50	28
\$51-100	47
\$101-250	<u>25</u>
Total	100
(N=)	(57)

Source: LCER staff from CVCB awards log for awards made January through March 1978 to claimants filing in 1977-78.

Program Implementation of Extended Period for Filing Claims. Another change in legislative intent that could have increased the number of claims filed was extension of the time period for filing claims. Previously, a claim had to be filed in 90 days or less to be automatically accepted. This was changed to one year or less. (While this provision was to be effective in 1977, an attorney general's opinion of March 9, 1977 approved its application to claims filed before its effective date. By contrast, claims filed after the 1977 effective date for increased maximum awards have not been granted the increased award if the date of the crime was prior to 1977. This latter decision was CVCB's.)

Table 9 shows that 79 percent of those filing claims after the time period was extended met the prior time period requirement routinely. Further, another 17 percent could have met the prior requirement with special approval from CVCB. This leaves only four percent who could not have met the prior requirement.

Review of September 1978 awards to those filing claims in 1978-79 reaffirms this finding--only three percent of these more recent claims were filed too long after the date of the crime to be valid under prior requirements. By contrast, 83 percent of these awards went for claims filed within the old 90 day required time period, and 14 percent were filed within the period considered valid with special CVCB approval.

Table 9

Impact of Program Implementation of Changed Legislation
on Eligibility for Awards: Awards to Claimants
After Time Period for Filing was Extended
Who Met Prior Requirements
(January-March 1978)

	Number	Percent
Met Prior Requirement Routinely	270	79.2
Did Not Meet Prior Requirement Routinely, But Could Meet It With Special Approval of CVCB	58	17.0
Did Not Meet Prior Requirement	13	3.8
Total	341	100.0

Source: LCER staff from CVCB claim log for those receiving awards in January-March 1978 for claims filed in 1977-78.

Review of CVCB files for claimants shown on Table 9 indicates that CVCB special approval is fairly automatic. In fact, CVCB is still using the Final Investigator's Report form that was appropriate prior to changed legislative intent, but is now meaningless since it asks only if the 90-day filing period was met. Because of this, LCER staff found five instances where the current one year period for routine filing had been exceeded without indication in these files that special CVCB approval to extend the time period for filing had been granted.

Purpose of Awards

Personal injuries resulting from crimes were responsible for the majority of claims filed with CVCB. For the period reviewed in the prior LCER audit, such claims amounted to 84 percent of CVCB's total claims filed. In the more recent period, 1975-76 through 1977-78, 85 percent of claims were for personal injury (see Table 10). From the prior period to the more recent one, there has been a greater proportional increase in personal injury claims than in death claims.

While personal injury claims represented 84 percent of claims filed in 1977-78, they comprised just 78 percent of original awards made in that same year (i.e., excluding amended awards and awards made after review by CVCB of original decisions).

Major purposes of awards made for personal injury claims include medical expenses and loss of earnings, while death claims are usually for funeral expenses and loss of support. The relative importance of each of these purposes is shown in Chart 3. Well over half of those receiving awards in 1977-78 had medical expenses.

Table 10

Personal Injury and Death Claims
1970-71 through 1977-78

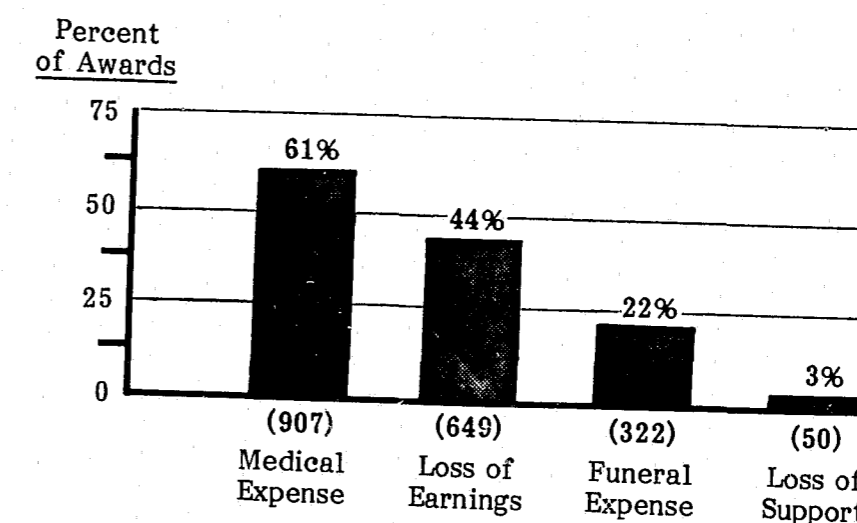
Fiscal Year	Death Claims		Personal Injury		Total	
	Number	Percent	Number	Percent	Number	Percent
1970-1971 through 1974-1975	1,574	16	8,084	84	9,658	100
1975-1976	489	16	2,630	84	3,119	100
1976-1977	604	14	3,646	86	4,250	100
1977-1978	766	16	4,148	84	4,914*	100
1975-1976 through 1977-1978	1,859	15	10,424	85	12,283	100

*Excludes 575 claims rejected in CVCB's new screening process.

Source: LCER staff from Table 7, LCER, Financial Aid to Crime Victims, October 31, 1975 and CVCB information, August 16, 1978.

Chart 3

Distribution of Original Awards by Purpose
1977-78



Note: Most awards included more than one purpose; thus the 130 percent total overall.

Source: LCER staff from CVCB Awards Log for 1977-78.

While in terms of numbers of awards, medical expenses are significant, they are less significant in terms of the size of awards granted. For lump-sum awards (by far the most pervasive type of award granted, as a forthcoming section will indicate), Table 11 demonstrates that 73 percent of original medical expense awards were for \$500 or less. In comparison, only 53 percent of awards for loss of earnings or support and two percent of funeral expense awards were for \$500 or less. More recent information indicates an even higher proportion of original medical payment awards; 90 percent were fixed at \$500 or less, while the other award categories did not vary five percent from the proportions set at \$500 or less shown on Table 11. (This finding is based on September 1978 awards for claims filed in 1978-79.)

Other categories of awards noted on Table 11 (emergency payments and attorney's fees) do not represent additional amounts of money; instead, these are deducted from the total award. (Further information can be found in subsequent sections.)

Because of the increase in medical awards of \$500 or less from 73 percent in January-March 1978 to 90 percent in September 1978, the amount of the total award has shifted downward. Table 11 shows that total awards set at \$500 or less represented 46 percent of all total awards reviewed by LCER staff. In September 1978, 56 percent were contained in this range.

One reason for the shift downward is the removal of minimum allowable eligibility requirements. In January through March of 1975, all lump-sum awards were for \$100 or more, while Table 11 shows that for the same months in 1978, 15 percent of lump-sum awards were for less than \$100. Thus for these awards, the cost of processing was greater than the awarded amounts.

Medical Expenses

As previously mentioned, the reimbursement of medical costs is a pervasive form of compensation. Medical payments are also significant because they are subject to no "ceilings."

Types of Medical Payments. Medical payments are usually dispensed as: (1) original or "lump sum" payments, awarded at the time of the original decision; and/or (2) additional payments, made after the original decision.

Each type of payment is viewed differently by CVCB, and is relegated different importance by the nature of the review process. The original medical payment is usually based primarily on decisions of the assigned CVCB investigator and Board member. Additional payments are the province of the Board's Medical Fee Specialist. In an October 31, 1978 letter to LCER staff, CVCB's medical fee specialist explained:

My duties primarily focus on the review and authorization of payment for all additional medical expenses incurred by a crime victim claimant after the initial award decision has been rendered. While the Board Members and Investigators have the opportunity to consult with me on those medical fees or procedures that appear questionable, my primary responsibility entails the administration of additional medical payments and I do not review decision medical payments unless they are specifically brought to my attention.

Table 11

Size of Original, Lump-Sum Awards by Purpose of Award
January, February, March 1978

Amount of Award	Total Original Award		Medical Payments		Loss of Earnings or Support		Funeral Payments		Emergency Payments		Attorney's Fees	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
\$1-50	16	4.8	33	15.7	7	5.3	--	--	--	--	4	26.7
\$51-100	32	9.7	38	18.0	11	8.4	--	--	1	5.9	2	13.3
\$101-200	37	11.2	34	16.1	20	15.3	--	--	3	17.6	7	46.7
\$201-300	33	10.0	23	10.9	18	13.7	--	--	2	11.8	2	13.3
\$301-500	35	10.6	26	12.3	13	9.9	1	1.5	11	64.7	--	--
\$501-1,000	61	18.4	26	12.3	30	22.9	14	20.9	--	--	--	--
\$1,001-2,000	89	26.9	16	7.6	20	15.3	52	77.6	--	--	--	--
\$2,001-4,000	19	5.7	10	4.7	11	8.4	--	--	--	--	--	--
Over \$4,000	9	2.7	5	2.4	1	0.8	--	--	--	--	--	--
Total	331	100.0	211	100.0	131	100.0	67	100.0	17	100.0	15	100.0

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Source: LCER staff from CVCB award log and paid lump-sum award log for claimants receiving awards from January through March 1978 for claims filed in 1977-78.

Table 12 compares original medical payments to additional payments for claims filed January through March 1978--as of September 20, 1978--by amount of award. Although the number of original payments is approximately four times that of additional awards, the distribution of awards by amount is similar for both categories. Review and control of both types of payments are needed. Because original medical payments are usually for medical services rendered before claims are filed, this type of payment provides less flexibility for control than does additional medical payment. Nevertheless, the number of original payments was four times that for additional ones; therefore, there is a need for medical fee specialist review of original medical payments.

Table 12

Comparison of Lump Sum
Original Medical Payments
to Additional Medical Payments
January, February, March 1978

<u>Amount of Award</u>	<u>Original Medical Payments</u>	<u>Additional Medical Payments</u>
\$1-50	15.7%	14.8%
\$51-100	18.0	22.2
\$101-200	16.1	13.0
\$201-300	10.9	9.2
\$301-500	12.3	14.8
\$501-1,000	12.3	11.1
\$1,001-2,000	7.6	9.3
\$2,001-4,000	4.7	3.7
Over \$4,000	2.4	1.9
Total (N=)	100.0% (211)	100.0% (54)

Source: LCER staff from CVCB Award Log and Paid Lump Sum Award Log for Claimants receiving Awards from January through March 1978 for claims filed in 1977-78. LCER staff review as of September 20, 1978.

Table 13 shows how additional payments relate to original awards, based on awards granted January through March 1978 for claims filed in 1977-78, as of September 20, 1978. In every category of amount of original award shown, well over 50 percent of the claimants in the group received no additional medical payments. Only in one claimant category--those receiving original awards from \$1,001 to \$4,000--do additional medical payments exceed \$500 for more than five percent of the group.

Only 44 claimants showed "unknown" original medical claims, and only ten of these, or 23 percent, actually received additional medical payments--with eight out of these ten awarded \$500 or less.

Table 13

Relationship of Original Medical Payment Award
to Additional Medical Payments
January, February, March 1978

Amount of Additional Medical Payments	Amount of Original Award							Total
	Unknown	\$0	\$1-100	\$101-500	\$501-1,000	\$1,001- 4,000	Over \$4,000	
\$0	77.3%	98.7%	78.9%	83.1%	84.6%	65.4%	80.0%	83.7%
\$1-100	6.8	1.3	11.3	4.8	7.7	7.7	0.0	6.0
\$101-500	11.4	0.0	5.6	7.2	3.8	11.5	20.0	6.0
\$501-1,000	2.3	0.0	0.0	2.4	0.0	11.5	0.0	1.8
\$1,001-4,000	2.3	0.0	4.2	1.2	3.8	3.8	0.0	2.1
Over \$4,000	0.0	0.0	0.0	1.2	0.0	0.0	0.0	0.3
Total* (N=)	100.1% (44)	100.0% (76)	100.0% (71)	99.9% (83)	99.9% (26)	99.9% (26)	100.0% (5)	99.9% (331)

*Does not always add to 100 percent due to rounding.

Source: LCER staff from CVCB Award Log and Paid Lump Sum Award Log for Claimants Receiving Awards from January through March 1978 for claims filed in 1977-78. LCER staff review was as of September 30, 1978.

Examples of Original and Additional Medical Payments. LCER staff selected several cases to illustrate the variety of medical claims subject to review, and the range of awards made.

Four claimants selected for review did not meet the old \$100 medical expense standard and received small original and no additional payments. One claimant received \$32, reimbursement for a pair of glasses broken when he was assaulted. Blue Cross, Blue Shield, and Major Medical covered other medical expenses.

Two claimants received payments in the "most typical" category of \$51-\$100. The first, a rape victim, was uninsured, and received \$64.20 to reimburse hospital emergency room expenses. The second received \$75 to cover x-ray and examination charges from CVCB's consultant to determine claimant's period of disability.

The final claimant--another rape victim--in the less-than-\$100-award category received only \$15 for a doctor's office visit. This was the only amount not reimbursed by Blue Cross and Blue Shield.

In the category of "second most typical" payment (\$101-\$200), an elderly claimant received \$164 for emergency room and ambulance fees resulting from his being attacked and robbed by several youths on his way home from work.

One uninsured claimant received a very small original payment, but was awarded an additional payment of \$3,180. In this case, the victim's nose was broken during an attempted rape, and CVCB paid the hospital emergency room bill of \$30. After that, the claimant sought a consultation with a plastic surgeon who wanted \$1,850 advance payment. Claimant paid the fee. The hospital then insisted upon cash payment, and the claimant borrowed to pay that amount. CVCB eventually paid the entire hospital and surgical bill in this case where a "fee schedule" might have prevented the victim from obtaining the surgical treatment of her choice.

This is also an example of CVCB's approving surgical treatment to remove physical scars from a traumatic incident in order to improve the victim's psychological welfare. Prolonged counseling or therapy might have cost CVCB even more, and not been as effective as the plastic surgery.

The next claimant received \$110 in original payments for hospital treatment after he was "beaten up" in a parking lot. The nature of this victim's injuries caused medical expenses to mount. Medicaid refused to pay for these expenses because the 36-year old claimant was considered a dependent because he was living with his parents. In all, CVCB reimbursed this victim \$4,985 for additional medical costs.

Several of the claimants discussed below received large original payments. The first, the mother of a child who was beaten severely, was one of the very few to receive more than \$4,000 in original medical payments. Surgical, x-ray, and hospital costs amounted to \$4,474.14. The child was uninsured, and the Catastrophic Illness Assistance Program did not pay the bill because no one informed the claimant to apply for such assistance. CVCB paid the entire amount.

Another claimant with a very large original payment was the mother of a 25-year old man who was stabbed and died shortly after extensive surgery. Medical care amounted to over \$4,000, and funeral payments were reimbursed for \$1,500. Later, a \$500 anesthesiology bill was submitted. In this case no Catastrophic Illness Assistance was requested, and CVCB paid for the entire cost of care.

In both these cases the claimants might have been eligible for Catastrophic Illness assistance, but time to file for such assistance lapsed before CVCB completely processed the claims. In both instances there were claimant delays in furnishing information to CVCB needed to make determinations of eligibility for other programs.

In LCER's sample, 44 of the 331 awards were made with original medical expenses "unknown." One claimant awarded in this category gained additional medical payment of \$597.63, primarily for dental costs. In this case, as in many, dental problems may not appear until a long time after the crime-related injury.

The final claimant is an example of the possible, unlimited extent of medical payments. This 85-year old man received \$9,097.67 as an original payment to reimburse hospital, and then nursing home, costs which he had paid. Medicare covered more than \$8,000, but is only responsible for nursing home payments for 30 days after a patient is transferred from a hospital. At the time of LCER's survey, CVCB had already paid additional medical costs of \$1,353.

Cost Containment. The containment of medical reimbursement costs is a key aspect of CVCB's medical payment review process.

Most State agencies use a "fee schedule," which authorizes maximum reimbursements, to control costs. These agencies are also represented on the Interdepartmental Committee on Health Economics (ICHE), an advisory body which recommends changes in reimbursement rates to the Commissioner of Health, who, in turn, recommends fee reimbursement policy to the Director of the Budget.

CVCB neither sits on the ICHE, nor employs a fee schedule--although its intention to develop one had been expressed. CVCB's 1976-77 Annual Report states that "We have decided to impose a rate schedule reasonably consistent with the maximum reimbursable medical fee schedule approved by the Director of the Budget of the State of New York."

However, in a March 1978 memorandum to DOB, CVCB's counsel expressed several "concerns" over the possible enactment of a fee schedule, and, as of November 1978, none had been put into effect. These concerns included the following:

- Reluctance by CVCB to require claimants in traumatic or emergency situations to patronize only physicians who are under contract to CVCB.
- Difficulty in attracting physicians who would serve crime victims within a fee schedule, since most physicians' familiarity with fee schedules is through treatment of Medicaid patients. The Medicaid reimbursement schedule has been viewed as "too low."
- CVCB's major contention--that the victim would suffer, since the effect of enacting a fee schedule would be to reduce awards. CVCB insists that it is now paying more than fee schedule rates.

In order to prove these contentions, CVCB applied the Workers' Compensation medical fee schedule* to 105 crime victims' claims, and compared the probable award rate to actual awards made by CVCB. CVCB found that:

*Higher than that for Medicaid.

Altogether out of 26 bills where medical payment was made by Board, 3 or 11% would be disallowed and 10 or 40% would be reduced by the Workmen's Compensation fee schedule. The remaining 49% would be fully paid as under present practice.

And the Board concluded:

If these statistics are accurate, then the Workmen's Compensation fee schedule would cause the Board to reduce medical payments below the amount billed by claimant in about one-half of its cases. Also, these statistics would imply that the Board's claim rejection rate would increase 5-10%, thereby causing the overall rejection rate on claims to be 65-70%.

Reliance on Case-by-Case Review. Because it does not employ a fee schedule, CVCB relies, instead, on case-by-case review of medical claims--without the use of established guidelines. And, under the system employed by CVCB, the most detailed review is conducted on additional medical claims. In its draft 1977-78 Annual Report, CVCB explains its policy:

In its last annual report the Board indicated that it planned to impose a rate schedule reasonably consistent with the maximum reimbursable medical fee schedule approved by the Director of the Budget of the State of New York. Due to the present lack of enabling legislation to protect crime victims from legal claims of medical providers for amounts billed over potential fee schedule amounts, the Board has instead implemented a more flexible medical fee cost control program. This program which includes review of all medical charges of medical providers by a Staff Medical Fee Specialist and use of outside medical consultants, has resulted in a substantial reduction in many medical bills paid by the Board. For claims involving prospective medical treatment or elective surgery, the Board intends to promulgate medical fee guidelines consistent with medical fee schedules presently used by other New York State agencies.

In efforts at cost containment, the Medical Fee Specialist eliminates claims which should not be paid. First, the specialist can negotiate "fee settlements" with medical providers, seeking to lower billed fees where they are determined to be too high. Second, the specialist can simply refuse to pay certain excessive or extraneous charges. The following letters from the Medical Fee Specialist to providers illustrate these techniques at cost containment.

