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Victim Compensation: An Analysis of Substantive Issues

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Since 1964 several jurisdictions have enacted social insurance schemes to cover economic losses sustained by victims of violent crimes. The laws and experiences of these jurisdictions are analyzed and synthesized in relation to substantive program issues. Varying administrative patterns and procedures are noted. Coverage is almost universally limited to crimes of violence, but compensable losses and categories of persons entitled to compensation vary.

In the 1960s legislation providing for compensation to victims of violent crimes was enacted in several countries, including Canada (eight provinces), Australia (two provinces), England, New Zealand, Northern Ireland, and several states in the United States. The growing interest in victim compensation is reflected in the extensive testimony given to bills introduced in the Ninety-second Congress by Senators Mansfield, Hartke, Mondale, and McClelland (39). In 1973 the United States Senate passed a crime-victim compensation bill.[1]

Victim compensation refers to payments made by the government to victims of crime. It differs from restitution, which involves payments, in either money or service, made by the offender to the victim of the crime. Whereas restitution has been suggested for its rehabilitative potential for certain offenders (13), victim compensation is commonly viewed as a way of spreading losses resulting from criminal victimization.

In this paper major substantive issues pertaining to victim compensation will be critically examined. Reference will be made to existing victim-compensation legislation to illustrate the manner in which the schemes have dealt with these issues. Such a synthesis will provide a comparative description of current victim-compensation schemes; identify trends in provisions included in emerging programs; and provide both

1. United States, Congress, Senate, SF300: Victims of Crime Bill, 93d. Cong., 1st sess. Passed the Senate March 29, 1973; referred to the House Judiciary Committee April 2, 1973.

students and planners of victim compensation with a concise examination of issues, with particular emphasis on how they are manifested in the operation of such programs.

Historical Background

Several writers have noted the fact that victims could receive reparation under archaic and primitive law systems, albeit the victim and/or his kin generally obtained restitution directly from the offender (3; 19; 27; 35). The Hammurabi code provided for an early but limited form of victim compensation; if a person was robbed on the highway and the robber escaped, the victim could expect the city in which the robbery occurred to reimburse him for his losses and, if the victim was killed, the city was required to pay a limited monetary award to the kinsfolk (7: 21).

In the 1800s Jeremy Bentham suggested victim compensation, although he preferred restitution (2: 386). Later, the Italian positivists (10: 498–520; 14: 434–35), despite their markedly different criminological tradition, also noted the need for victim compensation. Their views were discussed at a series of international penitentiary congresses of the late nineteenth century and were published in criminology textbooks of the early twentieth century. The positivists, however, shared Bentham's preference for restitution and viewed victim compensation as a supplementary program.

Contemporary victim-compensation plans are generally traced to Margaret Fry, an active member of the Howard League of Penal Reform in London.[2] Though she had been an exponent of restitution (11), Miss Fry in 1957 became aware of the inadequacy of restitution remedies and recommended a state system of compensation to victims of violent crime. She was, however, opposed to compensating victims of property crimes because of the danger of fraud. The Fry proposal touched off a parliamentary debate, which resulted in the establishment of England's victim-compensation scheme, which took effect on August 1, 1964 (16). New Zealand, however, influenced by the study and debate in England, enacted its Criminal Injuries Compensation Act in 1963 (which became effective January 1, 1964) and hence became the first industrial nation to provide public compensation to victims of crime. In the United States, California was the first state to enact a limited victim-compensation plan (1965). Several states followed—New York (1966), Hawaii (1967), Massachusetts and Maryland (1968), New Jersey (1971), and Alaska (1972).

