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CRIME VICTIM'S COMPENSATION BOARD
TESTIMONY BEFORE
HOUSE JUDICIARY COMMITTEE
OVERSIGHT HEARING

Chairman, Rep. Thomas R. Caltagirone
Minority Chairman, Rep. Jeffrey E. Piccola

April 30, 1991

Good morning Representative Caltagirone and members of the Judiciary Committee. My name is Marianne F. McManus and I am Chairman of the Crime Victim's Compensation Board. I am pleased to be here today to talk about this wonderful program that has benefited many victims and their families.

CRIME VICTIM'S COMPENSATION BOARD

Act 139 of July 1976 created a crime victim's compensation program as a response to the financial losses incurred by innocent victims of crime. Individuals injured during the commission of a crime not only suffer physical and psychological pain, but also any out-of-pocket losses that result from medical expenses or loss of income. To qualify for compensation, an individual must have incurred a minimum out-of-pocket loss of \$100.00 or two continuous weeks' earnings, unless the victim is age 60 or older. A claimant may receive up to \$35,000.00 for actual losses, but compensation may not be paid for pain and suffering or for property loss or damage. It is the mission of relieving the uncompensated losses of innocent victims which the Board strives to achieve.

This program has grown significantly since the days when the Board received under 40 claims per week. A dramatic increase occurred after the passage of Act 114 of 1979 which requires that local law enforcement agencies give notice of the availability of compensation. However, the Act currently permits the required notice to be given by detectives instead of the responding officers. Since not all crimes go to the detective division of a police department, there is a distinct possibility that a number of eligible claimants remain unaware of compensation availability. Accordingly, we suggest that Section 17 be amended to require the provision of notice by the responding officer. At our request, this was done in the City of

Harrisburg last summer, and the number of claims has increased significantly.

Other amendments since 1979 have expanded the definition of "loss of earnings" to include stolen cash proceeds of social security, railroad retirement and child or spousal support payments. H.B. 77 further enlarged this eligibility class. Pennsylvania may be the only state which pays for stolen cash of any kind. (New York reimburses \$500.00 for a cash loss) These payments are not eligible for federal reimbursement.

Mission of the CVCB

The Crime Victim's Compensation Board is committed to helping as many innocent victims of crime as possible. To fulfill this commitment, the Board has a responsibility to administer the program in the most efficient way possible. Included in this is the continual monitoring of the compensation fund to ensure that funds remain available to cover as many victims as possible. To further that goal, victims of drunk driving accidents, as passed in H.B. 77, will be included among those to be compensated.

Not all of you may be familiar with the operations of the Board. An individual submits a claim form with supporting documentation. When all the supporting documentation is complete, the claim is accepted for processing and is in an "Open - no verification" status. The claim is referred to the verification unit which asks for information from providers and criminal justice agencies. The claim is now in the "Open - in verification" stage, which can take three weeks or many months, depending upon the cooperation of the entities involved. Hospitals, doctors, employers, local law enforcement agencies and clerks of court, in that order, are most derelict in responding to our requests. While Section 19, added in 1986, subjected a provider to a civil penalty of \$10.00 per day for failure to respond within 30 days, no prosecutor is interested in pursuing this matter. We suggest that more teeth be put in this section. At the very least, providers who fail to respond should forfeit their right to collect from the victim or other responsible person.

Once a legal assistant has collected enough information, the claim is transferred to "Open - Board Member" status while the Member assigned prepares a formal Report and Recommendation to the entire Board and a decision is also written. Prior to submission to the Board, the claim is reviewed by the Office of General Counsel for form and legality. It is then voted upon by the entire Board, and goes into "Open - Awaiting Acceptance" status during which the claimant has 30 days to accept or reject the decision. Acceptances have been submitted much later than 30 days, especially if an

attorney is involved, and we have accepted rejections after the 30 days if the claimant presents good cause for not meeting the deadline.

However, we have had claimants not accept an award for years, which is another story.

If there is an award of compensation and that award is accepted, a request is made of the Treasurer through the Comptroller to issue checks in accordance with the Board's Order. At that time, the claim is considered "Open - in Treasury" where it remains until the checks are mailed. It is then "Closed-Paid."

Supplemental Awards - Claims which can be opened multiple times. In the case of a paraplegic for instance, there are ongoing medical expenses over many years. This claim would continue to be re-opened until the maximum award was made.

From the above description, you can see that there are many aspects beyond our control: provider response; receipt of acceptance; and processing of checks. Provider delays account for 45 days, plus another 45 for a subpoena, if necessary; acceptances, another 30 to 60 days, and Treasury/Comptrollers, an average of 42 days, for a total of 147 days or 29.4 weeks or 7.35 months.

In addition to the actual processing of claims, the Board has several other aspects of victim compensation which have taken enormous amounts of time. For example, contact is made with the appropriate office of probation and parole or Clerk of Courts, whenever an award is made for two reasons: first, so that any amounts paid in restitution can be deducted from our award, if appropriate, and second, to notify the county that future restitution payments are to be sent directly to the Commonwealth pursuant to Section 13 of the Act. These restitution payments are put into the General Fund and not into the Crime Victim's Compensation Fund which was created by Section 15(c) of the Act added in 1984.