Dear Dr. _____:

Please be advised that payment for treatment you performed on Mr. _____ has been authorized and is forthcoming. You will note, however, that your charge for the "upper left lateral-ceramco bridge to upper right lateral" has been reduced from \$880 to \$680. As it is the Board's discretion to determine, what they believe to be, reasonable fees, a careful evaluation of your statement of charges indicates that a reduction of \$200 would result in a more realistic fee.

The Crime Victims Compensation Board is supported solely by state funds and in order to stay within Budget guidelines, and in fairness to the taxpayers, it often becomes necessary to authorize payments at a lower amount than was originally billed. I'm sure you can understand this and I expect that you'll accept our forthcoming check for \$617. (\$978 on your bill, minus \$161 previously paid in the decision, minus \$200 reduction) as payment in full.

and,

Dear Doctors:

Please be advised that payment for the outstanding amount of Mr. _____'s account has been authorized and is forthcoming.

Please note, however, that \$12 for insurance form, has been deducted from your total as the Board does not find it reasonable to charge a crime victim for filling out his insurance form. We expect that you will accept our forthcoming check for \$455 as payment in full.

It is important to note, however, the previously made point that additional medical payments comprise a small proportion of total medical payments in number and total amount.

Counseling Services for Victims of Traumatic Shock. Amended legislation allowed CVCB to provide counseling services to victims of traumatic shock resulting from a crime. In most cases, the crime victim seeks assistance on his own--either by obtaining counseling and submitting bills to CVCB for reimbursement, or through referral by CVCB to a psychiatric consultant who determines the expected extent of counseling. The Medical Fee Specialist sets limits on fees. In one instance, a female rape victim in New York City escaped from her assailant by jumping out of a window. In addition to injuring her foot, the woman was emotionally injured, and her lawyer contacted CVCB, requesting therapy for his client. The claimant located a psychiatrist on her own, and CVCB set a fee limit of \$50 per hour for his services.

The Medical Fee Specialist also negotiates the reduction of counseling or of fee reimbursement, when necessary.

One claimant had for sometime undergone therapy costing \$55 per hour. CVCB decided that the fee should be reduced to \$45 and that the number of sessions should be reduced to two per week.

Another claimant was told that if therapy were continued, she would have to pay half the fee herself. She decided not to continue treatment.

Loss of Earnings or Support

Awards for these losses are fixed at a maximum of \$20,000, or \$250 weekly and are reduced by collateral payments from other sources. The maximum awards were not obtained by any claimant whose award size is shown on Table 11 (page 19). In fact, only nine percent had an award in excess of \$2,000. (The comparable figure was ten percent for the September 1978 awards reviewed; no claimant in this latter group had an award of

over \$4,000.) This reflects the fact that of 341 awards made in January through March 1978 for claims filed in 1977-78 (i.e., the 331 lump-sum awards shown on Table 11 plus ten protracted awards), just 112, or 33 percent, included loss of earnings or support awards for two continuous weeks or more lost time. (In September 1978, only 29 percent of claimants receiving awards for 1978-79 claims had lost two weeks or more of earnings or support.)

It should be noted that CVCB's awards can only be granted for actual loss of earnings or support that can be documented. For those victims unemployed prior to the filed claim, this has meant no payment for such loss. In those cases where unemployment results from the fact that the victim has not yet entered the job market to complete his/her education, hardship may result if future earning capacity has been adversely affected by the crime.

Funeral Expenses

Since the time of the prior LCER audit, the maximum funeral payment has remained at \$1,500 by CVCB regulation. This is the only maximum allowable program cost used frequently in awards. Fifty-five percent of the funeral payments made in awards researched by LCER staff were at the maximum allowable cost.

As noted in Chart 3, funeral payments were made in 22 percent of the original awards granted in 1977-78. On Table 11, the greatest single concentration of total awards is in the category \$1,001-2,000--this is caused by funeral payments set at or near the maximum allowable cost for them. (The September 1978 awards also had their highest concentration--25 percent--in this range.)

Other States

Most other states with crime victims compensation programs have established limits on amounts of awards. Table 14 presents information compiled by CVCB and based upon data collected from other states, showing maximum allowable payments.

Several states have indicated limits on specific categories of payment, such as medical or loss-of-support. Of the remaining 21 states shown on this table, one allows a maximum award of \$5,000; ten allow \$10,000; two allow \$15,000; one allows \$23,000; three--\$25,000; one allows \$45,000; and one--\$50,000. One state encourages restitution and another allows unlimited awards.

Attorney Fees

Attorneys may represent claimants before CVCB. However, according to CVCB rules and regulations an attorney's fee will be paid by CVCB only if an award is granted. Further, the fee will be deducted from the total award granted to the claimant. The rules and regulations also specify that a member of CVCB will set the amount of the fee "commensurate with the services rendered, having due regard for the financial status of the claimant. In no case shall the fee be based solely on the award."⁶

Table 14

Maximum Allowable Crime Victim Awards
in Other States
September 1978

State	Maximum Allowable Compensation
Alaska	\$25,000 per victim; \$40,000 for two or more survivors
California	3,000 rehabilitation; \$10,000 medical; \$10,000 lost earnings
Delaware	10,000
Colorado	Encourages restitution
Hawaii	10,000
Florida	10,000
Illinois	10,000
Indiana	10,000
Kentucky	15,000
Maryland	45,000
Massachusetts	10,000
Michigan	15,000
Minnesota	25,000
Nevada	5,000
New Jersey	10,000
New York	no limit on medical; \$20,000 loss of earnings; \$1,500 funeral
Ohio	50,000
North Dakota	25,000
Oregon	23,000
Pennsylvania	25,000 loss of earnings or support; no more than \$200 per week up to \$10,000 or up to \$15,000 in case of death.
Rhode Island	25,000
Tennessee	10,000
Virginia	Limited available funds, or \$10,000
Washington	Unlimited
Wisconsin	10,000

Source: Appendix C.

Table 15 indicates that relatively few claimants have been represented by attorneys. In fact, during the 1975-76 through 1977-78 period the proportion represented by attorneys declined slightly from the period of LCER's prior audit (1970-71 through 1974-75).

LCER found that for claimants receiving the 331 lump-sum awards made in January through March 1978 for 1977-78 claims, only 16, or five percent, had attorneys. (One of the attorneys served without requesting a fee from CVCB.) Since representation by attorneys was so seldom encountered (for September 1978 awards granted to those filing claims in 1978-79, only two percent involved attorneys), nothing definitive can be said of the result of using attorneys. However, Table 16 does indicate that of those few using attorneys, only 19 percent received awards of \$500 or less, and 48 percent of those not using attorneys received an award in this range.

Table 15
Claimants Represented by Attorney
1970-71 through 1977-78

Fiscal Year	Claim Filed By:				Total	
	Individual		Attorney		Number	Percent
	Number	Percent	Number	Percent		
1970-1971 through 1974-1975	8,126	84	1,532	16	9,658	100
1975-1976	2,688	86	431	14	3,119	100
1976-1977	3,640	86	610	14	4,250	100
1977-1978	4,372	89	542	11	4,914*	100
1975-1976 through 1977-1978	10,700	87	1,583	13	12,283	100

*Excludes 575 claims rejected in CVCB's new screening process.

Source: LCER staff from Table 9, LCER, *Financial Aid to Crime Victims*, October 31, 1975 and CVCB information, August 16, 1978.

Table 16
Comparison of Size of Lump-Sum Awards
to Claimants Using and Not Using Attorneys
January, February, March 1978

Amount of Award	Claimants Using Attorneys		Claimants Not Using Attorneys	
	Number	Percent	Number	Percent
\$1-100	1	6.3	47	14.9
\$101-500	2	12.5	103	32.7
\$501-1,000	7	43.8	54	17.1
\$1,001-2,000	4	25.0	85	27.0
\$2,001-4,000	2	12.5	17	5.4
Over \$4,000	--	--	9	2.9
Total	16	100.1	315	100.0
Proportion of claimants using and not using attorneys		4.8		95.2

Source: LCER staff from CVCB award log and paid lump-sum award log for claimants receiving awards from January through March 1978 for claims filed in 1977-1978.

While it is unlikely that claimants expecting small awards would retain an attorney, a number of the claims reviewed that did involve lawyers were on behalf of claimants who simply could not cope with CVCB requirements themselves. This was also found to be the case for a number of claims filed by individuals. CVCB claims processing involves provision of much information as previously noted.

With respect to attorneys' fees set by CVCB members, Table 11 reports that of the 15 attorneys who requested them, 13 or 87 percent received fees of \$200 or less. However, LCER staff found widely varying information used to determine fees in the files of individual claimants. For example, the highest fee found by LCER staff was contained in a September 1978 award and was in excess of \$400. The amount set by CVCB was the same requested by the attorney. Only one general paragraph described the services rendered for that fee. In another case, a lower requested fee was reduced by CVCB despite a two page list of itemized services. CVCB rules governing such fees do not specify criteria or documentation needed for their establishment.

Payment of Awards

In addition to attorney fees, the only other category of payment deducted from the total award is the emergency payment. Hardship to crime victims often results immediately after the crime and can be aggravated during a protracted claims processing period. The emergency award is intended for cases of hardship.

Such payments, if made, occur before complete investigation of the claim can be accomplished. Therefore, there is a risk that such funds will have to be recovered by CVCB, if no award is ultimately granted. Because of the risk factor, emergency payments are made only when there is certainty of such an award. In fact, as Table 17 shows, emergency payments are seldom made by CVCB. In the period 1975-76 through 1977-78, only five percent of awards included an emergency payment. The impact of this low emergency payment rate is to make the timeliness of claims processing even more important, since the award that culminates the process is all that was received in 95 percent of the cases during this time span.

Table 11 indicates that emergency payments were made to 17 of 331 claimants whose awards were reviewed by LCER staff, and that 65 percent of these payments were in the \$301-500 range.

Data on when in the process such awards were made were not always available. For example, for two claims sampled by LCER staff review, the fact that such awards were paid was not reflected in the paid lump-sum log maintained by CVCB.

When a decision is made to grant an award, the New York State Department of Audit and Control and the New York State Department of Law review the decision to determine if it is "illegal or excessive."⁷ At the same time that this review is underway, the claimant receives a copy of the decision informing him of his right to appeal the decision within 30 days.⁸ In most instances the claimant accepts the award.

The award itself, as specified by law, "shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support."⁹ Accordingly, there are two types of awards--lump-sum and protracted.

Table 17
Emergency Awards
1970-71 through 1977-78

Fiscal Year	Emergency Awards	Total Awards	Emergency Award Percent
1970-1971 through 1974-1975	118	3,401	3
1975-1976	33	853	4
1976-1977	60	1,242	5
1977-1978	90	1,476	6
1975-1976 through 1977-1978	183	3,571	5

Source: LCER staff from Table 11, LCER, *Financial Aid to Crime Victims, October 31, 1975 and CVCB information, August 16, 1978.*

Lump-Sum Payments

Lump-sum payments were made in 1977-78 to 96 percent of claimants receiving original decision awards as depicted in Chart 4. Amounts of lump-sum awards, together with their components, are shown on Table 11 (page 19). However, lump-sum awards are sometimes not complete at the time of the original decision because of undetermined or incomplete medical expenses. Six months after the Table 11 lump-sum payments were made, additional medical payments, in a few cases substantially increasing the awards, were made to 16 percent of the claimants involved.

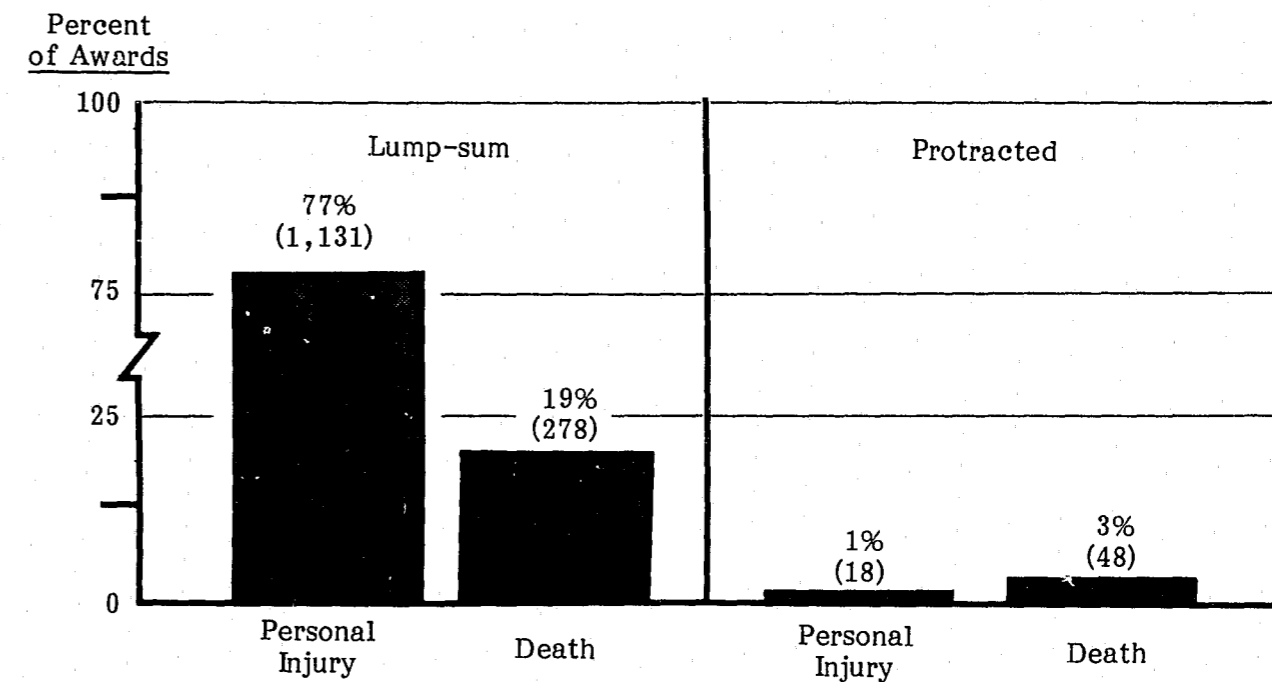
Fifteen percent of those shown on Table 11 received awards of \$100 or less. (The comparable figure for September 1978 awards is 17 percent.) Most of these went to claimants shown on Table 8 who could not have met the prior eligibility requirements.

Protracted Payments

Protracted claims, those for which compensation is paid over an extended period of time, rather than in a lump sum, result from a victim's long-term disability or death.

Although protracted payments constituted only four percent of awards made in 1977-78, these payments may reach large amounts, since the maximum payment for loss of earnings or support for which a crime victim or claimant is eligible is \$20,000 for a crime committed after January 1, 1977. This is an increase of \$5,000 over the \$15,000 previously allowed.

Chart 4
Distribution of Original Awards by Type
1977-78



Source: LCER staff from CVCB Awards Log for 1977-78.

Of the 341 open claims sampled for claimants who filed in 1977-78 and received awards in January, February, and March 1978, 331 received lump sum payments, and the remaining ten received protracted payments. Of these ten protracted awards, two were for personal injury cases and eight for death.

With protracted claims, the claimant initially receives a "total award," which is the sum of payments for such items as loss of support, medical costs, and funeral expenses. Then, a monthly payment is calculated by subtracting the total award from the maximum payment allowed--either \$15,000 or \$20,000--and using the remainder to determine monthly payments based on the claimant's lost income.

CVCB rules and regulations require the reinvestigation of protracted death and disability claims cases "at least every six months" to determine whether payments should continue or be stopped. Table 18 illustrates for a sample of protracted death and personal injury claims, the number and percent of reinvestigations occurring within several intervals prior to LCER staff review, and any action which followed.

Reinvestigations of protracted personal injury claims which led to continuation or stopping of payments occurred more frequently than those of death claims, with 74 percent of personal injury claims reinvestigated and acted upon within six months, but only 37 percent of the death claims falling into this category.

Table 18

Reinvestigation of a Sample of Protracted Claims*
September 28, 1978

Type of Claim	Time from Most Recent Investigation Resulting in Action to Continue or Stop Payments				Total
	1-3 Months	4-6 Months	More than 6 Months	No Action Indicated	
Death					
Number	31	13	52	22	118
Percent	26	11	44	19	100
Personal Injury					
Number	20	14	4	8	46
Percent	44	30	9	17	100
Total Sample*					
Number	51	27	56	30	164
Percent	31	16	34	19	100

*LCER staff review conducted on September 28, 1978 included as its sample all open protracted claims at that date for which claimants' last names began with A, C, G, M, S.

Source: LCER staff from CVCB open protracted claims log.

If reinvestigation shows that claimants receiving protracted payments are no longer eligible for those payments, the claims may be closed for several reasons. Table 19 shows that for a sample of 183 claims closed as of September 1978, most (58 percent) were closed because the maximum payment had been reached.

In LCER's 1975 sample, 30 of 90 claimants' cases were closed for maximum payment. A larger percentage were closed because claimants were determined to be "no longer disabled." In September 1978, only 22 percent of the claimants' cases sampled had been closed because of a terminated disability.

One case in LCER's survey was closed because the claimant, on his own, informed CVCB that his protracted payments should be stopped two months before their scheduled termination. In a July 1978 letter to CVCB, the claimant reported:

I am returning the enclose check to you for the reason my disability has ended and I am back to work again. Since I can support my self once again, I didn't have the necessity of cashing this check and I don't like taking advantage from the people who help me.

Time Required to Process Claims

The payment of claims can be made only after all phases of claims processing have been completed, including:

Table 19

Closed Protracted Claims Sample
Reason Claims Closed

Reason for Closing	Claims Closed	
	Number	Percent
Maximum paid*	106	58
No longer disabled	40	22
Claimant remarried	3	2
Claimant died	16	9
Other	18	9
Total	183	100

*For claims filed for crimes committed before January 1, 1977, a \$15,000 maximum for loss of earnings or support was authorized. Claimants in crimes committed after that date are eligible for \$20,000.

Source: LCER staff from CVCB closed protracted claims log for claimants' last names which began with A, C, G, M, and S, as of September 28, 1978.

- Initial screening to determine if the claimant is potentially eligible for an award,
- Requesting from the claimant all information needed to support the claim,
- Verifying submitted claim data,
- Reviewing completed claim and allowing or disallowing it by CVCB member, and
- Securing approval of CVCB decision from New York State Department of Audit and Control and New York State Department of Law.

As noted previously, the claimant is often in need of immediate financial assistance after the crime. Yet CVCB is responsible for insuring that it grants awards only to eligible claimants and makes payments only for eligible expenses.

Information contained in the files of crime victims reflects both positive and negative claimant experiences with the timeliness of the process. One claimant's letter of April 2, 1978 states:

The speed in which my claim was processed by [CVCB] was gratifying to me and my family. . .

I have always been wary of bureaucracy, but [CVCB] has restored my faith in the fundamental public service role of state government.

Another claimant's wife wrote to the Governor in January 1978:

I am writing to you out of sheer desperation and frustration caused by the New York State Crime Victims Compensation Board. I see by your picture and endorsement on the pamphlet we received, you are under the impression this agency helps people. Well! By the time they get around to helping you, you're already up the creek without a paddle.

She then tells of having to sell her home because of the belated payment from CVCB and of her intent to move out of New York State.

CVCB's former chairman responded on February 3, 1978 and noted:

Since we are experiencing a tremendous backlog of claims, a six to nine month wait before a decision is rendered is not unusual.