The need for public victim compensation can be understood in light of the historic development of the criminal law, which gradually expanded into areas previously covered by tort law. This development resulted in elimination of the victim from the criminal law proceeding, while the state assumed responsibility for action against the offender and relegated the

2. *London Observer*, July 7, 1957, reprinted in Fry (12).

victim's interest to tort-law procedures. In practice, however, the victim is greatly restricted in his ability to obtain compensation (34). Tort remedies are limited by the fact that less than 25 percent of major crimes are actually solved by the arrest of the offender (38: 31); if no offender is identified through an arrest, there is obviously no one against whom to proceed in a civil suit. Another limitation of tort remedies is that offenders seldom have sufficient means to provide for damages. Furthermore, their ability to pay damages is limited by the extensive use of penal sanctions and by abysmally low prison wages. One of the few empirical studies in this area—the Osgood-Hall study—has disclosed that the "tort" suit, although possible in theory, is in practice powerless to assist the crime victim (23: 21–22).

Rationale for Public Responsibility

Two major arguments have been advanced for public compensation to the victims of crimes of violence—the obligation-of-the-state and the social welfare arguments. The obligation-of-the-state argument, which derives logically from legal theory, finds its roots in the separation of criminal and civil law. Proponents of this position argue that the state has monopolized the crucial areas of law enforcement and the right to punish wrongdoers; it has further separated indemnification to the victim from punishment of the wrongdoer, so that restitution is no longer a usual form of punishment. While making this separation, the state has failed to provide workable alternative means of redress to the victims of crime. Indeed, civil suits are made less effective by the very punishment the state imposes (i.e., imprisonment), and, in the interest of controlling violence, the state denies the victim the right to use direct physical means of forcing the offender to undo the wrong. Because of its monopolization of law enforcement (really a way of monopolizing and controlling the use of force), its separation of punishment from indemnification, and its failure to provide for the victim a workable way of securing restitution, the state tacitly, at least, creates a contract to provide its citizens with protection from crime. (The fact that taxes are collected for this purpose further enhances the contract argument.) The failure to provide effective protection as well as the denial to the victim of alternative means of redress creates an obligation on the part of the state to compensate the victim for his losses (21; 43; 44).[3]

Despite such obligation-of-the-state arguments, framers of current victim-compensation schemes have treated the duty to protect as justification for social legislation on behalf of the victim rather than as a basis for state liability. The New York legislation, for example, clearly establishes victim compensation as matter of "legislative grace," and the English program has been clearly *ex gratia*.

3. Kutner (21) does not favor victim compensation, but argues instead that civil suits should be brought against the state for its failure to provide adequate police protection.

All present victim-compensation programs are based on the social welfare rationale. Crime is perceived as an inherent hazard of modern society, and victim-compensation programs are considered as the mechanism for spreading the risks (i.e., nonvictimized members of society share the cost for those who have been victimized). Victim-compensation proposals can be compared with other types of social insurances, especially workmen's compensation; just as modern governments have assumed the responsibility for seeing that the worker is insured against the risk of industrial accident, so also have they insured him against the risk of criminal victimization (9: 178; 32: 21; 36: 242). Analogies have also been found with veterans' benefits. Just as injured or disabled veterans are entitled to public benefit because they have been victims of external aggression, so also can crime victims be made eligible for public benefits for injuries sustained from internal aggression (4: 73; 31: 447–48). Proponents of the social welfare argument frequently use the terms "responsibility" and "duty," but they are careful to indicate that these responsibilities and duties derive from the conditions of modern society and the grace of the state, not from a legally recognized liability in the relationship between the state and its citizenry. Linden, for example, finds the rationale and motivation in an awakened social consciousness:

> Most of the governments of the modern world, reflecting the awakened social consciousness of their people, are now committed to assisting all victims of adversity, whether it be because of illness, disability, old age or unemployment. There is no reason to deny that the desire to aid crime victims is largely a manifestation of these social welfare goals [23:96].

Administration

The prevailing pattern for administration of victim-compensation programs is the creation of an agency headed by a quasi-judicial body, which is frequently called a crime-compensation board. Members of such boards are generally appointed and employed full-time in larger jurisdictions and part-time in the smaller ones.