The Board could be doing more, such as enforcing the Commonwealth's right of subrogation, but this Section 12 does not make it clear that all third party payments are affected, not just payments by the offender, and such enforcement would require time and staff, neither of which is available.

Even something such as preparation for this hearing has a serious effect on operations. I do not have a secretary. Nobody has a secretary. All staff are assigned to the processing of claims. My presentation today was written in longhand and given to a clerk typist who could have been working on approximately 30 claims during the time it took to finalize this statement. The graphs we have for you were graciously prepared by the Pennsylvania Commission on Crime

and Delinquency. We have neither the personnel nor the equipment to draw the same.

The staff of the Board is the same as it was in 1982 when there was a case load of 129 claims per staff member. At the present rate, the Board could receive 4,000 claims in 1990-91, an average of 444 claims per staff member. This increase does not include DUI claims which will totally swamp an already overworked staff. Compare our figures with that of Pennsylvania Human Relations Commission where 174 staff members handle 10,000 complaints - an average of 57 1/2 per person.

The fund needs major rejuvenation. Figure 3 shows the trend of payouts and receipts. As the Board increases efficiency and improves program administration, the amount of payouts increases, and the fund balance decreases. The impact of DUI claims could be as high as \$3,000,000.00, which is virtually equal to the Board's present annual income. Payouts for 1990 exceeded revenues by \$941,022.51 (calendar year payouts \$2,854,556.26 versus revenues from imposed costs of \$1,913,533.75). The situation can only worsen.

Notwithstanding staffing and funding problems, the Board has accomplished a great deal since I arrived:

1. The Board has promulgated new Rules and Regulations which more fairly guide the Board in calculating actual losses.

2. The Board has expanded public speaking and awareness campaigns on behalf of the Commonwealth and the Crime Victim's Compensation Board.
3. Goals and Objectives, both short and long term, have been defined by the Board to improve proficiency and accountability.
4. The first training seminar for Staff and Board was conducted over a three-day period.
5. A Claims Service Representative position was created and filled. This representative handles the inquiries from the 1-800 toll free phone number, and this ensures consistency in communications with claimants.
6. A major revision of forms and correspondence was implemented to expedite the processing of claims.
7. Two statewide training seminars were conducted for victim service professionals, police officers and others who assist victims in filing claims.

8. A full time attorney joined the CVCB staff.
9. The first and second issues of a quarterly newsletter were published. This is a new effort to expand outreach and update colleagues on program information.
10. Legislation was introduced to expand the compensable coverage of the program and to bring Pennsylvania into compliance with Federal qualifying guidelines.
11. A bilingual staff member was added to the Board.
12. The CVCB Board Chairman was elected as an officer of the National Association of Crime Victim Compensation Boards.
13. A new Claim Form/Application was issued. This form provides more explicit instructions for the claimant, thus requiring less follow-up for the verifiers.
14. The Board published a new Brochure describing eligibility requirements and program benefits. 50,000 of these Brochures were distributed this fiscal year.

15. The initiation of utilization of Homeowner's Insurance to alleviate the cash loss of social security, railroad retirement or child spousal support. At a significant savings to the Commonwealth as yet to be determined.

In 1989-90, we had seven hearings, one appeal to Commonwealth Court, and two appeals to the Supreme Court of Board Decisions.

So far in 1990-91, there has been one hearing out of 2,127 claims adjudicated through April.

Most importantly, the number of claims adjudicated every month has risen from 90 to over 200. Once the third Board position is filled and the new member comfortable with the process, we hope to be able to adjudicate over 250 claims per month, thus eliminating some of the mythical "backlog."

"Budget"

The Board's fiscal year 1991-92 budget request included:
(1) Cost to carry 14 existing positions, additional hearing costs, and adequate operational and equipment costs to recover from the prior years 36% reduction in operating costs. Total \$745,000.00

In addition, we submitted a Program Revision Request to maintain the existing program by providing sufficient personnel, automated technology, and other resources and to allow the Board to expand outreach. Included in all this is printing costs, an increase in personnel and training to eliminate the backlog and handle the influx of new claims.

The Governor's fiscal year 1991-92 budget recommends:

General fund Appropriations	\$617,000.00
Augmentation Restricted Revenue	87,000.00
	\$704,000.00

This is a 14% increase over the Fiscal Year 1990-91 general fund. The fiscal year 1990-91 operational costs of \$47,000.00 were depleted as indicated in the Sunset Audit. This situation was relieved by permission of usage of \$15,000.00 from Restricted Revenue to partially satisfy the shortfall. This makes perfect sense since everything in the office is essentially for victims.

I have distributed packets which contain information about the Board and what we need in the way of information for the individual claims. This I'm sure, will be of some help if a claim is to be facilitated.

In summary, I am pleased to report that the performance of the Board since the last Sunset Hearing has substantially improved, but it cannot function at optimum efficiency until it is adequately staffed and funded. I would also point out that the Board has already implemented or begun the implementation of many suggestions in the Sunset Audit.

I thank you for your attention and I will try to answer any questions you may have.