After a decision is rendered it is necessary to obtain approval from the Attorney General's office and the Department of Audit and Control which can take anywhere from 60 to 90 days. . .

The letter also announced that an award decision had been reached by CVCB on February 1, 1978 (subsequent to receipt of the letter from the claimant's wife). This was not the only case where follow-up by claimants resulted in processing the claim to decision. For example, of the 331 lump-sum awards reviewed by LCER staff, the one outstanding the longest was a claim filed on April 4, 1977. While the final investigator's report was dated December 8, 1977, a CVCB decision was not forthcoming until March 29, 1978. This was six days after an inquiry from the claimant about the status of his case.

The timeliness of the process for all claims filed in April 1977 and April 1978 is shown in Table 20. The prior LCER audit had shown that for April 1974 claims, 71 percent of them had been decided six months following their receipt.¹⁰ Table 20 also shows that for claims filed in April 1977, seven to eight months elapsed before 72 percent of them were processed. Further, in April 1974, 98 percent of the claims were decided within 12 months following their receipt, while in April 1977, 87 percent had been decided in the year following.

Analysis of claims filed in April 1978, shows that 64 percent of all claims were decided five months following receipt, and that over 50 percent were decided by the third month following receipt. Therefore, a large portion of the April 1978 claims filed had received action as of September 1978; in fact the processing to decision of 53 percent of claims by three months following receipt represents the best record achieved by CVCB in any of the periods used in LCER's audits to review timeliness. This is an impressive record when the number of claims filed is considered--the 370 filed in April 1978 exceeded the April 1974 number by 120 percent and the April 1977 claims filed by eight percent.

The time period lapsed from date of decision to actual payment is shown in Table 21 for lump-sum awards made in January through March, 1978. Within three months from the date of decision 96 percent of the claimants were paid. Many were paid in just over two months from decision. For more recent awards, those made in September 1978, 62 percent of awards were paid within two months following the date of decision.

Table 20
Time to Decide Claims
April 1977 and April 1978

Claim Decided	April 1977		April 1978	
	Number	Cumulative Percent	Number	Cumulative Percent
Month of Receipt	15	4	13	4
Months Following Receipt:				
1	28	13	47	16
2	43	25	64	34
3	34	35	71	53
4	43	48	33	62
5	27	56	10	64
6*	31	65	--	--
7-8	25	72	--	--
9-10	23	79	--	--
11-12	15	83	--	--
13 and over	15	87	--	--
Open Claims	43	100	132	100
Total Claims	342		370	

*LCER staff review was conducted in September 1978. While 17 months had elapsed since claims were filed in April 1977, only five months had elapsed for those filed in April 1978.

Source: LCER staff from CVCB claims log, September 1978.

Table 21
Time Lapsed From Decision to
Payment for Those Receiving Lump-Sum Awards
January through March 1978

Payment Received Within ^a	Awards	
	Number	Percent
First month ^b	2	0.6
Second month	124	37.5
Third month	192	58.0
Fourth month	3	0.9
Fifth month	5	1.5
Sixth month	0	0.0
Seventh month	1	0.3
Eighth month	1	0.3
Payment not made	3	0.9
Total	331	100.0

^aFrom date of decision.

^bMonths were defined as 30-day periods from date of decision.

Source: LCER staff from CVCB paid lump-sum award log as of September 20, 1978 for awards granted in January, February and March 1978 to those filing claims in 1977-78.

The Claims Backlog

While a large proportion of those filing claims have recently experienced timely action, Table 1 (page 4) demonstrates that 48 percent of CVCB's award decisions for 1977-78 were for claims filed prior to that fiscal year. The result of this combined with the time gap between the decision to grant an award and payment was a 6.9 month average time lapse from claim filing to payment for those claims allowed in the last quarter of 1977-78 (and filed in that same year). Some claimants in this group received payment after two months and others waited 14 months.

From the time of the end of the last complete fiscal year covered in the prior LCER audit, 1974-75 to the end of the last complete fiscal year covered in this one, the open claims increased from 1,110 to 2,701--an increase of 143 percent. An effort in August 1978 to work off open claims by making the highest number of monthly awards ever made by CVCB (see Chart 2) still left undecided, claims numbering 2,446 as of September 30, 1978 (see Table 22). Open claims are disproportionately located in CVCB's New York City Office as Table 23 demonstrates. Some eight to nine months after filing, 137 claims were still open from January and February 1978. Of that number, 96 percent were claims filed with the New York City Office. During those months 81 percent of all claims filed were in that office.

Table 22
Crime Victims Compensation Board
Open Claims

<u>Date</u>	<u>Number of Open Claims</u>
March 31:	
1975	1,110
1976	1,694
1977	2,326
1978	2,701
September 30, 1978	2,446
Increase	
March 31, 1975	
to	
September 30, 1978:	
Number	1,336
Percent	120%

Source: LCER staff from Table 16, LCER, Financial Aid to Crime Victims, October 31, 1975 and CVCB monthly workload report, September 30, 1978.

Table 23
Relationship of Open Claims Backlog
to Claims Filed Workload Upstate and Downstate
January - February 1978

	<u>Open Claims Backlog^a</u>		<u>Claims Filed Workload^b</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Upstate	5	3.6	148	18.8
Downstate	<u>132</u>	<u>96.4</u>	<u>639</u>	<u>81.2</u>
Total	137	100.0	787	100.0

^aClaims filed in January through February 1978 still open.

^bTotal claims filed in these same months.

Source: LCER staff from CVCB claims log for January through February 1978. LCER staff review was as of November 1, 1978.

The Chairman of CVCB does not make original awards although there is no legal barrier to his doing so. Four of five CVCB members are available to make monthly original decisions. The CVCB rationale for this is twofold: (1) the Chairman is administrative director of CVCB and therefore has a workload related to staff direction; and (2) the Chairman directs the claimant appeal process from original decisions. (Under Section 628 of the Executive Law, if a CVCB member's original decision is appealed to the Board, "the Chairman of the board shall designate three members of the board not including the board member who made the decision to review the record and affirm or modify the decision of the board member to whom the claim was assigned.")

In 1977-78, there were 113 such Board reviews in comparison to 4,539 original decisions.

Table 24 presents claims and awards statistics for New York and 19 other states, and shows that virtually every state has experienced a "backlog" of claims. In addition, some of the states surveyed in the 1975 audit have shown substantial increases in the number of claims filed.

New York is second only to California in number of claims filed and awards made, but shows a much smaller backlog at the end of the reporting period. These two states handle a much greater workload than any of the others.

Reasons for Delays

LCER staff reviewed a sample of 250 claims reported as open in CVCB's claim log in order to determine why they were not closed.

Table 24
Claims and Awards in Other States

State	Period	Claims Filed	Awards Made	Open Claims End of Period
Alaska	7/1/77-6/30/78	100	99	33
California	7/1/77-6/30/78	6,525 ^a	2,411	5,113
Delaware	7/1/77-6/30/78	101	65	44
Florida	1/1/78-6/30/78	565	142	423
Hawaii	1/1/77-12/15/77	298 ^b	162	338
Illinois	1/1/78-10/31/78	675 ^c	450 ^c	1,500 ^c
Kentucky	7/1/77-6/30/78	249	72	93
Maryland	7/1/77-6/30/78	476	341	NA
Massachusetts	7/1/77-6/30/78	350	274	994
Michigan	10/1/77-9/30/78	881	414	198
Minnesota	7/1/77-6/30/78	389	241	123
Nevada	7/1/77-6/30/78	1	1	0
New Jersey	7/1/77-6/30/78	819	279	2,563
New York	4/1/77-3/31/78	5,489	1,476	2,701
North Dakota	7/1/77-6/30/78	44	27	5
Oregon	1/2/78-6/30/78	76	19	35
Pennsylvania	6/30/77-7/1/78	559	162	198
Virginia	7/1/77-6/30/78	197	48	94
Washington	7/1/77-6/30/78	1,041	716	394
Wisconsin	1/1/78-9/30/78	264	141	109

^a Accepted.

^b 61 claims denied.

^c Estimate.

Source: LCER staff based on information received in response to survey of other states.

Table 25 shows the number of claims remaining open three months, six months, and one year after filing, and their statewide distribution. It is evident that most of these claims originate Downstate, and only a small proportion from Upstate areas. In addition, the sample shows a consistent decrease in number of claims remaining open as the time from date of filing increases.

Of the 250 claims sampled, 34 were found to actually be closed, 129 were under investigation and 53 were available to Board members for decision.

Claims Under Investigation. Table 26 presents reasons for delay in the review of 129 claims assigned to investigators. This table shows that "workload" was cited as a reason only 20 percent of the time, and that 80 percent of the reasons cited related to "missing data." The most frequently absent information concerned proof of claimants' financial status, a finding consistent with that of the 1975 study. Reasons for delay described as "other" included: missing Social Security, Medicare, and Medicaid information missing birth certificate, death certificate, funeral bill and ambulance bill; awaiting interview with district attorney; proof of victim's innocence; and clarification of crime date.

Table 25
LCER Survey of Open Claims
As of September 19, 1978
Age of Sample Reviewed

Claims From	Three Months	Six Months	One Year	Total Sample
Downstate ^a	117	74	37	228
Upstate ^b	18	3	1	22
Total	135	77	38	250

^a Includes New York City and Nassau and Suffolk counties. For claims aged three months, this also includes Rockland and Westchester counties.

^b Includes all other areas of state.

Source: LCER staff from CVCB Claims Log, September 1978.

Table 26
Open Claims Under Investigation
Reasons Claims Not Closed

Reason Claims Not Closed	Frequency of Reasons Cited	
	Number	Percent
Workload	44	20
Missing Data:		
Claimant's tax return or financial affidavit	43	20
Police report	17	8
Amounts paid by private health insurance carriers	15	7
Attorney's affidavits on services and fees	12	6
Employer's report	18	8
Physician's or dentist's report	24	11
Disability income payments	17	8
Other*	27	12
Total	217	100

*"Other" included: funeral expense statement; awaiting interview with District Attorney; no response from claimant; question of victim's innocence.

Source: LCER staff from CVCB's Supervising Investigator's Status Report, November 22, 1978, and a CVCB Board Member's Status Report Revisions, November 20, 1978.

Claims Available to Board Members. Table 27 presents reasons for 95 claims remaining open that were assigned to Board members for decision.

Table 27
Open Claims Survey
Claims Available for Decision
to Board Members

Reason Claims Not Closed	Frequency of Reasons Cited	
	Number	Percent
Workload	53	56
Other*	42	44
Total	95	100

*"Other" included: awaiting clarification of certain issues; questions as to victim's innocence, pending medicaid information; no response from claimant. In most cases, however, "other" was not specified.

Source: LCER staff from CVCB's Supervising Investigator's Status Report, November 22, 1978, and a CVCB Board Member's Status Report Revisions, November 20, 1978.

Table 27 shows that the most frequently cited reason (56 percent) for claims remaining open related to the workload of Board members. "Other" reasons were cited 42 percent of the time.

These data differed from the findings of LCER's 1975 audit in that the earlier study showed claims remaining open primarily because Board members were awaiting clarification of certain issues. In this update, only two percent were open for this reason. The workload of Board members is now the major reason for claims available to Board members remaining open.

Rights of the Claimant

Numerous claims were shown previously as disallowed because of missing information or pending actions of others. In these instances, the claimant was informed that filing missing information would reopen his/her case. This could result in amended decisions by individual Board members. The same action could result even if a claim had been allowed but was based upon incomplete information concerning the loss or expense to the victim. However, this type of amended decision occurs far less frequently than the additional medical payments considered part of the original decision discussed previously. (Of the 331 original decisions for lump-sum awards reviewed, 54 resulted in additional

medical payments, but only seven resulted in amended decisions or complete Board reviews, some six months after the original awards were made.)

In the three years since the prior LCER audit, the number of amended decisions has increased; there were 1,002 in 1975-76 through 1977-78 compared to 660 during the 1970-71 to 1974-75 period. Further, while the last complete year for which data were available, 1977-78, is shown on Table 28 to have resulted in 275 amended awards, the first six months of 1978-79 produced 220 such awards.

Table 28
Amended Decisions
1970-71 through 1977-78

Fiscal Year	Awards		No Awards		Total	
	Number	Percent	Number	Percent	Number	Percent
1970-1971 through 1974-1975	518	78	142	22	660	100
1975-1976	244	81	58	19	302	100
1976-1977	268	82	57	18	325	100
1977-1978	275	73	100	27	375	100
1975-1976 through 1977-1978	787	79	215	21	1,002	100

Source: LCER staff from Table 20, LCER, Financial Aid to Crime Victims, October 31, 1975 and CVCB information, August 16, 1978.

Claimants dissatisfied with an original decision can request a Board review, which is conducted by the chairman and other members who were not involved in the original decision. In these cases, as Table 29 demonstrates, the decision is seldom modified. The table also shows that the number modified has declined in recent years.

Judicial review has also been made available to claimants dissatisfied with decisions. Since 1977, the claimant's recourse has been to commence a proceeding to have the decision reviewed under Article 78 of Civil Practice Law and Rules. However, as of December 1978, fewer than a dozen Article 78 proceedings have taken place and all have affirmed CVCB decisions.

Table 29

Completed Board Reviews
1970-71 through 1977-78

Fiscal Year	Original Decision		Percent	
	Affirmed	Modified	Affirmed	Modified
1970-1971 through 1974-1975	255	65	80	20
1975-1976	34	15	69	31
1976-1977	111	10	92	8
1977-1978	99	14	88	12
1975-1976 through 1977-1978	244	39	86	14

Source: LCER staff from Table 21, LCER, *Financial Aid to Crime Victims*, October 31, 1975 and CVCB information, August 16, 1978.

Findings

Eligibility

● While there has been an increase in claims allowed by CVCB since the period reviewed in the prior LCER audit, there has been an even greater increase in claims disallowed. From 1975-76 through 1977-78, 33 percent of claims decided were allowed and 67 percent were disallowed.

● For claims allowed in January through March 1978, it was found that over 80 percent of claimants met prior out-of-pocket and/or loss of earnings or support guidelines, despite elimination of these eligibility requirements.

● An even higher proportion of allowed claims (94 percent) could have been accepted under the previous time restrictions set for filing claims.

Purpose of Awards

● Medical payments, the most pervasive category of award, were contained in 61 percent of the original awards reviewed. However, most medical awards (73 percent) were \$500 or less, while only 53 percent of awards for loss of earnings or support and two percent for funeral expense payments were in this cost range.

Medical Expenses

● Original medical payments were made four times more frequently than additional medical payments. However, efforts at cost containment using the medical fee specialist were primarily directed at additional medical payments.

Payment of Awards

● Emergency payments have been authorized in few cases. Therefore, time to process the total award is important for most victims.

● Most awards are paid as a lump sum; only four percent are protracted, with compensation paid over an extended period. Almost half of the lump-sum awards reviewed were \$500 or less; only eight percent were in excess of \$2,000. Thus, for most CVCB claimants the \$20,000 maximum allowable payment for loss of earnings or support has been adequate.

Time to Process Claims

● Analysis of claims filed in April 1978 shows that 64 percent of all claims were decided five months following receipt and over 50 percent were decided by the third month following receipt. This represents the best record achieved by CVCB during the periods reviewed by LCER in both audits. A new screening process and a claims examining unit have expedited claims processing.

● A large claims backlog existed at CVCB as of September 30, 1978. Almost half of original awards made in 1977-78 were for claims filed prior to that fiscal year.

Reasons Claims Remain Open

● A review of 224 claims open for three months to one year indicated that 129 were under investigation and 95 had completed investigations and were therefore available to Board members for decisions.

● For open claims under investigation, 80 percent of reasons for delay related to "missing information" and 20 percent to "workload."

● Excessive workload was cited most often as the reason claims remained open that were assigned to Board members.

● Four of five Board members make original decisions on claims. The chairman by long-standing CVCB policy devotes his time to agency administration.

Rights of the Claimant

● Since the period reviewed in the prior audit, there has been a decline in the proportion of original decisions that allowed claims. Amended decisions for awards have not changed proportionately. From 1975-76 through 1977-78, 79 percent of amended decisions resulted in awards. However, amended decisions and complete board reviews occur infrequently compared to original decisions.

● Judicial review although seldom used has always affirmed CVCB's decision.

III PUBLIC AWARENESS OF PROGRAM

The prior LCER audit had demonstrated that a limited number of potentially eligible crime victims were served by this program and that a reason for this was limited public awareness of the program.¹ Subsequently, changed legislation sought to increase the target population served.

Tables 7 and 9 indicate that removal of prior eligibility requirements and extension of the time period allowed for filing claims have not been the primary reasons for the increased number of claims filed with CVCB.

Two additional questions related to the new claims filed are answered in this chapter:

- What comparison can be made between the number of claims filed and the total eligible target population to be served?
- Have CVCB and the police effectively implemented legislation to make crime victims aware of this program?

Comparison of Claims Filed to the Potentially Eligible Target Population

A comparison of crime victims filing claims with CVCB to those potentially eligible to file claims rests on information about violent crimes in New York State. Accordingly, Table 30 shows that from 1974 to 1977, 604,636 serious violent crimes were known to police in the State. Of these, 87 percent occurred Downstate; of the Downstate total, New York City was the site of the crime for 98 percent.

While the total number of violent crimes decreased between 1976 and 1977, there was an increase from 1974 to 1977 and there was also an increase between the four-year period reviewed in the prior audit (1970 to 1973) and the one shown in Table 30.

When the information on violent crimes is compared to the number of claims filed as in Table 31, it is shown that only three percent of violent crimes resulted in CVCB claims over the four-year period reviewed. However, during the four-year period this figure had increased from two to four percent. The actual ratio of crimes to claims shown on Table 31 is based only on those crimes known to police. While murders are almost fully reported, other violent crimes against individuals have been estimated as only 50 percent reported. The same 1975 crime victim survey that contained this estimate also points out that those reported include most serious ones (i.e., the ones resulting in serious personal injury).

Data on Table 31 show only a gross relationship between crimes and claims since there is no attempt to net out those victimized by violent crimes who would not be eligible to file a claim with CVCB. To show such a relationship, LCER staff has again secured the contribution of the criminal justice statistician who furnished such information for the prior audit.

Analysis in this area, while facilitated by the contribution of a national expert on the subject is limited by the lack of available information. Analysis must piece together

Table 30

Violent Crimes Known to Police 1974-1977

Year	Type of Violent Crime				Total	
	Murder and Nonnegligent Manslaughter	Forcible Rape	Robbery	Aggravated Assault	Number	Percent
1974:						
Downstate ^a	1,600	4,198	79,254	41,917	126,969	88.6
Upstate ^b	313	947	7,017	8,128	16,405	11.4
Total	1,913	5,145	86,271	50,045	143,374	100.0
1975:						
Downstate ^a	1,680	4,022	84,758	44,240	134,700	86.8
Upstate ^b	316	1,077	8,741	10,353	20,487	13.2
Total	1,996	5,099	93,499	54,593	155,187	100.0
1976:						
Downstate ^a	1,678	3,556	87,825	43,821	136,880	87.2
Upstate ^b	291	1,107	7,893	10,817	20,108	12.8
Total	1,969	4,663	95,718	54,638	156,988	100.0
1977:						
Downstate ^a	1,580	4,081	76,159	43,223	125,043	83.9
Upstate ^b	339	1,191	8,544	13,970	24,044	16.1
Total	1,919	5,272	84,703	57,193	149,087	100.0
1974-1977:						
Downstate ^a	6,538	15,857	327,996	173,201	523,592	86.6
Upstate ^b	1,259	4,322	32,195	43,268	81,044	13.4
Total	7,797	20,179	360,191	216,469	604,636	100.0

^aIncludes New York City and Nassau and Suffolk counties.