Exceptions to the practice of creating a separate board to administer the victim-compensation program are found in Massachusetts, California, Northern Ireland, Queensland, and New South Wales. Both Northern Ireland and Massachusetts provide that the criminal courts make the determination of compensation payments. In California, the Board of Control, a legislative agency charged with hearing claims against the state and making recommendations to the legislature about which claims should be allowed, handles the limited victim-compensation program. The New South Wales and Queensland schemes involve cumbersome arrangements by which decisions are made by the trial court (where the offender is tried), the attorney general's office, and the treasury.

The administrative efficiency of vesting the victim-compensation pro-

gram with an existing agency is questionable, especially with the courts, in which there is usually a backlog of cases awaiting hearing. There may be a distinct advantage in having a separate agency focus specifically on problems of compensation. Moreover, separating compensation questions from the court will reduce the possibility of contamination of the criminal process by introduction of questions about compensation.

In considering applications for compensation, answers to four questions are required: (*a*) Were the losses sustained from a crime falling within the purview of the law? (*b*) What is the extent of loss? (*c*) What dollar amount should be attached to this loss? (*d*) How should benefits be paid to the claimant? The usual decision-making pattern is for board members to hold hearings, in which evidence is presented as a basis for decisions. England's scheme, however, differs from the usual pattern: a staff member assembles necessary reports and data, which are presented to a single board member, who makes a decision on the basis of the written material. Only when the claimant appeals this decision is a hearing held before three board members. From its inception in 1964 through March 31, 1972, 92 percent of the single-member decisions were acceptable to claimants (17: 24). Thus, the English procedure offers an expeditious system, which is apparently satisfactory to the vast majority of the claimants.

Another issue is whether the hearings and decisions of the board should be public or private. England's scheme provides that all hearing be private. In defending this approach, Harrison argues that the board is permitted informality, which allows for a fairer determination of the facts than would be the case with public scrutiny of the hearing (18: 478). In contrast with this view are the laws of Maryland and New York, which clearly provide that the activities of the boards be matters of public record, except for any confidential material safeguarded by other sections of the public law. The usual pattern is to establish, by law, a policy of public hearing, but to allow the board considerable discretion to close hearings for specified reasons. Hearings may be closed, for example, to avoid embarrassment to the victims of sex crimes and to protect public morality.

Practically all programs provide for the claimant's right to legal representation, and none denies this right. The actual use of attorneys apparently varies widely; Maryland reports that over 90 percent of claimants are represented by attorneys (24: 10), whereas New York reports that less than 20 percent have their claims filed by attorneys (29: 7). No explanation of this discrepancy is readily available.

Most schemes provide for regulating attorneys' fees. The law may specify a maximum percentage of an award which may be charged (these laws usually make a misdemeanor of any attorney attempts to charge higher fees), or may provide the compensation board with authority to set maximum attorney fees. Some jurisdictions provide for payment of attor-

ney fees in addition to the award, while others require that the fees come from the award. In Ontario, where the law does not specifically govern attorney fees, the board has been using its authority to compensate for "other pecuniary loss" as a basis for allowing attorneys' fees as a reimbursable expense to the claimant (30: 9). Comparison of legislation of the later 1960s with the earlier laws clearly indicates a trend in the direction of regulation of attorneys' fees. Jurisdictions are remarkably consistent in limiting the claimant's right to appeal the board's decision on questions of fact or amount of the award. Most jurisdictions, however, permit limited appeal on questions of law.

The prevailing administrative pattern for victim-compensation programs has been to vest responsibility for the program with an independent board or tribunal. Larger jurisdictions provide staff for the board; in some jurisdictions, staff members make initial compensation decisions and the board serves as an appeal body; in others, staff members prepare cases for presentation to either an individual board member or groups of members for decision.

Coverage

Coverage is generally limited to the victims of crimes of violence, and, in the case of disablement or death, to certain classes of dependents. Minor exceptions include New Zealand, which provides compensation for property damage perpetrated by "escapers" from penal institutions, and Northern Ireland, which has a history of providing limited compensation for property damage stemming from the activities of "illegal associations" (26: 199). No jurisdiction, however, has seriously considered comprehensive compensation for property loss.