^bIncludes all other areas in New York State.

Source: Prepared by LCER staff from U. S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports for the United States, 1974, 1975, 1976 and 1977.

Table 31
Gross Reported Crime Compared
to Claims Received by CVCB
1974-1977

Year ^a	Violent Crimes		CVCB Claims		Claims Percent of Crimes
	Number	Percent	Number	Percent	
1975:					
Downstate ^b	126,969	88.6	1,918	81.9	1.5
Upstate ^c	16,405	11.4	423	18.1	2.6
Total	143,374	100.0	2,341	100.0	1.6
1976:					
Downstate ^b	134,700	86.8	2,610	83.7	1.9
Upstate ^c	20,487	13.2	509	16.3	2.5
Total	155,187	100.0	3,119	100.0	2.0
1977:					
Downstate ^b	136,880	87.2	3,478	81.8	2.5
Upstate ^c	20,108	12.8	772	18.2	3.8
Total	156,988	100.0	4,250	100.0	2.7
1978:					
Downstate ^b	125,043	83.9	4,391 ^d	80.0	3.5
Upstate ^c	24,044	16.1	1,098 ^d	20.0	4.6
Total	149,087	100.0	5,489 ^d	100.0	3.7
1975-1978:					
Downstate ^b	523,592	86.6	12,397	81.6	2.4
Upstate ^c	81,044	13.4	2,802	18.4	3.5
Total	604,636	100.0	15,199	100.0	2.5

^aYear for claims ending March 31. For crimes, year reported ends on December 31, prior to the end of the State's fiscal year.

^bIncludes New York City and Nassau and Suffolk counties.

^cIncludes all other areas in New York State.

^dClaims rejected in a new screening process were 575; therefore 4,914 were accepted for filing. Classification of all claims received into "Upstate" and "Downstate" represents an estimate using proportions of "Upstate" and "Downstate" claims accepted.

Source: Table 30 for Violent Crimes Data and Table 3 for CVCB claims data (1975 CVCB claims data are from Table 2, LCER, *Financial Aid to Crime Victims* October 31, 1975).

incomplete data about victims. (See Appendix E for a complete account of methods and caveats furnished by the contributor.)

The analysis focuses on New York City--an area of the State that in 1977-78 contained over 75 percent of CVCB's filed claims. Approximately 4,185 of 5,489 claims filed in 1977-78 were filed in New York City.²

For New York City, estimates of potentially eligible victims have been made under CVCB's prior requirements of minimum out-of-pocket losses or loss of earnings, or support (Table 32), and under those in effect since 1977 (Table 33).³ As would be expected, a comparison of the tables shows that since 1977, the number of potentially eligible victims has increased.

It should be noted that the term potentially eligible victims has been used in this analysis because data were not available to consider every criterion used by CVCB in deciding claims. (Criteria utilized and not utilized are reviewed in Appendix E.)

A comparison of CVCB claims filed to potentially eligible victims shown in Table 33 indicates that less than 20 percent of those now eligible are being served. While Table 33 represents an estimate of potentially eligible victims, the finding that many of those eligible under new requirements are not yet applying for awards is supported by Table 7 and by the forthcoming audit section on how victims learned of the program.

Three reasons for this are plausible. First, there are eligible victims not aware of the program. Second, there are eligible victims aware of the program who have not filed claims. This latter group would be comprised of potential claimants who would be eligible for such slight financial compensation that they have not viewed it as worth the effort to secure. Third, there are potentially eligible victims whose loss was so slight that they could not meet the test of "serious financial hardship," and therefore have not filed claims.

How Knowledge of CVCB'S Program Was Obtained

Those crime victims receiving awards in January through March 1978 for claims filed in 1977-78 were surveyed by LCER staff to determine how they became aware of CVCB's program. The 341 crime victims surveyed received a questionnaire that contained a single question written in both English and Spanish. Of those surveyed, 208, or 61 percent, responded.

A comparison of survey respondents to all victims surveyed in Table 34 indicates that those who responded mirror those surveyed with respect to their areas of residence.

By surveying those receiving awards for claims filed in 1977-78 LCER staff was able to focus on those who filed after changes in legislative intent had mandated that police inform victims of the Crime Victims Compensation Program at the time the crimes were reported. Table 35 shows that while there has been overall improvement during the 1977-78 fiscal year, only 26 percent of the victims became aware of the program through the efforts of police. Almost as many--23 percent--became aware of the program through friends and relatives.

When all survey responses are considered that could be viewed as official, or officially-inspired sources of information on the program, some 63 percent of crime victims' awareness can be explained. This would include all options on Table 35 except: "attorney," "friend or relative" and "other."

Table 32

New York City Violent Crime Victimization
Potentially Eligible for Compensation from CVCB
Under Prior Eligibility Requirements*

	<u>Victimization Events</u>
Gross number--victims of violent non-fatal crimes	263,181
Less: those not attacked	<u>184,754</u>
	78,427
Less: attacked but not injured	<u>5,467</u>
	72,960
Less: injured but no medical attention	<u>37,900</u>
	35,060
Less: net medical expenses less than \$100 and less than ten days lost from work	<u>23,071</u>
	11,989
Less: offender a relative	<u>297</u>
	11,692
Less: not reported to police	<u>1,198</u>
	10,494
Add: potentially eligible series personal victimizations	<u>2,722</u>
	13,216
Add: potentially eligible commercial robberies	<u>1,538</u>
Total potentially eligible per LEAA survey	14,754
Add: homicide and nonnegligent manslaughter	<u>1,553</u>
	16,307
Less: homicides and nonnegligent manslaughters committed by a relative (10%)	<u>155</u>
New York City--potentially eligible for compensation under prior eligibility requirements	16,152

*Estimates of potentially eligible and ineligible victims are from 1975 survey data (i.e., the last year such data were available).

Source: Table prepared by Dr. James Garofalo, Director of the Statistical Analysis Center in the New York State Division of Criminal Justice Services. See Appendix E for details and caveats to the analysis.

Table 33

New York City Violent Crime Victimization
Potentially Eligible for Compensation from CVCB
Under Present Eligibility Requirements*

	<u>Victimization Events</u>
Gross number--victims of violent non-fatal crimes	263,181
Less: those not attacked	<u>184,754</u>
	78,427
Less: attacked but not injured	<u>5,467</u>
	72,960
Less: injured but no medical attention	<u>37,900</u>
	35,060
Less: no net medical expenses and no days lost from work	<u>11,620</u>
	23,440
Less: offender a relative	<u>589</u>
	22,851
Less: not reported to police	<u>4,812</u>
	18,039
Add: potentially eligible series personal victimizations	<u>4,668</u>
	22,707
Add: potentially eligible commercial robberies	<u>2,649</u>
Total potentially eligible per LEAA survey	25,356
Add: homicide and nonnegligent manslaughter	<u>1,553</u>
	26,909
Less: homicides and nonnegligent manslaughters committed by a relative (10%)	<u>155</u>
New York City--potentially eligible for compensation under present eligibility requirements	26,754

*Estimates of potentially eligible and ineligible victims are from 1975 survey data (i.e., the last year such data were available).

Source: Table prepared by Dr. James Garofalo, Director of the Statistical Analysis Center in the New York State Division of Criminal Justice Services. See Appendix E for details and caveats to the analysis.

Table 34
Comparison of LCER Survey Respondents
to All Crime Victims Surveyed
by Place of Residence

Place of Residence	LCER Survey Respondents	All Crime Victims Surveyed	LCER Survey Response Rates
Downstate ^a	57.7%	59.2%	59.4%
Upstate ^b	38.5	37.2	63.0
Non-State	3.8	3.5	66.7
Total	100.0%	99.9%	61.0%
(N=)	(208)	(341)	(341)

NOTE: Total does not always add to 100 percent because of rounding.

^aIncludes New York City and Nassau and Suffolk counties.

^bIncludes all other areas of New York State.

Source: LCER Survey of Crime Victims receiving awards from January through March 1978 for claims filed in 1977-78. LCER Survey conducted September through November 1978.

Table 35
How Crime Victims Became Aware
of CVCB's Program by Date Claim Filed
April 1977 to March 1978

Crime Victims Learned of Program From:	Date Claim Filed		Total
	April 1977 to September 1977	October 1977 to March 1978	
Police When Crime Was Reported	22.2%	29.7%	26.4%
District Attorney	2.2	4.2	3.4
CVCB	7.8	3.4	5.3
Hospital staff	11.1	10.2	10.6
Newspaper, Radio, or Television	18.9	15.3	16.8
Attorney	4.4	7.6	6.3
Friend or Relative	26.7	20.3	23.1
Other	6.7	9.3	8.2
Total	100.0%	100.0%	100.1%
(N=)	(90)	(118)	(208)

NOTE: Total does not always add to 100 percent because of rounding.

Source: LCER Survey of Crime Victims receiving awards from January through March 1978 for claims filed in 1977-78. LCER Survey conducted September through November 1978.

Some of the responses in this latter category are worthy of note; they include the police (subsequent to the time the crime was reported, and sometimes, only in response to specific inquiry from victims), doctors, probation officers, community organizations, a mortician and a "spiritual leader."

The gap in time between reporting crimes to the police and the filing of claims is usually no more than 90 days. Nevertheless, for 78 percent of LCER's survey respondents, the date of the crime and the date the claim was filed did not occur in the same month. Therefore, Table 36 presents information on program knowledge related to the date of the crime.

Table 36
How Crime Victims Became Aware
of CVCB's Program by Date of Crime

Learned of Program From:	Date of Crime			Total
	Prior to 1977	January 1977 to June 1977	July 1977 to December 1977	
Police When Crime Was Reported	23.5%	16.4%	30.9%	26.4%
District Attorney	5.9	3.6	2.9	3.4
CVCB	17.6	10.9	1.5	5.3
Hospital Staff	5.9	9.1	11.8	10.6
Newspaper, Radio, or Television	17.6	14.5	17.6	16.8
Attorney	11.8	9.1	4.4	6.3
Friend or Relative	5.9	32.7	21.3	23.1
Other	11.8	3.6	9.6	8.2
Total	100.0%	99.9%	100.0%	100.1%
(N=)	(17)	(55)	(136)	(208)

NOTE: Total does not always add to 100 percent because of rounding.

Source: LCER Survey of Crime Victims receiving awards from January through March 1978 for claims filed in 1977-78. LCER Survey conducted September through November 1978.

This table shows a marked improvement in the program information efforts of the police during the second half of 1977; while 16 percent of respondents reported that the police were their source of information during the first half of the year, 31 percent cited this source during the second half.

Victim's Place of Residence

Table 34 had reported that 58 percent of the survey respondents resided in the Downstate area of New York, 39 percent were from Upstate and four percent from out-of-State.

For those who live Downstate, Table 37 identifies friends or relatives as a more important source of program information than the police. A higher proportion of those from this area also found out about the program via public information made available through newspaper, radio, or television. For those living Upstate, district attorneys, hospital staff, and attorneys were of increased importance as conduits for program information.

Table 37

How Crime Victims Became Aware of CVCB's Program by Place of Residence

Crime Victims Learned of Program From:	Place of Residence			Total
	Downstate ^a	Upstate ^b	Non-State	
Police When Crime Was Reported	25.8%	27.5%	25.0%	26.4%
District Attorney	1.7	6.3	--	3.4
CVCB	5.8	2.5	25.0	5.3
Hospital Staff	8.3	12.5	25.0	10.6
Newspaper, Radio, or Television	19.2	13.8	12.5	16.8
Attorney	3.3	11.3	--	6.3
Friend or Relative	28.3	16.3	12.5	23.1
Other	7.5	10.0	--	8.2
Total	99.9%	100.2%	100.0%	100.1%
(N=)	(120)	(80)	(8)	(208)

NOTE: Total does not always add to 100 percent because of rounding.

^aIncludes New York City and Nassau and Suffolk counties.

^bIncludes all other areas of State.

Source: LCER Survey of Crime Victims receiving awards from January through March 1978 for claims filed in 1977-78. LCER Survey conducted September through November 1978.

Place Where Victimized

For 82 percent of the crime victims shown in Table 37, the county of residence and the county in which the crime occurred were the same. However, it is still more appropriate to review the effectiveness of police and district attorney dissemination of information in relation to the site of the crime, since most victims reporting to police and most victim involvement with the district attorney takes place in the area that includes

the scene of the crime. Table 38 shows that those victimized Downstate have less success in finding out about the program from police and from the district attorney than those victimized Upstate. (Of the Downstate group, 96 percent were victimized in New York City.)

Table 38

How Crime Victims Became Aware of CVCB's Program by Place of Crime

Crime Victims Learned of Program From:	Place of Crime		Total
	Downstate ^a	Upstate ^b	
Police When Crime Was Reported	24.4%	29.6%	26.4%
District Attorney	1.6	6.2	3.4
CVCB	7.1	2.5	5.3
Hospital Staff	10.2	11.1	10.6
Newspaper, Radio, or Television	17.3	16.0	16.8
Attorney	3.9	9.9	6.3
Friend or Relative	28.3	14.8	23.1
Other	7.1	9.9	8.2
Total	99.9%	100.0%	100.1%
(N=)	(127)	(81)	(208)

NOTE: Total does not always add to 100 percent because of rounding.

^aIncludes New York City and Nassau and Suffolk counties.

^bIncludes all other areas of State.

Source: LCER Survey of Crime Victims receiving awards from January through March 1978 for claims filed in 1977-78. LCER Survey conducted September through November 1978.

While 24 percent of those victimized throughout the Downstate area found out about CVCB from the police, in the Nassau and Suffolk counties' portion of that area, 40 percent were informed by the police and 32 percent of those victimized in Queens found out in this manner. Upstate, in Monroe County 50 percent of victims learned of CVCB from the police.

While for all surveyed, 30 percent learned of the program from the combined activities of the police and district attorneys, in Onondaga County, 60 percent learned of the program from these sources.

Selected Examples of Program Information Dissemination

In Monroe County, a Victim Assistance Program has been established by the City of Rochester Police Department. The program provides a wide range of services to victims (see Appendix B for information on victim assistance programs).

The Project Coordinator reported to LCER staff on October 23, 1978 that:

Seventy-five percent (75%) of our contacts are the result of our out-reach efforts. That is, we telephone, if possible, or send a personal letter to the victims of major (felony) physical crimes within a week of their victimization to offer our support and expertise, to informally evaluate their eligibility for N.Y.S. Crime Victims Compensation and to inform them how they may apply, and to give them case status. The phone call or letter often results in re-contacts to provide other services and to file for Crime Victims Compensation. . . .

In aiding victims and their families to file for Crime Victims Compensation, we not only fill out the initial seven-page application but also write to employers, doctors, hospitals, funeral directors, etc. requesting them to complete the state forms used to document the claim. We have very close working relationships with the Syracuse and Buffalo CVC offices and have been quite successful in securing emergency awards for victims with severe financial hardships. . . .

In Onondaga County, the survey indicated that 30 percent learned of the program from the district attorney's office. A Victim Witness Assistance Center has been established within the Onondaga County District Attorney's Office. The center includes office space allocated by the District Attorney to a staff representative of CVCB.

The Research Specialist for the center reported to LCER staff on October 19, 1978 that the center's activities include making the county's general public aware of the Victim-Witness Assistance Center via public service announcements, television commercials, billboards, letters to community groups, a speakers' bureau and the like. The center also has a "victim needs assessment notification system" intended to apprise victims of its existence, provide immediate service to victims of violent crimes, assess the needs of victims and make referrals.

The center reviews police reports to discover those in need of its services and contacts victims so identified by letter and telephone to determine their needs, and to refer them to agencies such as CVCB.

New York City Police Outreach Activities

The New York City Police Department is included in this review because 59 percent of those surveyed were victims of crime in New York City.

On October 10, 1978, the Deputy Chief Executive Officer, Patrol Services Bureau in the New York City Police Department (NYCPD) reported to LCER staff that after CVCB program information dissemination was mandated for the police, NYCPD issued Operations Order Number 113 of December 30, 1976. This order required the police officer receiving a report of a crime involving personal injury to notify the victim of CVCB's program. The Deputy Chief Executive Officer explains:

It became apparent that providing such information so close to the commission of the crime was ineffective. In many instances, the victim was too upset or injured to fully understand what he was being told. In other cases the police officer was more intent on locating the criminal than providing the required information.

In June of this year a procedure was put into effect whereby a member of this department reviews all complaint reports in order to identify qualified crime victims. These victims are then notified by mail or telephone. This procedure, as a reinforcement of our original 'Operations Order' should improve the dissemination of information to crime victims.

A CVCB Board member indicated to LCER staff on October 12, 1978 that he had met with NYCPD three times since the change in legislation to secure adequate implementation of the mandate that police inform victims of the program.

The change in NYCPD approach to informing victims occurred after the crime victims surveyed by LCER staff reported their crimes to the police and filed their claims with CVCB. However, Table 39 shows that there has been a recent increase in claims filed Downstate with CVCB since this new NYCPD procedure was introduced. This increase in claims filed probably cannot be attributed to an increase in crime, since the Federal Bureau of Investigation's Uniform Crime Reports for January through June 1978 actually show a decline of four percent in violent crime from the comparable time period in 1977.

Table 39

Claims Filed by
Downstate and Upstate Victims
August 1977 and August 1978

	August 1977	August 1978	Percent Change
Downstate Claims Filed ^a	388	438	13
Upstate Claims Filed ^b	98	95	-3

^aIncludes New York City, Nassau and Suffolk counties. In August 1978 excludes Rockland and Westchester counties included in CVCB Downstate statistics since April 1978.

^bIncludes all areas of New York State except New York City and Nassau and Suffolk counties.

Source: CVCB claims log, October 10, 1978.

CVCB Outreach Activities

CVCB efforts to inform the public of its program are carried out by the Chairman, Board members and staff in addition to their claims processing workload. CVCB has no budget allocation for public information staff.⁴

CVCB's public information brochure entitled, "Are You an Innocent Victim of a Violent Crime?" includes a single-page claim application form (see Appendix D). The brochure has been distributed through many of the conduits for program information previously identified. Further, the brochure does include up-to-date information on eligibility requirements. LCER staff review of claimants' files indicated that previous application forms were still being furnished to claimants by some program information sources. (Other CVCB efforts to increase public awareness are noted in Appendix F.)

Findings

Potentially Eligible Victims

- Analysis of available data on victims potentially eligible for compensation under prior and present CVCB requirements confirms that this population has increased because prior requirements related to minimum allowable medical expenses or minimum allowable loss of earnings or support have been eliminated.

- While claims filed have increased, it is estimated that less than 20 percent of potentially eligible claimants are now applying for awards. While this figure is based on an estimate of those potentially eligible, the finding is supported by a prior one, showing that over 80 percent of claimants served by the program since prior requirements were eliminated could have met those prior requirements.

How Victims Receiving Awards Learned of the Program

- Twenty-six percent of victims receiving awards during the last quarter of 1977-78 learned about the program from the police.

- Local victims' assistance programs have helped inform victims of the CVCB program.

IV PROGRAM COSTS

The Crime Victims Compensation Program's costs are essentially for two purposes--program administration and payments to victims. Of these, payments to victims have increased markedly since 1974-75 (the last year reviewed in the prior LCER audit); while program administration costs increased 29 percent from 1974-75 to 1977-78, payments to victims increased by 70 percent. Table 40 shows that in 1977-78 of the \$5,052,395 expended on the program, payment to victims was \$4,313,077, or 85 percent of total costs.

Table 40

Crime Victims Compensation Board
Expenditures: 1975-76 through 1977-78
Appropriation: 1978-79
(Exclusive of Fringe Benefits)

Fiscal Year	Expenditures			Percent	
	Administration	Payments to Victims	Total	Administration	Payments to Victims
1975-76	\$553,488	\$2,979,071	\$3,532,559	16	84
1976-77	603,781	3,220,267	3,824,048	16	84
1977-78	739,318	4,313,077	5,052,395	15	85
1978-79*	845,600*	5,446,600*	6,292,200*	13	87

*Appropriation.

Sources: NYS Department of Audit and Control "Annual Expenditure Summaries," 1975-76, 1976-77 and 1977-78 and Report of the Fiscal Committees on the Executive Budget 1978-79.

While total program expenditures have increased by 63 percent since 1974-75, Chart 5 shows that claims filed have increased by 134 percent, and original decisions by 89 percent since that time.

CVCB staff increased by 44 percent (14 individuals) during the 1974-75 to 1977-78 period.

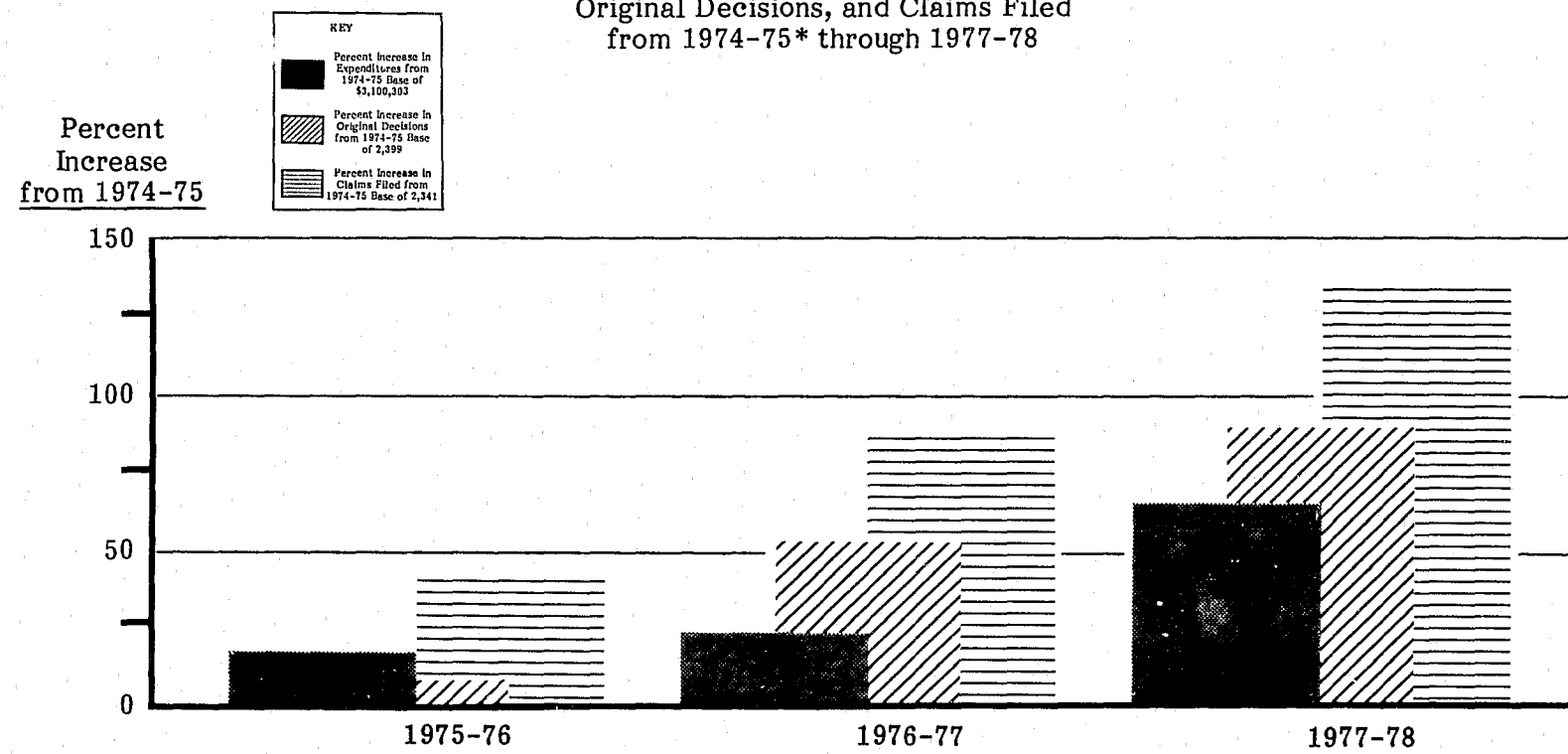
Crime Victim Expenditures in Other States

In response to an LCER questionnaire, 15 other states provided information on the costs of program administration and payments to victims. These data are provided in Table 41, which also shows the proportion of each expenditure.

For all states where a full year's data were provided, the amount spent on victim compensation is significantly higher than that for administration. This is consistent with the findings of LCER's 1975 study.

Chart 5

Percent Increase in Expenditures,
Original Decisions, and Claims Filed
from 1974-75* through 1977-78



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*1974-75 was the last year included in the prior LCER audit; see Tables 2, 4 and 27, LCER Financial Aid to Crime Victims Program Audit, October 31, 1975.

Source: LCER staff from CVCB information, August 16, 1978; and from NYS Department of Audit and Control, "Annual Expenditure Summaries," 1975-76, 1976-77 and 1977-78.

Table 41

Crime Victim Expenditures in Other States

State	Year Ending	Administration	Payments to Victims	Percent	
				Administration	Payments to Victims
Alaska	6-30-78	\$73,884	\$ 285,673	21	79
California	6-30-78	428,797	5,025,289	8	92
Delaware	6-30-78	87,942	154,197	36	64
Florida	6-30-78 ^a	175,162	47,971	79	21
Hawaii	12-15-77	56,944	226,869	20	80
Maryland	6-30-78	140,234 ^d	1,192,305	11	89
Michigan	9-30-78	69,000	488,989	12	88
Minnesota	6-30-78	52,500	347,500	13	87
New Jersey	6-30-78	185,780	919,046	17	83
New York	3-31-78	739,318	4,313,077	15	85
North Dakota	6-30-78	16,567	26,161	39	61
Oregon	6-30-78 ^a	41,211	28,597	59	41
Pennsylvania	7-1-78 ^b	180,000 ^d	272,104	40	60
Virginia	6-30-78	31,076	103,269	23	77
Washington	6-30-78	155,925	983,610	14	86
Wisconsin	9-30-78 ^c	71,116	401,017	15	85

Expenditure Data Only on Payments to Victims

State	Year Ending	Payments to Victims
Illinois	10-31-78*	\$1,000,000 (est.)
Kentucky	6-30-78	145,529
Massachusetts	6-30-78	1,123,000
Nevada	6-30-78	5,000
Tennessee	Program began 7-1-78; information not available	

*10 months

^aSix months. ^bEleven months. ^cEight months. ^dIncludes "start-up" costs for new program.

Source: Information provided by other states in response to LCER staff survey.

Payments to Victims

A breakdown of purposes for payments to victims in Table 42 shows that payment for loss of support or earnings was \$2,299,369 or 53 percent of the total of victim payments in 1977-78.

Table 42
Crime Victims Compensation Board
Awards Paid
(1977-78)

Type of Payment	Loss of Support, Earnings	Medical Expenses	Funeral Expenses	Attorneys' Fees	Emergency Awards	Total
<u>Personal Injury</u>						
Lump-Sum	\$ 729,328	\$1,267,053	--	\$20,069	\$29,291	\$2,045,741
Protracted	604,575	166,183	--	4,450	--	775,208
Total-Injury	\$1,333,903	\$1,433,236	--	\$24,519	\$29,291	\$2,820,949
<u>Death</u>						
Lump-Sum	\$ 46,670	\$ 22,087	\$407,906	\$ 5,330	\$ 6,550	\$ 488,543
Protracted	918,796	15,732	61,238	7,819	--	1,003,585
Total Death	\$ 965,466	\$ 37,819	\$469,144	\$13,149	\$ 6,550	\$1,492,128
Grand Total	\$2,299,369	\$1,471,055	\$469,144	\$37,668	\$35,841	\$4,313,077

Source: LCER staff from Department of Audit and Control "R-7" Summary of Expenditures.

While all other purposes for payment collectively accounted for 47 percent, there were changes in the importance of some of them in relation to 1974-75 cost allocations. While overall payments to victims increased 70 percent from 1974-75 to 1977-78, loss of support or earnings increased by 56 percent. By contrast, medical payments increased by 77 percent, funeral expenses by 157 percent and emergency payments by 333 percent. The increase in emergency payments is not as significant as it would appear, since such payments represent just one percent of total victim payments and since they, like attorneys' fees, do not supplement, but reduce awards given for the other purposes shown in Table 42. (Thus, the amounts shown for loss of support or earnings, medical expenses and funeral expenses have already been reduced by the amount of emergency payments and attorneys' fees.)

Average Cost Per Claim

A detailed analysis of the average cost per claim is provided in Table 43. (Chart 6 provides a summary of this table.) Overall, the average cost per claim for 1977-78 was \$1,810. For the most pervasive type of claim, lump-sum, personal injury, the average cost was \$1,204. This was the lowest average cost per claim, while the highest was for protracted personal injury (\$4,227).

The table and chart also show the relative importance of the medical and/or funeral expenses in relation to loss of earnings or support compensation for each type of award. Funeral expenses were primarily responsible for 90 percent of the average lump-sum death claim. The medical/funeral component of such claims averaged \$1,385. Medical costs were responsible for 54 percent of the average lump-sum, personal injury claim. The medical component averaged \$646 for these claims.

Loss of support was equal to 92 percent of the average protracted, death claim at \$3,467; loss of earnings amounted to 95 percent of the average protracted, personal injury claim averaging \$4,030.

Restitution Payments

Restitution is a form of forced repentance where a criminal reimburses to his/her victim by deed or payment. New York's Crime Victims Compensation Program for the most part is not a restitution program. State funds, rather than payments from criminals are provided to eligible victims. However, awards made from State funds are to be reduced by restitution payments in the same manner awards are to be reduced for other collateral payments (i.e., payments from third parties). LCER staff review of CVCB claims files found that this usually does not occur. Of 331 lump-sum awards made in January through March 1978, only one was reduced because of a restitution payment (the amount of the payment was \$250). (Appendix B contains information on a restitution program administered by another State agency.)

Since August 1977, CVCB has been responsible for administering a restitution program under Section 632a of the Executive Law. The so-called "Son-of-Sam" Law seeks restitution for victims from those who earned or are owed money from "reenactment of such crime, by way of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions or emotions regarding such crime. . . ."

Such accused or convicted criminals are to pay monies earned in this way to CVCB. CVCB is to deposit these funds in escrow accounts for the benefit of and payable to victims of crimes (or their legal representatives) committed by convicted criminals. In the case of victims of crimes committed by accused criminals it is provided that monies be paid from the escrow account for restitution only if "such person is eventually convicted of the crime and provided that such victim within five years of the date of the establishment of such escrow account brings a civil action in a court of competent jurisdiction and recovers a money judgment for damages against such person. . . ."

CVCB is also required periodically to publish legal notices advertising the availability of escrow monies to eligible victims.

Table 43

Crime Victims Compensation Board
1977-78 Average Cost Per Claim^a

Purpose of Claim	Protracted			Lump-Sum			Total		
	Number	Percent of Total Claims Paid	Total Claims Paid	Number	Percent of Total Claims Paid	Total Claims Paid	Number	Percent of Total Claims Paid	Total Claims Paid
Death									
Claims	265 ^b	64		310	19		575	28	
Payments: ^c									
Loss of support	\$ 918,796	56	\$ 46,670	2	\$ 965,466	26			
Medical ^d	70,970	5	429,302	21	506,272	14			
Total	\$ 989,766	61	\$ 475,972	23	\$1,471,738	40			
Average 1977-78 payment per claim:									
Loss of support	\$ 3,467		\$ 150		\$ 1,679				
Medical	291		1,385		881				
Total	\$ 3,758		\$ 1,535		\$ 2,560				
Personal Injury									
Claims	150 ^b	36		1,308	81		1,458	72	
Payments: ^c									
Loss of earnings	\$ 604,575	37	\$ 729,328	36	\$1,333,903	36			
Medical	29,544	2	845,112	41	874,656	24			
Total	\$ 634,119	39	\$1,574,440	77	\$2,208,559	60			
Average 1977-78 payment per claim:									
Loss of earnings	\$ 4,030		\$ 558		\$ 915				
Medical	197		646		600				
Total	\$ 4,227		\$ 1,204		\$ 1,515				
Total									
Claims	415 ^b	100		1,618	100		2,033	100	
Payments:									
Loss of earnings or support	\$1,523,371	93	\$ 775,998	38	\$2,299,369	62			
Medical	106,514	7	1,274,414	62	1,380,928	38			
Total	\$1,629,885	100	\$2,050,412	100	\$3,680,297	100			
Average 1977-78 payment per claim:									
Loss of earnings or support	\$ 3,671		\$ 480		\$ 1,131				
Medical	256		787		679				
Total	\$ 3,927		\$ 1,267		\$ 1,810				

^aBased on Expenditure Data for April 1977-March 1978 and Original, Amended and Review Awards data for February 1977-January 1978; Table 21 indicates a lapse of just over two months before awards are paid.

^bEstimated by LCER staff. Assumed that 1977-1978 Protracted Awards were made evenly throughout the year and the Protracted Claims which were closed were distributed evenly throughout the year.

Number computed as follows:

	Death Protracted	Personal Injury Protracted
Number being paid at beginning of Fiscal Year	266	138
Less: 50 percent of protracted claims closed during year	30	23
Add: 50 percent of new Protracted Awards	29	35
Total	265	150

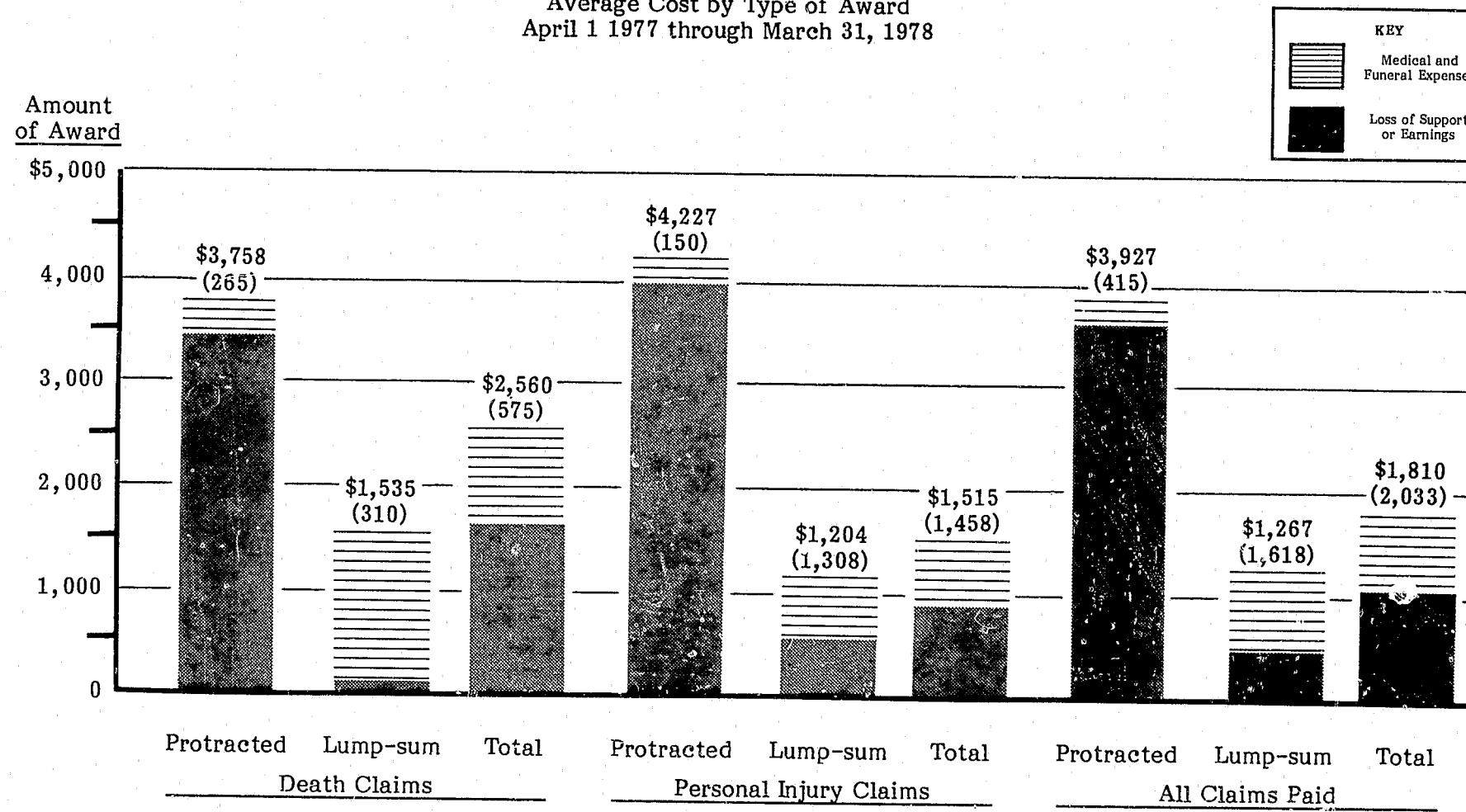
^cAmounts paid for Emergency Awards and Attorney fees per Table 42 have been excluded from computation of average cost per claim. Additional medical payments have also been excluded.

^dIncludes payment for funeral expenses.

Source: LCER staff from Table 42 and CVCB Awards Log for February 1977 through January 1978.

Chart 6

Average Cost by Type of Award
April 1 1977 through March 31, 1978



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Number in parentheses () represents claims in each category.

Source: Table 43.

During the five-year period that funds are held in escrow, CVCB may make payments from the account to accused or convicted criminals when ordered to do so by a court for legal defense purposes or upon dismissal of charges or acquittal of those accused of crime.