At present, neither private nor public insurance coverage is adequately protecting the victims of violent crime. The Osgood-Hall study in Toronto, for example, found that despite the fact that over 98 percent of the provincial population was supposedly covered by hospital insurance, 55 percent of the crime victims surveyed reported receiving less than full reimbursement for hospital losses and 36 percent reported receiving no reimbursement for hospital expenses; 62 percent were less than fully compensated for medical expenses and 38 percent reported receiving no compensation for medical expenses; and 95 percent received less than full recovery from salary losses (23: 24). These data from a jurisdiction with progressive public and private insurance programs offers impressive evidence that losses sustained by crime victims were not being adequately covered.

What classes of persons are eligible to receive compensation? The pattern is consistent. Compensation is provided to the actual victims of crimes and, especially in crimes leading to disablement or death of the victim, to persons dependent on the victim for support. An interesting

extension of coverage is found in the statutes of Alberta, New Jersey, New Zealand, Northern Ireland, and Ontario, which provide compensation for losses sustained by any persons responsible for the care of the victim. This provision was used in Northern Ireland to compensate the daughter of a victim for loss of wages when she had to terminate a job and provide care for her father, who had been disabled because of criminal action (25: 581).

Several issues concerning coverage require careful scrutiny by students and framers of victim-compensation programs. These include financial need as an eligibility condition, compensation for pain and suffering, reduction or denial of compensation because of victim fault, and compensation in cases in which the offender and victim are related or are members of the same household.

Financial need. Despite the argument that victim compensation should operate as a social insurance and provide payments not necessarily related to the victim's financial status, the schemes in California, Maryland, New York, Saskatchewan, and Newfoundland require the showing of financial need as a condition for receiving compensation. In fact, during its first year, the California scheme was administered by the Department of Public Welfare, which used the standards of aid to families with dependent children to determine eligibility.

Considering the victim's financial status as a basis for determining benefits poses problems. The New York Crime Victim Compensation Board has repeatedly reported that "the most difficult problem still continues to be determining serious financial hardship" (29: 10). The board reported that the most difficult problems have arisen in cases of (*a*) aged persons who have saved for retirement and whose financial condition is above the level at which they can be reimbursed for medical expenses and (*b*) working middle-class persons who pay taxes and, when victimized, feel that their medical expenses and loss of earnings should be reimbursed.

Providing compensation to victims regardless of need is expensive. However, while the financial need requirements are a part of some of the earlier legislation, it is significant that recent legislation tends to omit this requirement. It is not found in the laws of Hawaii, Massachusetts, New Jersey, and most of the Canadian provinces.

Pain and suffering. Another major issue is compensation for pain and suffering. While it is generally considered appropriate to spread the financial losses of criminal victimization, whether there should be a comparable coverage of pain and suffering is a more complex question. Pain-and-suffering awards constitute an effort to compensate the victim for suffering experienced rather than to reimburse him for expenses. In the United States, only Hawaii provides compensation for pain and suffering; outside the United States, all jurisdictions except Alberta make such awards. New Zealand places a limit of £500 on such awards. Walker sug-

gests that the English plan, which places no limitations on pain-and-suffering awards, has been administered so that the amount of these awards have been much lower than claimants would have won in civil court proceedings (40: 970–71).

Pain-and-suffering awards have been subject to considerable criticism. Childres suggests that "pain and suffering cannot be compensated . . . pain and suffering makes little enough sense in the common law, and makes none at all in state compensation to victims of criminally inflicted injury" (5: 278). However, pain-and-suffering awards can be justified on two grounds. First, such awards are a part of the civil law and include damages to which the victim is legitimately entitled in civil law suits; to the extent that victim-compensation schemes come into existence as the result of the ineffectiveness of civil law suits, then pain-and-suffering benefits should be provided. The English scheme, for example, uses common-law principles and precedents as the basis for determining awards including those for pain and suffering. Second, for some serious offenses, especially sexual offenses, pain and suffering may be the only damages, and, without such awards, the victim may go entirely uncompensated.