On November 22, 1978, CVCB's staff reported to LCER that only one escrow account had thus far been established and that the only monies paid out of that \$45,416 account have been for legal defense purposes and not for victims. (Incidentally, the account established was not for earnings from depiction of the "Son-of-Sam" crimes, that prompted enactment of this law.)

CVCB reports that because of problems in the execution of this law beyond the agency's control (such as the need for the victim to secure a money judgment in civil court against the criminal), it may be several years before any payment is made from this source.

CVCB's counsel has undertaken the following activities to implement this law:

- Notices explaining the law have been forwarded to those who might pay for accounts for criminal activity.
- CVCB has investigated likely accounts of criminal activity; 18 such investigations are reported completed or ongoing.
- CVCB has established a monitoring program to identify such accounts of criminal activity.
- CVCB has drafted rules and regulations to administer this law.
- CVCB has been a party or interested party in five legal proceedings (including some related to the "Son-of-Sam" crimes).
- CVCB has periodically published legal notices advertising its one escrow account.

Program Costs Information Adequacy

Information on how much was paid and on when it was paid is maintained in handwritten ledgers at CVCB. In the case of lump-sum payments these ledgers number over 20 and are arranged alphabetically for every award ever made by CVCB without respect to year of award, or any other subcategory. This makes data on individual payments hard to secure. These ledgers also are not always consistent in their treatment of emergency payments as previously noted.

The same problem to a lesser degree characterizes information on the amounts of individual awards by purpose of award. This information is maintained in an award log by month of award. Here too, a count of individual awards is needed to retrieve useful information. The log provided useful information for this audit with respect to numbers as well as amounts of awards by purpose. However, the log has been little utilized. If discontinued without replacement by computerized information, analysis of the type presented in this report would be rendered impossible. CVCB staff report that such information is included in the planned computerization. Prior to such computerization,

however, as of December 11, 1978 LCER staff noted that the last month posted to the awards log was September 1978. (Previously, LCER staff had noted posting to the awards log immediately after the end of the month.)

Useful information is maintained by CVCB on a monthly basis for expenditures and workload. However, the monthly reports do not provide the detail that was available only in these logs.

Findings

- From 1974-75 to 1977-78, CVCB payments to victims have increased 70 percent while program administrative costs increased 29 percent.
- Payments to victims in 1977-78 were primarily (53 percent) for loss of earnings or support.
- In relation to 1974-75 cost allocations, medical expenses and funeral expenses have increased more in 1977-78 than have losses of earnings or support payments.
- In 1977-78, the average cost per claim was \$1,810. The unit cost ranged from \$1,204 for the most common type of claim (lump-sum, personal injury) to \$4,227 for protracted, personal injury claims.

FOOTNOTES

I Introduction

1. Legislative Commission on Expenditure Review, Financial Aid to Crime Victims, Program Audit 9.1.75, October 31, 1975 (hereafter cited as LCER, Financial Aid to Crime Victims).
2. Executive Law, Section 620.
3. Ibid., Section 623.
4. LCER, Financial Aid to Crime Victims, pp. S-3 - S-5.
5. Memorandum of Assemblyman Stanley Fink, "Crime Victims, Compensation," New York State Legislative Annual, 1976, p. 37.
6. Governor's memorandum, "Executive Law, Compensation to Crime Victims," New York State Legislative Annual, 1976, p. 420.

II Crime Victims Compensation Board

1. Office of the State Comptroller, Division of Audits and Accounts, Audit Report on Financial and Operating Practices, Crime Victims Compensation Board, April 1, 1974-March 31, 1976, Report No. AL-ST-57-76, p. 8.
2. State of New York, Codes, Rules and Regulations, Executive, Subtitle M, Part 525, Section 525.9.
3. James Garofalo and L. Paul Sutton, Compensating Victims of Violent Crime: Potential Costs and Coverage of a National Program (Washington, D. C.: U. S. Department of Justice, Law Enforcement Assistance Administration, 1978), p. 39.
4. Legislative Commission on Expenditure Review, Financial Aid to Crime Victims, p. 37.
5. James Garofalo and L. Paul Sutton, op. cit., p. 39.
6. State of New York, Codes, Rules and Regulations, Executive, Subtitle M, Part 525, Section 525.7.
7. Executive Law, Article 22, Section 629.
8. State of New York, Codes, Rules and Regulations, Executive, Subtitle M, Part 525, Section 525.4.
9. Executive Law, Article 22, Section 632.
10. Legislative Commission on Expenditure Review, Financial Aid to Crime Victims, p. 25.

III Public Awareness of Program

1. LCER, Financial Aid to Crime Victims, pp. 35-43.
2. This estimate includes claims rejected in a new CVCB screening process apportioned as shown on Table 3 between Downstate and Upstate. A reduction has been made for claims filed in other portions of the Downstate area.
3. Victimization shown in Tables 32 and 33 initially included crimes that were not reported to police and all assaults (simple as well as aggravated); additionally data shown are limited to New York City. For these reasons, the numbers on these tables do not correspond to violent crimes known to police in Table 30.
4. Memo to LCER staff from Counsel, Crime Victims Compensation Board, "Public Information and Outreach Activities by Board Members," November 20, 1978.

APPENDIX A LIST OF INTERVIEWS, CONTACTS AND VISITS

New York State Agencies

Crime Victims Compensation Board, New York City Office--Chairman; Board Members (3); Senior Investigator; Investigator; Secretarial Stenographer.

Buffalo Office--Board Member.

Albany Office--Former Assistant to the Chairman; Counsel; Vocational Rehabilitation and Medical Fee Specialist; Supervising Investigator; Head Account Clerk (Personnel/Finance); Senior Stenographer (Awards Log); Senior Typist (Claims Log); Account Clerk (Paid, Protracted Awards Log); Former Account Clerk (Paid, Lump-sum Awards Log); Stenographer (Statistical Log).

Syracuse Office--Investigator.

Division of Criminal Justice Services--Deputy Administrator; Director, Statistical Analysis Center.

Department of Health--Director, Bureau of Reimbursement and Analysis; Acting Director, Bureau of Medicaid Standards.

Division of Probation--Chief, Program Development.

Worker's Compensation Board--General Counsel.

Local Agencies in New York State

New York City Police Department, Patrol Services Bureau--Deputy Chief Executive Officer.

Onondaga County District Attorney's Office, Victim Witness Assistance Center--Research Specialist.

Rochester Police Department, Victim Assistance Program--Project Coordinator.

Rockland County District Attorney's Office, Crime Victims Assistance Bureau--Director.

Troy Department of Public Safety, Crime Victim Assistance Unit--Crime Victim Assistance Counselor.

Westchester County District Attorney's Office--Assistant District Attorney, Chief of Superior Court Trial Division.

Other Agencies and Organizations

U. S. Department of Justice, Law Enforcement Assistance Administration--Systems Analyst.

National District Attorneys Association--National Institute Director.

Vera Institute of Justice, Victim/Witness Assistance Project--Volunteer Coordinator.

APPENDIX B

OTHER CRIME VICTIMS PROGRAMS IN NEW YORK STATE

The CVCB has no statutory authority to coordinate the activities of other victim assistance programs in New York State, or to assure that those programs direct their clients to the services of CVCB. However, many local crime victim and witness assistance programs do exist, and many of these share a beneficial, though informal, relationship with CVCB.

The Advisory Council to the Crime Victims Compensation Board, founded--but unused--under the past Board chairman, has recently begun to play a nonmandated, coordinative role. The Council consists of 38 health, legal, social service and other personnel who represent various public agencies and groups working with and interested in assisting victims of crime.

Types of Crime Victim Programs

Crime victim programs may be divided into three categories, as recognized by the State of New York Division of Criminal Justice Services:

- (1) those concentrating on the counseling of victims and witnesses, and their referral to appropriate services;
- (2) those which emphasize the use of victims and witnesses in court proceedings; and
- (3) those providing victims with legal services.

Exhibit B-1 is a descriptive list of county and municipal crime victim and witness assistance programs in New York State outside of New York City and Long Island, with a statement on the relationship of each agency to CVCB.

A list of victim and witness assistance programs in New York City and Long Island was being prepared by the VERA Institute of Justice but was unavailable at the time of this audit's publication.

Juvenile Restitution

The "other" crime victims programs listed on Exhibit B-1 are local in nature and relate to CVCB primarily in the referring of victims. None of these programs employs restitution as a means of victim compensation.

However, the New York State Division of Probation has instituted the Juvenile Delinquent Restitution Program, funded by an LEAA grant,¹ and begun as a three-year project in October 1978. This program is intended "as an alternative to institutionalizing adjudicated juvenile delinquents and to increase confidence in the juvenile justice system by the victim and the general public."² Only juveniles convicted of crimes which are non-violent in intent would be eligible for participating in the program which allows for a "negotiated agreement between victim and offender." For instance, a youth convicted of

Exhibit B-I

Other Victim Assistance Programs in New York State

<u>Title</u>	<u>Location</u>	<u>Sponsor</u>	<u>Funding</u>	<u>Relation to CVCB</u>
Albany County Crime Victim-Witness Aid Project	Albany	Albany County Department of Social Services	LEAA	Aids victims in securing compensation from Board.
Dutchess County Crime Victims Assistance Program II	Poughkeepsie	NA	LEAA	Same.
Crime Victims Assistance Unit	Troy	City of Troy Department of Public Safety	CETA	Same.
Crime Victims Assistance	Schenectady	Schenectady County	LEAA	Same.
Albany Rape Crisis Center	Albany	Albany County	Albany County	Same.
Middletown Crime Prevention Unit	Middletown	Middletown Police Department Crime Prevention Unit	LEAA	Same.
Victim/Witness Assistance Unit	White Plains	Office of District Attorney, Westchester County	County of Westchester	Same.
Rockland County Crime Victims Assistance Bureau	New City	Office of District Attorney, Rockland County	County of Rockland	NA
Rochester Victim/Witness Assistance Project III	Rochester	Rochester Police Department	LEAA	Same.
Oneida County Victim/Witness Assistance Unit II	Utica	Oneida County District Attorney	LEAA	Same.
Onondaga Victim/Witness Assistance Project	Syracuse	Onondaga County District Attorney	LEAA	Same.
Binghamton Rape Crisis Center	Binghamton	Opportunity for Broome, Broome County	LEAA CETA	Same.
Rape Crisis Center of Syracuse, Inc.	Syracuse	Independent	LEAA	Same.
Rape Crisis Services of Greater Utica Area, Inc.	Utica	Independent	Contributions	Same.
Rape Crisis Center	Rochester	Planned Parenthood of Rochester and Monroe Counties	No specific funding; support from Planned Parenthood	No Need.
Rape Crisis Center	Jamestown	Girls Club	CETA	NA
Suicide Prevention and Crisis Center Volunteer Support of Advocates	Buffalo	Erie County	50% State 50% County	NA

Source: LCER staff, based on information obtained from NYS Division of Criminal Justice Services; NYS Crime Victims Compensation Board; U. S. Department of Justice, Law Enforcement Assistance Administration; National District Attorneys Association; and various other agencies.

vandalism might have to work to earn enough money to repair and clean the vandalized property. It should be noted that the delinquents will be employed by youth agencies, firms, and individuals who have contracted with local probation departments to employ them.

FOOTNOTES

1. #NY 78-ED-AX 016 LEAA OJJDP
2. Grant application (#NY 78-ED-AX 016 LEAA OJJDP), Title and Description of Applicant's Project.

APPENDIX C

INFORMATION ON CRIME VICTIMS PROGRAMS IN OTHER STATES

"Comparative Analysis of
State Crime Victim Compensation Statutes
in the United States"

Prepared by: New York State Crime Victims Compensation Board
Under Direction of Paul S. Hudson, Counsel
September 1978

Explanation of Certain Provision Labels

1. "Lump sum" means the program permits or requires a lump sum payment to a claimant for future loss of earnings or support or other compensable loss, rather than protracted or periodic payments.
2. "Dependents only" under Compensation to Survivors means that the program requires the survivor to be a dependent of the deceased victim in order to qualify for compensation.
3. "Means test" refers to provisions which limit compensation to claimants with a financial hardship or need.
4. "Cooperation with Police or Prosecution" means that the program requires claimants to cooperate with the authorities in the investigation and prosecution of the crime as a condition of receiving compensation.
5. "Provocation or Contribution" means the program reduces or bars compensation to claimants who by their actions provoked or contributed to the criminal act resulting in the injury or death.
6. "Automobile Case Exemption" refers to provisions which generally bar compensation for injuries or death caused by reckless, negligent or intoxicated driving.
7. "Son of Sam Law" means a statute similar to the NYS statute, Executive Law, Section 632-a, which provides for the distribution of moneys received by a criminal offender as a result of the crime, generally for the sale of literary rights to publication of the offender's crime story.

CONTINUED

1 OF 2

FOOTNOTES

1. Awards are \$200 deductible as well as minimum.
2. In discretion of Court of Claims.
3. No attorneys fees permitted for handling initial application; Attorney General's Office to assist claimant.
4. Allows recovery for accidental injury or death of Good Samaritan as a result of his action.
5. Except where victim is non-spousal dependent of perpetrator, compensation may be awarded where justice requires.
6. Except where compelling reason for failure to report or cooperate with law enforcement agencies.
7. Minimum \$100 out-of-pocket loss for medical or death; also awards \$100 deductible.
8. Allows Good Samaritans who are injured or killed accidentally to be considered victims of crimes.
9. May also be periodic.
10. Minimum out-of-pocket loss of \$100 or two weeks earnings or support.
11. Only so as to qualify Good Samaritan as victim.
12. Same as #11.
13. Statute does not specify. However, Massachusetts State Attorney General's Office interprets law to require state residency.
14. Same as #11.
15. Same as #11.
16. Also surviving spouse, parent or child.
17. Persons who reside in same household as perpetrator only eligible for out-of-pocket medical expenses.
18. Protracted in discretion of Board.
19. Same as #11.
20. Unless Board determines that interests of justice require otherwise in a particular case.
21. Lump sum or installment at discretion of Board.
22. Same as #11.
23. At discretion of Board.
24. In sexual assault cases.
25. Same as #11.
26. Board may provide for periodic payments in cases of death or protracted disability.
27. Up to \$1,500.
28. Periodic payments required for cases of protracted disability, loss of support in death cases, medical payments after initial award.
29. Includes victim or surviving spouse, parent, child, or principal dependents. Does not include relatives, friend, estate, etc.
30. Special provisions for Good Samaritans only in New York City, under New York City ordinance.
31. By administrative rule, not required by statute.
32. Power to hear claims vested in Court of Claims Commissioners appointed by Supreme Court.
33. Payable in a lump sum provided in best interests of claimant or present value of all future economic loss does not exceed \$1,000.
34. Same as #11.
35. Not unless economic loss manifested.
36. Ceiling of \$500.

37. Same as #36.
38. Comparative fault scheme.
39. Same as #11.
40. Must be "substantial" contribution, otherwise comparative scheme.
41. Provided medical expense was paid by relative.
42. \$1,000 limit.
43. \$3,000 limit.
44. Limit of \$200 per week, up to maximum of \$10,000.
45. Up to \$10,000 (including up to \$1,000 psychological, psychiatric expenses).
46. Same as #11.
47. But, state of residency has primary responsibility.
48. Can also be made in installments.
49. Except in case of death or protracted disability.
50. Same as #11.
51. No compensation to spouse living with perpetrator or to others where court feels unjust enrichment of perpetrator could result.
52. Except cases of crime involving rape, sexual deviancy..
53. Same as New York.
54. Industrial Commission of Virginia to conduct public awareness campaigns.
55. Family also.
56. Limited to \$1,000 which is included in total medical limitation of \$10,000.
57. If received 50 percent or more support from victim.
58. Must be surviving spouse, parent, grandparent, stepparent, child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or parent of a spouse of the deceased victim.
59. \$1,850 maximum allowance.
60. Waivable in interests of justice.
61. Same as #60.
62. Unless auto used as a weapon.
63. Only if "Good Samaritan".
64. \$1,500 maximum.
65. Administered by State Board of Control.
66. Administered by Department of Labor and Industries.
67. Except where court finds the perpetrator would benefit.
68. Limited court review by common law writ of certiorari.

APPENDIX D
CVCB's CLAIM APPLICATION FORM

CRIME VICTIMS COMPENSATION BOARD
CLAIM FORM

DO NOT WRITE IN
THIS SPACE

CLAIM NO. _____
Board Member _____
Inv. _____
County _____

Claimant's Name _____
 Claimant's Address _____ (No.) _____ (Street)
 _____ (City) _____ (State) _____ (Zip)
 Telephone No. _____ Office Telephone No. _____
 Claimant's Relationship to victim _____
 Victim's Date of Birth _____ (Mo./Day/Yr.) Male Female
 Victim's Name _____ (To be completed if different than claimant)
 Type of Claim: Personal Injury Death
 Victim's Address _____
 Name and Address of Attorney (if any) _____

 Brief Description of Crime _____

 Brief Description of Injuries _____

 Date of Crime _____ (Mo./Day/Yr.) Location of Crime _____ (Street Address)
 County _____ City _____
 Name of Perpetrator (if known) _____
 Police Precinct where crime was reported _____
 Police Complaint No. (U.F. 61 Number) _____ (May be obtained at Police Pct.)
 _____ (Claimant's Signature)

NOTICE: The law requires a determination by the Crime Victims Compensation Board that you have incurred a serious financial loss in order to make an award in your favor. If you have substantial assets, you probably will not qualify for an award.

APPENDIX E
ESTIMATING THE NUMBER OF CRIMINAL EVENTS
POTENTIALLY ELIGIBLE FOR COMPENSATION IN NEW YORK CITY

Prepared by: James Garofalo, Director
 Statistical Analysis Center
 New York State Division of Criminal Justice Services with computer programming assistance from the Criminal Justice Research Center, Inc. Albany, New York

One of the most difficult problems in trying to gauge the outreach of a victim compensation program is measuring the size of the pool of events that are potentially eligible for coverage under the program. There simply is no one source of data that contains this information. As an alternative, we have to piece together information from a number of different data sources, exercise some informed judgment, and derive a reasonably valid estimate of the size of the pool of potentially eligible events.

Victimization Survey Data

In early 1975, the U. S. Bureau of the Census conducted a victimization survey in New York City for the Law Enforcement Assistance Administration (LEAA). For the survey, a representative sample of about 10,000 households was contacted, and interviews were conducted for every household member 12 years old or older (about 20,000 individuals). As part of the interviews, it was determined whether the respondent had been the victim of various personal crimes during the preceding 12 months and if so, what the details of the victimization(s) were. A complex weighting procedure was applied to the data to produce estimates of the victimization experiences for all New York City residents 12 years old or older.¹ Survey findings about the number and nature of rapes, robberies, and assaults will be used in this Appendix to estimate the number of those events that might qualify for compensation to the victim.

There are several categories of events that do not appear in the victimization survey data that we are using here. First, and most important, homicides are not recorded in the surveys, but this does not present a great problem because homicide data are available from other sources. Second, rapes, robberies, or assaults involving victims who are less than 12 years old are not included; again, this should not be a major problem because the proportion of those events that involve such young victims is quite small.² Third, the survey covers only residents of the city (regardless of where their victimizations occurred), so crimes committed within the city against non-residents are not counted.