Culpable victim. A major argument in opposition to victim compensation is that sometimes the victim is culpable. This argument has gained strength from research on victim-offender relationships, which has called into question the frequent assumptions about the innocence of the victim and the guilt of the offender (1: 8; 31: 42). In addition to the factors increasing victim susceptibility (e.g., demographic categories with a high risk of victimization), growing evidence from the study of the socio-psychological interaction of victim and offender indicates that many victims engage in careless and/or provocative behavior, which increases the chances of becoming a victim. These are the culpable victims—those whose behavior contributes to victimization. Lamborn (22: 760–65) provides a useful frame of reference for the analysis of culpability. He suggests six levels: (*a*) invitation, "knowing and unnecessary entry into a dangerous situation"; (*b*) facilitation, "failure to take reasonable precaution to prevent a crime"; (*c*) provocation, "active inducement of a criminal response conduct in the nature of a dare"; (*d*) perpetration, "victim's initiation of a crime against another" (the issues of victim's intent separates provocation from perpetration); (*e*) cooperation, "victim's consent to the crime"; and (*f*) instigation, "active encouragement of a crime."

The culpable-victim argument is lent further credence by Federal Bureau of Investigation (FBI) statistics, which indicate that 31 percent of all murders in 1971 resulted from situations in which the offender and victim were members of the same family or were involved in romantic triangles and 41.5 percent grew out of other kinds of arguments. The FBI concludes that "the significant fact emerges that most murders are committed by relatives of the victim or persons acquainted with the victim"

and indicates that in cases of aggravated assault "the victim and offender relationship as well as the very nature of the attack makes this crime similar to murder" (38: 6–12).

Proponents of victim compensation reply that the argument is out of proportion to the risks. Childres, in addressing himself to the culpable-victim issues, reiterates a position taken earlier by Margaret Fry: "It seems clear that not many people would risk broken legs or smashed skulls for a week off the job with pay" (5: 274). Regardless of whether the argument is overstated, the victim-culpability issue is one of the more thorny questions confronting victim-compensation programs. It will remain an issue as long as questions of fault tend to be relevant in awarding losses from injuries.

All current victim-compensation programs provide the board with discretion to reduce or deny compensation benefits if it is determined that the victim contributed to his own injuries; the English scheme goes one step further and provides that a claim may be denied or reduced because of the claimant's character or way of life. Although no program has gone to a no-fault principle, there is a precedent for this in workmen's compensation, in which contributory negligence is not relevant in determining awards made for industrial injuries. In 1967, the Royal Commission for Personal Injury (Woodhouse commission), a parliamentary study commission in New Zealand, recommended that that country make victim-compensation awards without regard to victim fault, as well as combining all programs for compensation for injuries, regardless of source. This plan would have made New Zealanders eligible for compensation on a no-fault basis regardless of whether they had been injured as a result of industrial accidents, automobile accidents, or crime. Although they were not translated into law (41: 116–21), these recommendations might well be indicators of future trends. The concept of no-fault has been established in workmen's compensation, is receiving considerable attention in private automobile insurance, and may well be used in future victim-compensation legislation. To date, however, no program has moved in this direction. As long as the concept of fault is retained, compensation authorities will be confronted with the task of attempting to assess the involvement of the victim in the victimization and equitably reducing or denying the grant to reflect the extent of that involvement.

Victim related to offender. In most jurisdictions, living with or being a relative of the offender is a basis for denying victim compensation. The limitation has been instituted to prevent pecuniary gain to the offender because of the offense and to reduce the probability of fraud. The laws in Alberta and Ontario are exceptions; they do not exclude family members from compensation. Both Australian laws provide that family relationships of the aggrieved person and the offender be considered by the judge in making a compensation decision, but they do not absolutely limit eligibility. Compromises are found in the New Jersey and New Zealand stat-

utes, which provide that pain-and-suffering awards cannot be made to victims who are related to offenders, but permit compensation for other losses.