Fourth, robberies of commercial establishments that result in non-fatal injuries to the businesses' personnel are not included. Although the Census Bureau did survey commercial establishments in New York City, and although an estimated 64,300 commercial robberies occurred during the reference period, only a small proportion of these (about eight percent) involved a non-fatal injury to an owner or employee that required medical attention. Furthermore, many of the medical expenses and days lost from work by employees are probably covered by the business, so these victims would not be eligible for compensation. We will add some commercial robberies into our final estimate of the total number of events potentially eligible for compensation, but

commercial robberies will not be included in our initial analysis. The homicides that occur during commercial robberies will be brought into our analysis from a separate data source.

Finally, our primary analysis includes only non-series victimizations. There were a small number of recurring situations which the survey interviewers were allowed to categorize as series victimizations. If three or more events of a very similar nature involved the same respondent and if the respondent could not remember the details of each event, the entire group of events was categorized as a series victimization, and details of only the most recent event in the series were recorded. The number of series victimizations relevant for victim compensation is relatively small: of the estimated 19,300 robberies and assaults that were categorized as series victimizations in the survey (no series rapes were found), only 5,400 resulted in any kind of injury, however minor. As with commercial robberies, we will add some of these series victimizations into our final estimate of events that are potentially eligible for compensation.

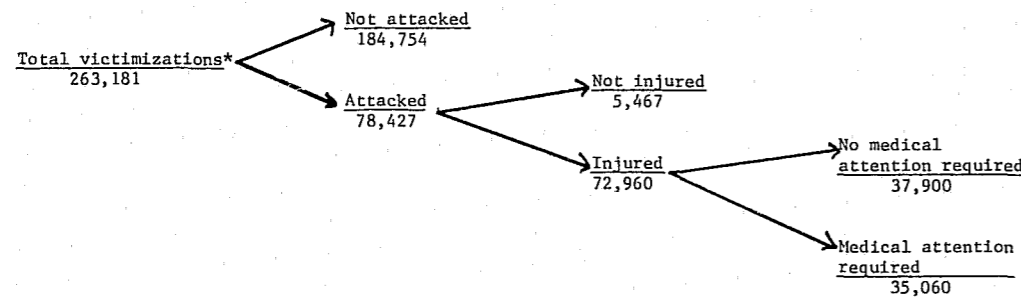
Analysis of the Survey Data

Figure 1 shows that an estimated 263,181 non-series rapes, personal robberies, and assaults were incurred by New York City residents during 1974. Of these events, however, only 78,427 (30 percent) involved an actual attack by the offender on the victim, only 72,960 (28 percent) resulted in some kind of injury to the victim, and only in 35,060 (13 percent) of the events did the victim require any medical attention.³ We will restrict our attention to those victimizations in which medical attention was required.

Some important changes in New York's Crime Victims Compensation laws took effect in 1977. Before the changes, one of the eligibility criteria for compensation was that the victim must have incurred at least \$100 in medical expenses or lost at least ten consecutive days from work; in either case, the loss must have been "out of the pocket"--that is, not reimbursed from some other source such as medical insurance, welfare, or workers' compensation. Many other eligibility criteria were not changed; two of the most important for this analysis are (a) crimes in which the victim and offender are related are not eligible, and (b) the crime must have been reported to the police.

Figure 1

Attack and Injury in Rapes, Personal Robberies, and Assaults; New York City, 1974



*Estimated number of non-series rapes, personal robberies, and assaults in 1974 derived from Census Bureau sample survey conducted in New York City during early 1975.

Picking up where Figure 1 stops, Figure 2 uses the pre-1977 minimum loss criteria⁴ and the two other criteria noted above to estimate the number of rapes, personal robberies, and assaults that might be eligible for compensation. Of the 35,060 events in which the victim required medical attention, more than three-quarters (26,670) had no net medical expenses or net medical expenses of less than \$100. Some of these could still be eligible for compensation if the victim lost ten or more consecutive days from work. This was not true for most of the 26,670 events; only 13 percent (3,599) involved a victim loss of ten or more days from work.⁵ Of these potentially eligible incidents, none involved crimes between relatives, and only a small number (289) were not reported to the police.

Examining the other main branch in Figure 2, we find that, of the 8,390 rapes, personal robberies, and assaults that involved net medical expenses of \$100 or more, 6,283 did not result in ten or more days lost from work. More than 1,000 of these (1,206) were ineligible for compensation, either because the victim and offender were related (297) or because the incident was not reported to the police (909). Finally, there were an estimated 2,107 events that had net medical expenses of \$100 or more and ten or more days lost from work; none of these events was ineligible on the basis of the victim-offender relationship or reporting to the police.

The rapes, personal robberies, and assaults eligible for victim compensation under the pre-1977 minimum loss criteria are designated by A, B, and C in Figure 2. The total estimated number of eligible events is 10,494 (3,310 + 5,077 + 2,107).

A comparable analysis of the same set of events, using the minimum loss criteria that went into effect in 1977, is presented in Figure 3. Again we start with the 35,060 rapes, personal robberies, and assaults in which medical attention was required. This time, however, the initial division of events is made on the basis of whether there were any net medical expenses at all; 18,922 events involved some net medical expenses and 16,138 did not. The next step divides the cases on the basis of whether any days were lost from work. Of the 16,138 cases with no net medical expenses, 4,518 involved some days lost from work; the victim and offender were not related in any of these, and only a small number (289) were not reported to the police.

In the other portion of Figure 3, 10,045 of the 18,922 cases with net medical expenses did not involve any time lost from work; in a small number (290) of these 10,045 cases, the victim and offender were related, but a rather sizable number (3,330) of the cases were not reported to the police. Finally, 8,877 events had both net medical expenses and days lost from work; 1,490 were ineligible for compensation, either because the victim and offender were related (297) or because the incident was not reported to the police (1,193).

The events in Figure 3 that would be eligible under the minimum loss criteria that went into effect in 1977 are labelled A, B, and C. In Figure 3, the total estimated number of eligible events is 18,039 (4,229 + 6,425 + 7,385).

A comparison of Figures 2 and 3 reveals several things. First, there is an obvious increase in the number of eligible events (from 10,494 to 18,039) when the new (1977) minimum loss criteria are applied to this set of crime incidents. Second, and less apparent, the eligibility criteria dealing with victim-offender relationship and reporting to the police become more important under the new minimum loss criteria. In Figure 2, 11,989 events met the pre-1977 minimum loss criteria (at least \$100 net medical expenses or at least ten days lost from work), and only 1,495 (or 12 percent) were classified as

Figure 2
Screening Out of Rapes, Personal Robberies, and Assaults
Based On Pre-1977 Minimum Loss Criteria; New York City, 1974

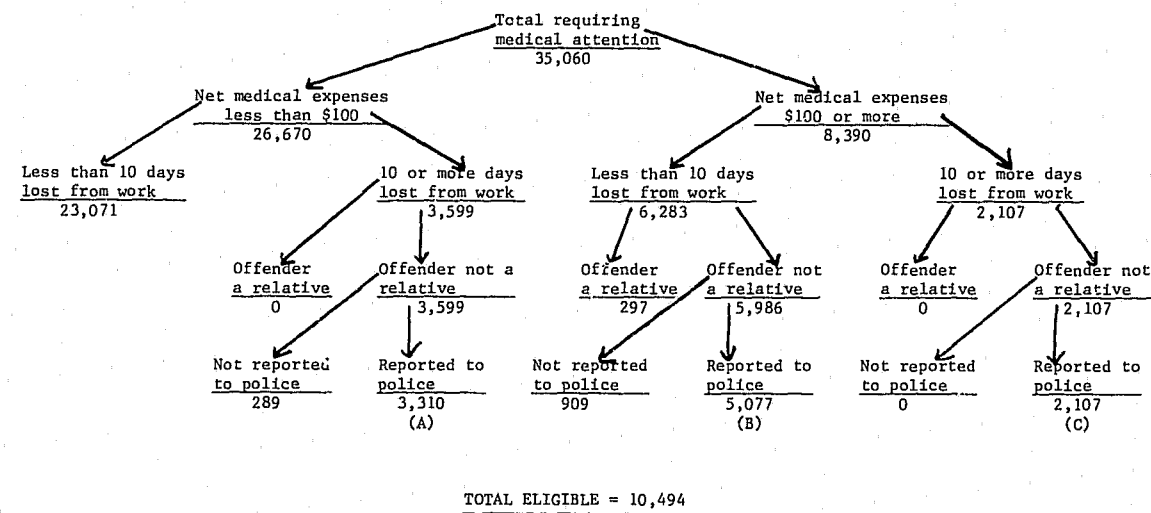
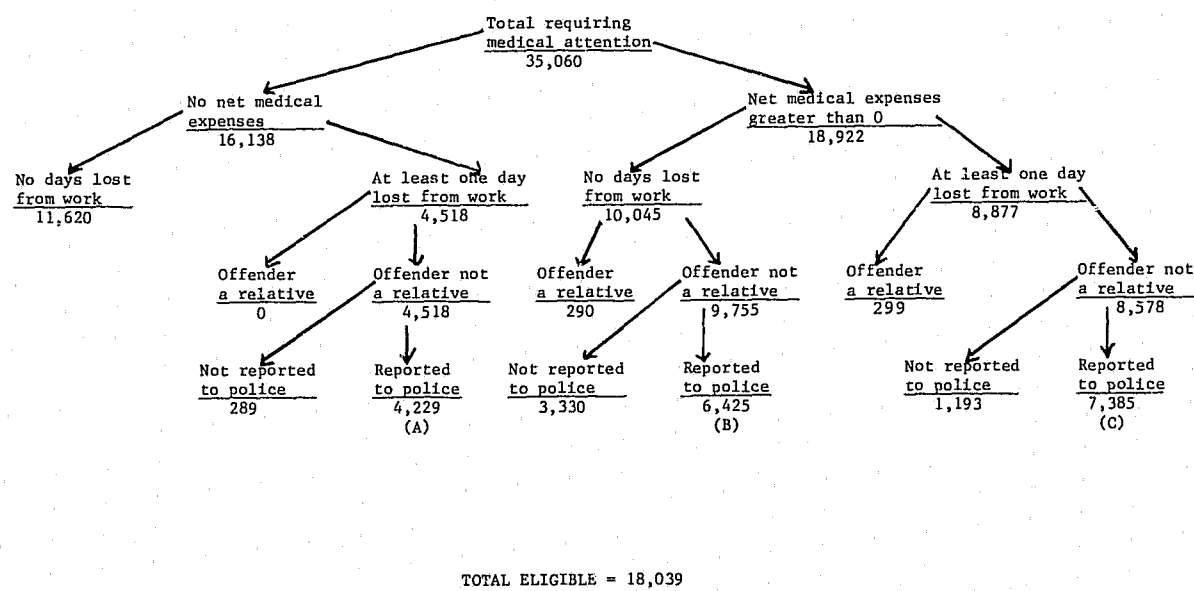


Figure 3
Screening Out of Rapes, Personal Robberies, and Assaults
Based On Minimum Loss Criteria Instituted in 1977; New York City, 1974



ineligible on the basis of either the victim-offender relationship or non-reporting of the incident to the police. In Figure 3, 23,440 events met the minimum loss criteria enacted in 1977, but 5,401 (or 23 percent) of these were classified as ineligible on the basis of the other two criteria.

Estimating Total Eligible in 1977

From Figure 3, we have an estimated 18,039 events eligible for victim compensation. As noted earlier, the events in Figure 3 include only non-series rapes, personal robberies, and assaults. There were an additional 19,300 such crimes picked up in the survey that were classified as series victimizations, but only 5,400 of those involved any injury at all. If we assume that each series victimization contained an average of 3.5 discrete events, we estimate 18,900 (3.5 x 5,400) more rapes, personal robberies, and assaults that involved injury. If we further assume that these events would be "filtered-out" in the same way that the non-series events were, we can add 4,668 to the estimated number of events eligible for victim compensation.⁶

Thus, the survey gives us an estimate of 22,707 (18,039 + 4,668) events eligible for compensation under the minimum loss criteria established in 1977. But this estimate is derived from sample data and is subject to some amount of sampling error. Fortunately, the amount of sampling error can be calculated because a form of probability sampling was used. The standard error of the estimate is a statistic which reflects sampling error. After computing the standard error for our estimate of 22,707, we can add and subtract the standard error from that value to produce a range of values. We can then have more confidence that the estimate falls within that range than we can have in using any single number as our estimate. When the computations are performed,⁷ the range of the estimate is 25,402 to 20,012.

Next we can add some estimate of the number of commercial robberies resulting in non-fatal injuries to employees or owners that would be eligible for compensation. Earlier, it was mentioned that the Census Bureau surveyed New York City commercial establishments in 1975 and estimated that there were 64,300 commercial robberies during 1974, about 8 percent (or about 5,144) of which resulted in injuries requiring medical attention. If we assume that these events would follow the same "filtering process" as the 35,060 rapes, personal robberies, and assaults in Figure 3, we arrive at a figure of 2,649 commercial robberies in which someone is eligible for compensation.⁸ Unfortunately, the information necessary to compute the standard error for this estimate was not available to the author.

Finally, we have to add claims arising from homicides.⁹ There were 1,533 murders known to the police in New York City during 1977. From these we should deduct murders in which the victim and offender were related. For New York State as a whole during 1977, about 10 percent of the murders were known to have been committed by a member of the victim's family. Decreasing the 1,533 New York City murders by 10 percent, gives us an estimate of 1,398 cases in which survivors of the victim (assuming there were any) might be eligible for compensation.

Table E-1 summarizes the estimates we have made. Using the high and low estimates of the numbers of eligible rapes, robberies, and assaults derived by adding and subtracting one standard error from the survey estimate of 22,107, and adding in the estimated 2,649 eligible commercial robberies and the estimated 1,398 eligible claims arising from homicide, we arrive at a range of eligible claims from 29,449 to 24,059. Those numbers are based on the minimum loss criteria instituted in 1977. We can go

through the whole set of computations with the same data, but using the pre-1977 minimum loss criteria. Although the computations will not be presented here, the result is a range of eligible claims from 18,192 to 14,112. Apparently, the 1977 change in minimum loss criteria has the effect of expanding the pool of events eligible for compensation in New York City by about 10,000.

Table E-1

Overall Estimates of Events Eligible for Victim Compensation
During One Year in New York City
Based on Minimum Loss Criteria Instituted in 1977

	Estimate	Plus One Standard Error	Minus One Standard Error
Non-series and series rapes, personal robberies, assaults	22,707	25,402 ^a	20,012
Non-fatal commercial robberies	2,649	2,649 ^a	2,649 ^a
Homicides	1,398	1,398 ^b	1,398 ^b
Total	26,754	29,449	24,059

^aNo standard error available for estimate.

^bNot a sample estimate; standard error not applicable.

Caveats to the Analysis

We have had to piece together data from several different sources to derive an estimate of the size of the pool of New York City events potentially eligible for victim compensation during a one-year period. Because we are dealing with estimates from less-than-perfect data sets, there is bound to be some error. Whenever possible, we have tried to err on the side of over-estimating the number of potential claims.

For example, the survey data used in this report were collected in 1975, but statistics published by the State of New York show that the number of murders, rapes, robberies, and aggravated assaults known to the police in New York City declined from 132,323 in 1975 to 121,886 in 1977.

Likewise, in estimating the numbers of eligible commercial robberies and of eligible series rapes, personal robberies, and assaults, it was assumed that these crimes would filter through the eligibility criteria the same way that non-series rapes, personal robberies, and assaults did in Figures 1 through 3. However, series crimes are generally less serious in terms of injury than are non-series crimes, and it is likely that coverage of medical expenses is more readily available to employees victimized in commercial robberies than to people victimized in personal robberies. Therefore, the number of these crimes filtered out by eligibility criteria may be greater than was assumed in this report.

Another shortcoming relates to the number of homicide claims treated as eligible. The number of murders known to be committed by relatives in 1977 were deducted from the total for New York City, but other factors could not be considered. For example,

there must be some survivor of the victim to claim medical costs, funeral expenses, or loss of support benefits. In addition, some homicides are "victim-precipitated" (the victim plays a major role in initiating the event), and claims could be disallowed on this basis.

Most importantly, all of the New York State victim compensation eligibility criteria could not be taken into account. First, although the survey data used in this report had information about unreimbursed (net) medical expenses, there was no way to determine how many of cases with days lost from work had reimbursement of earnings from other sources. Second, claims can be rejected if the expenses resulting from the victimization do not create "serious financial hardship" for the claimant. Although this provision is interpreted liberally in New York State, it is likely that it acts to screen out many potential claims, especially ones involving small amounts of financial loss. A third important, but missing, criterion is the one mentioned above for homicides: the victim must not have played a role in contributing to the crime. This provision may be applicable to many of the assaults in the data used here. Finally, the law requires that victims cooperate with the criminal justice system. The data used here only indicate whether or not the crime was reported to the police. But the need for cooperation does not stop at that point, and it is possible that some victims did not cooperate in follow-up investigations or in the prosecution process.

FOOTNOTES

1. For details of the sampling, interviewing, and weighting methods, see Criminal Victimization Surveys in Chicago, Detroit, Los Angeles, New York, and Philadelphia: A Comparison of 1972 and 1974 Findings. NCS Report SD-NCS-C-6. Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service. Washington, D.C.: Government Printing Office; or James Garofalo and Michael J. Hindelang, An Introduction to the National Crime Survey. Analytic Report SD-VAD-4. LEAA, NCJISS. Washington, D.C.: Government Printing Office.
2. This is especially true for violent victimizations occurring outside the family, and New York State's victim compensation law does not cover victimizations in which the victim and offender are related.
3. In a similar analysis done for an earlier (1975) LCER Program Audit, a slightly different definition of injury was used and non-responses were handled differently, so the "filtering out" of cases through the end of Figure 1 does not correspond exactly to the earlier analysis, which used data collected in 1973. However, ten percent of the rapes, personal robberies, and assaults in the earlier analysis required medical attention for the victim, and that figure is very close to the 13 percent found in the present analysis.
4. Survey information about net medical expenses and days lost from work were handled differently in this analysis than in the analysis for the 1975 LCER Program Audit. Specifically: (a) an imputation procedure, based on the extent of hospital treatment received, was used to estimate the medical expenses for victims who didn't know or didn't report their expenses, and (b) because days lost from work were originally coded into categories in the interviews, respondents in each category were assigned one of the values within the category on an equal probability basis.

5. The survey instrument records days lost from work by any household member because of the incident. However, in more than 90 percent of the cases, only one person (assumedly the victim) lost time from work, and in this analysis, days lost from work were only considered if the victim said he/she was employed at the time of the incident.
6. This figure was arrived at by taking the ratio of the number of eligible non-series events (18,039 - from Figure 3) to the number of non-series events that resulted in some kind of injury (72,960 - from Figure 1); the ratio is .247. Then, the estimated number of discrete events in the series victimizations that resulted in injury (18,900) was multiplied by this ratio (18,900 x .247 = 4,668).
7. The standard error of the estimate was computed using the following formula:
$$\text{S.E.} = \sqrt{ax^2 + bx}$$

where x = the estimated number of victimizations, and
a and b = parameters derived by the Census Bureau for the New York City survey results.
8. This figure was arrived at by taking the ratio of the number of eligible non-series rapes, robberies, and assaults (18,039 - from Figure 3) to the number of those events in which medical attention was required (35,060 - from Figure 3); the ratio is .515. Then, the estimated number of commercial robberies which required medical attention was multiplied by this ratio (5,144 x .515 = 2,649).
9. New York homicide data are from Crime and Justice: Annual Report 1977. New York State Division of Criminal Justice Services, Albany, New York.