These provisions create potential inequities in the law. A spouse injured by a mate in a criminal assault would not be eligible for compensation, nor would a child battered by his parent; in many jurisdictions, the limitation also excludes relatives not living in the household of the offender. While persons injured as a result of family disputes may not command as much public attention as those who are accosted and injured by strangers, this possibility in no way reduces the plight of the victims. There is no reason to conclude that children of a wage earner killed by a relative are any less in need or less deserving of compensation than the children of a victim killed by a stranger. Considering the fact that the high percentage of murders and assaults emanate from family quarrels and lover triangles, this limitation may well subvert the intent of the law. Sander has suggested that the aims of avoiding fraud and providing pecuniary gain to the offender can be accomplished by means of alternatives other than eliminating relatives from coverage; he suggests the requirement that the claimant testify at criminal proceedings and that compensation be limited to medical expenses (33: 651).

Cost

In discussions on any social legislation, the question of cost is generally a main concern. Experience to date shows that existing victim-compensation programs have modest costs. Since, however, most existing programs are of relatively recent origin, it is difficult to make projections. In the first few years of operation, there are relatively few claims, since persons who are eligible for benefits are not aware of the program and therefore do not pursue claims to which they are entitled. Moreover, administrative procedures and eligibility requirements have limited the number of claims. Use of mechanisms such as maximum awards and limitation of coverage to certain crimes have prevented the costs from becoming excessive. The British board, which has the most extensive experience, made 4,901 awards in its eighth year (ending March 31, 1972) at a total cost of £3,282,172. An additional £298,228 (8.3 percent of the total budget) went for administration of the scheme (17: 6). As an example of expenditures incurred in the United States, Maryland made awards of $1,036,604 for 1972, its fourth year of operation (24: 10).

In all cases, funds for victim-compensation schemes come from general tax revenues appropriated by legislative bodies and do not depend on any specific earmarked taxes. Two jurisdictions, however, in an apparent effort to offset some of the costs, have in addition instituted special fines levied against convicted offenders. Maryland levies a mandatory $5 fine against all persons convicted of crimes, except automobile offenses. The

California statute directs courts to levy fines, in addition to any other sanctions, against persons convicted of crimes of violence, unless the court believes that the fine would impoverish the offender's family. In 1971 Maryland collected $122,000 from such fines, and it estimated collections of $140,000 for 1972, approximately 13.5 percent of the estimated compensation awards (24: 10). A major issue is whether it is fair to require identified and convicted lawbreakers to carry the cost of compensation for all compensable crimes.

While most statutes grant compensation authorities subrogation rights (i.e., they may institute civil suits against offenders and share in any settlements that the victim may secure through civil suits), exercise of such rights will not provide a practical or useful source of support for compensation programs. The ineffectiveness of civil suits in securing redress for damages to victims of crime has frequently been noted (23; 35). There is no reason to believe that compensation authorities can be any more successful in obtaining damages from offenders than have victims in the past. Indeed, the ineffectiveness of civil suits has been one of the reasons for shifting to victim compensation as a form of social insurance. Some statutes have gone beyond subrogation and provide a vehicle for the compensation authorities in cooperation with correctional officials to force convicted offenders to contribute toward reimbursement of the compensation board for amounts paid to victims. There have been no publicized accounts of the extent to which reimbursement is either ordered or successfully collected. Correspondence with officials in these jurisdictions indicates that this mechanism is seldom used; the assumption is usually made that the offender has no resources or that the imposition of a repayment requirement might jeopardize his rehabilitation.

Costs of compensation programs could be further reduced by deducting from the award monies received from other public and/or private insurances. This practice, particularly in reference to payments from private insurance, is questionable because it penalizes the victim who has taken steps to insure himself privately.