APPENDIX F
PLANNED PROGRAM IMPROVEMENTS



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
CRIME VICTIMS COMPENSATION BOARD
270 BROADWAY, ROOM 200
NEW YORK, NEW YORK 10007
(212) 488-5080

BOARD MEMBERS

RONALD A. ZWEIBEL
Chairman
STEPHEN S. GOTTLIEB
GEORGE L. GROBE, JR.
DIANE McGRATH
ANGELO PETROMELIS
NORMA H. KEANE
Executive Secretary

January 29, 1979

COPY

Dr. Troy R. Westmeyer
Director
Legislative Commission
on Expenditure Review
111 Washington Avenue
Albany, New York 12210

Dear Dr. Westmeyer:

The Crime Victims Compensation Board is presently in the process of implementing programs that we believe will greatly increase our efficiency and will provide greater public awareness of this Agency.

With the cooperation of the Office of General Services, the Board is in the process of implementing a computerization program. The purpose of this program is to automate a significant portion of the Board's processing activities thereby enabling the Board to utilize its resources more efficiently and to obtain more comprehensive and timely information.


During the next fiscal year the Board intends to establish a special investigative unit to handle exclusively, claims filed by the elderly. The Board has found that special handling of investigations are necessary where the elderly are concerned and an application was made to the Division of Criminal Justice Services for a Grant to establish such a unit. We have been informed that \$50,000 has been allocated for this purpose pending formal approval of the application. This program will enable our regular investigative unit to concentrate on other than elderly cases and will aid in reducing overall investigative time by reducing each investigator's caseload. I would also add that as a result of implementing an Examiners Unit last year to serve as a pre-processing unit, we have been able to reduce the number of claims per investigator from 150 to 100. We believe that future reductions of the investigator's caseload will be possible in the next year when the full impact of the examination unit will be felt.

Dr. Troy R. Westmeyer
Page No. 2

The Board is undertaking significant steps to create greater public awareness of the Crime Victims Compensation Board. With the cooperation of the Metropolitan Transit Authority the Board has arranged, during the month of February, to provide all subway trains within the New York City Transit System with posters containing information about the Crime Victims Compensation Board. Additionally, we have updated our claim form and have provided space on the form for simplified mailing of the form to prospective claimants. In addition, the Board has requested budgetary funding to add a public information officer to its staff and to produce and distribute a training film on the New York State Crime Victims Compensation Program for use by law enforcement and victims' agencies. We believe that implementation of the above along with our advertisements on public awareness media will provide the public with sufficient information to ensure that all unfortunate victims of violent crimes in our State will be informed that they may be eligible for benefits from this Board.

I hope that this letter has been helpful in informing you of some of our goals during the next year.

Sincerely yours,


Ronald A. Zweibel
Chairman

RAZ:t

APPENDIX G
AGENCY RESPONSES

Crime Victims Compensation Board

State of New York
Executive Department
Division of the Budget

Page numbers of the preliminary report differ from those in this printed report. Thus page numbers mentioned in the agency response have been changed by LCER staff to correspond to this final report.



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
CRIME VICTIMS COMPENSATION BOARD
875 CENTRAL AVENUE
ALBANY, NEW YORK 12206
457-4060

BOARD MEMBERS
RONALD A. ZWEIBEL
CHAIRMAN
STEPHEN S. GOTTLIEB
GEORGE L. GROBE, JR.
DIANE McGRATH
ANGELO PETROMELIS
NORMA H. KEANE
EXECUTIVE SECRETARY

March 26th, 1979

Dr. Troy R. Westmeyer, Director
Legislative Commission on
Expenditure Review
111 Washington Avenue
Albany, N.Y. 12210

COPY

Re: Agency Response to LCER
Program Audit, 1978

Dear Dr. Westmeyer:

Thank you for providing a copy of your report and affording the Board the opportunity to have its response included in the text of the final report. We have carefully reviewed the report and its major findings.

We find that while the Report itself contains much useful information and some valid conclusions, we must except to several of the conclusions contained in the Program Audit Summary (pp. S-1 through S-5). Some of these conclusions are misleading, lack factual basis or support, or are dated.

We direct our comments primarily to statements in the Summary and Conclusions of the Report (p.S-2 - S-5) which we believe are misleading if not completely in error:

1. LCER'S ESTIMATE OF THE "POTENTIALLY ELIGIBLE VICTIMS" EXAGGERATES THE NUMBER OF CRIME VICTIMS WHO ARE ELIGIBLE FOR COMPENSATION UNDER THE PRESENT STATUTE. (p.S-2, first two paragraphs)

LCER's conclusion that there were 26,754 potential eligibles in New York City in 1978 seems to be based on the estimation analysis in Appendix E of the Report. The figure cited of nearly 27,000 "potentially eligible" for compensation victims in New York City in 1978 is misleading because it gives no weight to several statutory eligibility requirements used by the Board which substantially reduces the number of potential eligibles.

The requirements of "serious financial hardship" (§631(6) Executive Law) (the means test), collateral payments for lost earn-
(continued)

Dr. Troy R. Westmeyer, Director
March 26th, 1979
Page Two

ings or support (§631(4) Executive Law), and victim provocation or failure to cooperate with the criminal justice system (§631(5) Executive Law) act to substantially reduce the number of victims eligible for compensation.

The statutory requirement that the Board must find that a claimant suffered "serious financial hardship" as a result of the crime-related injury tends to screen out many small claims which represent a large proportion of the injury related losses by crime victims. According to one national study, 79% of victimizations with lost time from work involved out-of-pocket losses of under \$250, and 90% of victimizations with net medical costs involved losses under \$250.¹

Crime Victims Compensation is granted by grace to those in serious financial need in New York State. The Board has asked the Legislature to moderate the means test, but until the Legislature acts the CVCB must continue to enforce it, and in so doing many if not most small claims are ineligible for compensation as no serious financial hardship exists. To count the thousands of persons with such losses as "potentially eligible" as LCER has done in this audit report, ignores the reality of the means test, as well as several other eligibility criteria.

The inaccuracy of LCER's estimate of eligible victims is further demonstrated by the fact that while the incidence of violent crime in New York City has declined, LCER claims that the number of potentially eligible victims who are not filing claims increased over 300% from 5,037 in 1973 (1975 LCER Program Audit, Chart S-1 to 22,569 in 1978. Over the same period, claims to the CVCB increased by 120%. As this so-called "new target population" estimated by LCER is exaggerated, there is no basis for the conclusion that the CVCB is reaching only a small percentage, under 20%, of its eligibles as stated in its Summary at page S-2, second paragraph.

On the other hand, we believe there is good evidence that the CVCB is reaching and compensating the great majority of those persons with serious financial hardships caused by violent criminal acts. As proof of this statement, we cite the statistics on the most serious of all violent crimes: Murder.

While murders represent less than 1% of the violent crimes in the State, over 16% of the Board's claims involve homicide cases and 22% of the Board's awards were paid to the survivors of murder victims. In fact, the 766 claims arising out of homicide cases, received by CVCB during 1977-78, represent the great majority of eligibles for this most serious of crimes. Similar findings obtain for aggravated assault. On the other hand, the less serious violent crimes, where financial loss from medical expenses or lost earnings

(continued)

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tend to be slight, result in compensation claims for only a small proportion of the total number of incidents.

2. PROGRAM AWARENESS HAS IMPROVED DUE TO CVCB EFFORTS, FURTHER GAINS ARE LARGELY DEPENDENT ON LAW ENFORCEMENT AGENCIES IMPLEMENTATION OF THE LAW MANDATING NOTIFICATION OF ALL VICTIMS OF THE COMPENSATION PROGRAM.

LCER's survey of CVCB claimants, would seem to indicate a relatively high level of public awareness. Moreover, most claimants learned of the CVCB program, directly or indirectly, through CVCB efforts or direct notification by the police.²

Without any budget allocation for this purpose, the CVCB conducts extensive outreach efforts. These efforts have included radio and television public service announcements and appearances; distribution of CVCB materials to hospitals, law schools, private attorneys, district attorneys' offices, all law enforcement agencies; newspaper and media interviews; community organizations and agencies; numerous speaking engagements by CVCB Board Members and Staff; and subway advertisements.

There is now strong evidence that the key to greater victim awareness and participation in the program lies in direct notification of victims by police agencies. The Board's 1977-78 Annual Report publishes, for the first time, the participation rate in the program by the county.³ While the Board's public information and awareness program is fairly uniform throughout the State, the participation rate by county shows enormous variations, leading to the likely conclusion that police notification of victims plays an important role in victim participation and claim filing. For example, a violent crime victim in Syracuse, which has a model program, was three times more likely to file a claim with the Board than a victim in New York City.

Participation by county ranged from Onondaga with 12% of all reported violent crime incidents resulting in a claim filed with the CVCB, to several counties with less than 1% of their reported violent crime incidents resulting in a claim. This large disparity in participation rates between various counties cannot, we believe, be attributed to lack of general public awareness or the Board's outreach activities, which while limited by budget restraints are maintained at a basic level throughout the State. Further, the Board's outreach efforts are perhaps most particularly concentrated in New York City, which had a relatively low participation rate.

The fact is that violent crime victims have many serious and traumatic problems after an attack. Without personal and direct

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notification, many persons, even with a general awareness of the program will not file a claim. The Board expects that as law enforcement agencies properly and completely implement the mandatory notification law (§625-a Executive Law) by directly providing information and application forms to all violent crime victims, the participation rate will increase and equalize among the various counties of the State. The Board has accordingly placed increasing emphasis on working with law enforcement agencies, and has applied for funding to produce a training film on the CVCB program for use by law enforcement agencies and community organizations. The Board has also applied for funding of a public information officer to coordinate its outreach efforts on a full time basis.

3. THE RECENT STATISTICS INDICATE THAT DECISIONS ON CLAIMS ARE KEEPING PACE WITH INCREASED CLAIMS FILED. (p. S-5, paragraph 6).

Since 1974, the CVCB received a large increase in claims (120%), and with little increase in staff, has substantially reduced the processing time on claims. (Average is now 92 days from date of filing to date of decision vs. 225 days in the 1971-74 period.) The number of awards has also increased during the four year period, 1975-78, to 6,800, as compared to 3,480 awards made to crime victims during the previous eight years (1967-74).

The statistics used by LCER in this area are somewhat dated. While the number of claims being filed continues to increase, the number of open claims has dropped from 2,400 as measured by LCER in September, 1978 to 2,090 in January, 1979.

The Board's most recent statistics indicate that for award decisions, the average time from filing a claim to time of decision is 4 months, with another 1-2 months required before the claimant receives payment due largely to statutory approvals and administrative processing of award decisions by the Department of Law and the Department of Audit and Control.

Should claims continue to increase, award decisions may again not be able to keep pace with claims filed unless appropriate increases in staffing are forthcoming.

4. THE "INADEQUATE" INFORMATION ON CLAIM STATUS" CITED BY LCER (p. S-4, 5th paragraph) IS NOT DUE TO INADEQUATE RECORDS OR DATA, BUT IS A PROBLEM OF FAST INFORMATION RETRIEVAL FROM THOUSANDS OF MANUALLY KEPT RECORDS.

This problem should largely be corrected when the computer system proposed for the Board by the Office of General Services is implemented.

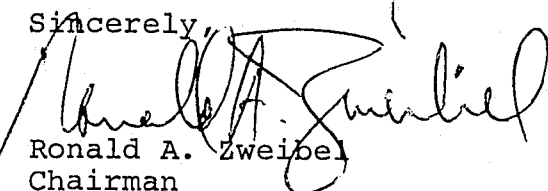
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CONCLUSION

In conclusion, we believe, it is important to note that while such audits tend to focus on areas perceived to need improvement, the basic achievements of the program and the Board should not be lost sight of. First, whether measured against past performance or other state programs, the compensation program administered by the Board is clearly one that works. Meaningful financial aid is being provided to thousands of innocent victims of violent crime who are often in desperate financial need. Secondly, the program operates at a very low administrative cost (13% of benefits paid), while providing efficient and timely service to crime victims throughout the State of New York.

Sincerely,


Ronald A. Zweibel
Chairman

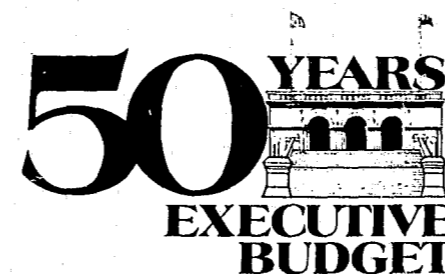
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FOOTNOTES

¹ Compensation of Victims of Violent Crimes, "Potential Costs and Coverage of a National Program", U.S. Dept. of Justice, LEAA, Analytic Report SD-VAD-5, 1977, p. 25, p. 30, (Survey data from 1974).

² See Chart S-1, p. S-3 of 1978 LCER Audit Report. About 26% of claimants stated they learned of the program from police departments, while another 32.7% learned about the program directly from the CVCB or through the main channels used by the Board to disseminate information to the public, i.e. radio, television, newspaper articles, and in hospitals.

³ 1977-78 Annual Report, Crime Victims Compensation Board, State of New York, pp. 17-19.



Golden Anniversary Celebration

HOWARD F. MILLER
Acting Director of the Budget

March 16, 1979

Mr. Troy R. Westmeyer
Director
Legislative Commission on
Expenditure Review
111 Washington Avenue
Albany, New York 12210

COPY

Dear Troy:

Thank you for the confidential copy of your program audit "Crime Victims Compensation Program."

It is encouraging to note the dramatic increases from 1974-75 to 1977-78 in the numbers of claims received and processed to completion. Also, the significant increase in funds expended for claims is a sign that the program is accomplishing its objectives - that is to provide aid and support for victims of crimes. Information received from the Board indicates the increases are still continuing in 1978-79.

Although the public awareness, mandated by legislation effective in 1977, increased the workload and caused delays in claims processing originally, the Board is now catching up. As of December 31, 1978 there were 2,051 open claims as compared to the 2,446 cited in your report (as of September 30, 1978), a 16 percent improvement in three months. One reason for this decrease in open claims is that staff, hired in early 1978 to cope with the anticipated workload, have now gained experience and are able to not only keep abreast of the incoming claims but to steadily decrease the backlog.

We are also working with our Washington office to ensure that any proposed Federal legislation recommending partial reimbursement to states having crime victims programs provides maximum benefits to New York State.

Public awareness may still be limited, but it appears to be expanding as indicated by the steadily increasing number of claims filed annually.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Howard', written over a horizontal line.

EFFECTIVE GOVERNMENT AND FISCAL RESPONSIBILITY

**PROGRAM AUDITS OF THE
LEGISLATIVE COMMISSION ON EXPENDITURE REVIEW**

Manpower Training in New York State, February 16, 1971.*	New York State Parkways, April 21, 1975.
Narcotic Drug Control in New York State, April 7, 1971.*	Tri-State Regional Planning Commission Programs, May 5, 1975.*
Fish and Wildlife Research in New York State, June 24, 1971.*	Foster Care For Children, May 29, 1975.
Marital Conciliation in New York State Supreme Court, August 16, 1971.*	Disadvantaged Students in Public Two-Year Colleges, July 25, 1975.
Construction of Dormitories and Other University Facilities, December 1, 1971.*	Human Rights Programs in New York State, August 18, 1975.
Office Space for New York State, January 17, 1972.*	Patients Released From State Psychiatric Centers, August 29, 1975.*
State Supplied Housing for Employees, February 11, 1972.*	Financial Aid to Crime Victims, October 31, 1975.
Middle Income Subsidized Housing in New York State, February 29, 1972.*	Persons Released From State Developmental Centers, December 18, 1975.
New York State Criminal Justice Information System, March 17, 1972.*	New York State Job Placement Programs, December 30, 1975.
New York State Division For Youth Programs, April 21, 1972.*	Pre-Kindergarten Programs, December 31, 1975.
Snow and Ice Control in New York State, May 31, 1972.*	DOT Real Estate Program, April 15, 1976.
Urban Education Evaluation Reports for the Legislature, June 30, 1972.*	Solid Waste Management in New York State, May 20, 1976.
The Role of the Design and Construction Group in the New York State Construction Program, July 7, 1972.*	Boards of Cooperative Educational Services Programs, June 28, 1976.*
Consumer Food Health Protection Services, August 17, 1972.*	Boards of Cooperative Educational Services Finances, June 30, 1976.
Milk Consumer Protection Programs, September 15, 1972.*	Workmen's Compensation Program for State Employees, July 30, 1976.*
State University Construction Fund Program, October 5, 1972.*	Public Pension Fund Regulation, October 29, 1976.
Surplus and Unused Land in New York State, January 15, 1973.*	Computers in New York State Government, December 1, 1976.
Evaluation of Two Year Public College Trends, 1966-1971, April 2, 1973.*	Health Planning in New York State, January 3, 1977.*
Educational Television in New York State, July 6, 1973.*	The Optional Service Charge Law, March 11, 1977.
Construction of Mental Hygiene Facilities, October 3, 1973.*	Immunization of Children, May 27, 1977.
Community Mental Health Services, October 10, 1973.*	State Parks and Recreation Program, October 11, 1977.
The Acquisition and Construction of Drug Abuse Treatment Facilities, January 18, 1974.*	State Travel Costs, December 15, 1977.
State University Health Science Programs, January 24, 1974.*	Venereal Disease Control, December 16, 1977.
Day Care of Children, February 14, 1974.*	State Environmental Permits, December 19, 1977.
State Aid to Libraries, March 4, 1974.*	Pupil Transportation Programs, January 30, 1978.
Health Insurance For Government Employees, May 30, 1974.*	Housing Maintenance Code Enforcement in New York City, March 31, 1978.
Civil Service Recruitment of State Professional Personnel, June 17, 1974.*	Vacation Credit Exchange, June 16, 1978.
Retail Services in Government Agencies, September 10, 1974.*	Adirondack Park Planning and Regulation, July 31, 1978.
Nuclear Development and Radiation Control, October 1, 1974.*	School Food Programs, August 7, 1978.
College for the Disadvantaged, October 15, 1974.*	SUNY Developing and Nontraditional Colleges, September 26, 1978.
Driver Licensing and Control Programs, October 20, 1974.	Newborn Metabolic Screening Program, October 31, 1978.
State Historic Preservation Programs, November 1, 1974.*	Fiscal Effect of State School Mandates, December 20, 1978.
Industrial Development in New York State, November 25, 1974.*	School District Budget Voting and Contingency Budgeting, December 26, 1978.
Programs for the Aged, March 31, 1975.	State Aid for Operating Sewage Treatment Plants, April 16, 1979.
New York State Fair, April 15, 1975.	Crime Victims Compensation Program, April 23, 1979.

*Out of print; loan copies available upon request.

**LEGISLATIVE COMMISSION
ON EXPENDITURE REVIEW**

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