Many jurisdictions provide for a minimum claim (e.g., $100 in Maryland, New York, Massachusetts, and New Jersey). This plan supposedly discourages small claims and thereby reduces administrative costs. In addition, most schemes also provide for a maximum payment, ranging from $2,000 in Queensland and New South Wales to $15,000 in New York. The Saskatchewan and Newfoundland laws do not set specific maximums, but delegate this responsibility to the lieutenant governor in council. Maryland's law does not specify a maximum, but payments are tied to workmen's compensation schedules. England and Northern Ireland set no limit on awards for pain and suffering or out-of pocket expenses, but relate loss of earnings and earning capacity to the average weekly industrial wage. New Zealand sets maximum awards for pain and suffering and other pecuniary loss and relates the maximums for loss of

wages to family size. The rationales for maximums are to conserve limited public funds and to provide for a sharing of the benefits among the eligible applicants rather than to run the risk of exhausting the resources with a few very expensive claims. Maximum-benefit provisions are not consistent with the concept of spreading risks; with the exception of awards for pain and suffering, complete reimbursement for losses is a preferable policy.

Impact on Administration of Justice

A major argument against victim compensation centers around the anticipated deleterious impact that such provisions would have on the administration of justice. Such a concern is expressed by Mueller, who writes: "From the vantage point of criminal policy the proposal is definitely objectionable and is detrimental to effective criminal law enforcement. Criminal loss insurance is the sedative of self-protection and an invitation to risk taking especially in shady dealings" (28: 231). The victim, knowing that he will be reimbursed for losses, may become careless, or, conversely, the offender, knowing that the victim will be compensated, may have less hesitancy about inflicting injury. Inbau expresses concern that the victim, once compensated, will lose interest in what happens to the offender and will become less willing to assist in prosecution (20: 203). The opposite point of view has also been advanced. Linden suggests that better reporting of crime may create more community awareness of the extent of the crime problem and may stimulate better law enforcement (23: 26–27).

Most current victim-compensation programs require the reporting of the crime to the police within a specified period of time—usually forty-eight hours. Gilbert Geis argues that victim compensation will improve police effectiveness because the victims will be more willing to cooperate at the scene of the crime and because the compensation programs will remove from the police the burdensome and time-consuming duties of interpreting to crime victims that there is nothing that can be done to help them with their losses (15: 55). Both the Maryland (24: 12) and New York (29: 11–12) boards express the opinion that their programs are having a positive impact on the administration of justice.

Other concerns have been expressed about the possible contamination of the criminal trial by the compensation proceedings. Robert Scott notes that different levels of proof are required at the two proceedings, and he questions the impact of one on the other (37: 291–92). Will the fact that the victim has received compensation for a crime have any influence on the outcome of a criminal trial? What will be the impact of a pending compensation hearing on a victim's testimony at a criminal hearing? Will a defendant's successful pleas of self-defense have an impact on the compensation hearing? These are all difficult questions, to which there are no

ready answers. Most existing compensation schemes, however, have built-in procedures to minimize the impact of the two hearings on each other. For example, the usual procedure is to require holding in abeyance the compensation question if a criminal proceeding is imminent or in progress at the time that the compensation application is made. Compensation hearings are frequently required to be private if there has been no criminal conviction for the act that resulted in the compensation application.

Conclusion

This paper has examined major issues pertaining to victim-compensation schemes. To date, it has been mainly the legal disciplines that have paid attention to these issues. Because victim compensation is clearly a type of social insurance, professional persons in the field of social welfare might take a more active interest in the planning and operation of victim-compensation programs. Framers of victim-compensation legislation should be alert to the implications of these issues when determining the administrative structure and the provisions included in proposed programs. Researchers could make valuable contributions to such policy making through detailed investigations of these issues, particularly as they are manifested in existing schemes. There is some urgency, however, in conducting such research because, although victim-compensation programs are a relatively recent phenomenon, there is rapid growth of such schemes.

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