
STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2010

**Presented to the States on 22nd March 2011
by the Minister for Home Affairs**

STATES GREFFE

REPORT

1. The States, on 4th December 1990, approved a draft Act (R&O 8143, as subsequently amended by R&Os 8239, 8497, 8769, 9234, 51/2002 and P.113/2009) establishing a Scheme to provide compensation for victims of crimes of violence to replace the Scheme set out in the Act of the States dated 12th May 1970 (R&O 5350). Most recently, the States – on 10th September 2009 – adopted a revised Scheme (P.113/2009) which consolidated all previous amendments and incorporated a number of further changes recommended by the Board. Article 10(a) of the 1990 Act sets out the scope of the Scheme, the essence of which is as follows –
 - the Board may make ex gratia payments of compensation in any case where the applicant or, in the case of an application by a spouse or dependant, the deceased –
 - (i) sustained, in the Island or on a Jersey ship, personal injury directly attributable to a crime of violence (including arson or poisoning) or the apprehension or attempted apprehension of an offender or a suspected offender or to the prevention or attempted prevention of an offence or to the giving of help to a police officer who is engaged in any such activity, or
 - (ii) sustained personal injury directly attributable to a crime of violence (including arson or poisoning) in respect of which a court in the Island has jurisdiction by virtue of section 686 or 687 of the Merchant Shipping Act 1894 or such enactments as from time to time replace them.

2. In 1992, the then Defence Committee, conscious of the limitations of the 1970 Scheme (which provided for compensation only in cases where members of the public came voluntarily to the aid of another member of the public or the police and were injured in so doing), widened the scope of the Scheme to include crimes of violence generally. The 1990 Scheme came into force on 1st May 1991 in respect of injuries suffered on or after that date. Applications in respect of injuries suffered before 1st May 1991 are dealt with under the terms of the 1970 Scheme.

3. The current version of the Scheme, as well as the guide to the Scheme (entitled “Victims of Crimes of Violence”), incorporates all the amendments to the Scheme since its inception.

4. The Criminal Injuries Compensation Board comprises Advocate C.J. Dorey (Chairman, from June 2006), Advocates R.J. Michel and L.M. Gould (former Chairmen), Advocates A.S. Regal, P.deC. Mourant, D.J. Benest and (with effect from 1st August 2010) Mrs. M.E. Whittaker – these are the members who are “advocates or solicitors of the Royal Court of not less than 5 years’ standing” [Article 4(a) of the Scheme] – and ‘lay’ members Mrs. B.M. Chiang, Mr. M.A. Payne, Mrs. C.L. Jeune and Dr. G. Llewellyn. The Minister wishes to record his appreciation to all members of the Board for the work they have undertaken.

5. Under Article 15 of the Scheme, the Board may withhold or reduce compensation if it considers that –

- (i) the applicant has not taken all reasonable steps to inform the police;
- (ii) the applicant has failed to give all reasonable assistance to the Board;
- (iii) having regard to the conduct of the applicant before, during or after the events giving rise to the claim or to his character and way of life, it is inappropriate that a full award, or any award at all, be granted; and

furthermore, compensation will not be payable –

- (iv) if the injury was sustained accidentally, unless the Board is satisfied that the applicant was at the time taking an exceptional risk which was justified in all the circumstances.

6. The Board received 59 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2010. Because of the length of time it sometimes takes to finalize an award, not all applications are concluded in the calendar year in which they are received. Examples of the nature of applications and awards made in 2010 are as follows –

- (a) Whilst at work **B** had a liquid substance thrown into his face. This constituted a minor assault. That assault had results far beyond what could have been expected by the attacker, since it transpired that **B** had been suffering from work-related stress. The medical evidence was that this assault resulted in **B** suffering from post-traumatic stress disorder, the consequences of which have continued and resulted in him being unable to return to any form of work. The Board applied the maxim of the “eggshell skull” rule; that an individual is responsible for the consequences of his wrongful actions if these lead to injuries to another person, even if the victim suffers an unusual injury as a result of pre-existing vulnerability or medical condition. The gross award for the post-traumatic stress was £37,000. The loss of earnings would have exceeded £500,000. Accordingly, the upper limit of compensation of £100,000 was awarded.
- (b) **W** had been at a nightclub with friends. They left in the early hours of the morning. A group of males started to shout abuse at them, but they walked away. They were followed, there was an altercation, and **W** was knocked to the ground and kicked in the face and the body. Although nobody was charged with assault, one person was charged with affray, and there was sufficient evidence to establish that **W** was the victim of a crime of violence. **W** sustained a serious fracture to both sides of the jaw, which required operative treatment. He also suffered damage to his teeth. The Board awarded £8,350 with regard to general damages for the injuries and £836 with regard to dental invoices and clothing.

- (c) **C** was at a nightclub in St. Helier. The person standing next to him was struck on the head with a bottle; glass from the broken bottle then hit **C** on the chin. This has left **C** with a visible scar which will remain visible for some years. The gross award of £7,500 was reduced by 50% by reason of the fact that, prior to the assault, **C** had pushed the assailant and been verbally provocative towards him.
- (d) **F** had been at public house and thereafter a nightclub in St. Helier during the course of which he had consumed approximately 9 pints of strong lager. Upon leaving the nightclub he saw a scuffle between a friend of his and others and went over to speak to the group. At some stage he was knocked to the ground and kicked in the head. He suffered fractures to his right orbit and cheekbone. The police attended, various people were interviewed, but nobody admitted to seeing the incident. CCTV imaging did not assist. **F** was therefore unable to prove, on the balance of probabilities, that he was the victim of a crime of violence and there was a nil award.
- (e) **S** had been at various public houses in St. Helier and had consumed approximately 5 pints of lager and 3 'shorts'. There was an altercation with a female, as a result of which she kicked **S** in the groin, poured water over his head and threw a glass at him, resulting in a cut to the left side of the forehead. The Board accepted that **S** was the victim of a crime of violence. However, **S** was given a written caution for being disorderly on licensed premises, and thus the Board concluded that any award would have to be reduced by 50%. Further, it was clear from the injuries sustained that any compensation would be below the minimum amount of £750 and thus no award was made.
7. The Board received 7 requests for hearings during 2010, all of which related to claims where the applicant had appealed against the decision of the 2 member Panel's initial award. The Hearing Board determined that there was justification for making an award, or a revised award, in respect of 4 applications. The other hearings will be held at a later date.
8. Of the 1,307 applications received since 1st May 1991, 1,219 had been resolved as at 31st December 2010. Of the 88 applications in the process of resolution at the end of 2010, 9 related to hearings which remained unresolved, 18 had received awards which included an element of interim payment, and 11 others had been determined which awaited acceptance by the applicant. A total of 50 applications awaited reports and/or further information.
9. Alcohol-related incidents. The Board receives many applications in which drink has been a substantial cause of the victim's misfortune. From information available on the 59 applications received in 2010, 39 of those (that is 66%) involved the consumption of alcohol by either the assailant or the victim. Many of these incidents occurred in places and situations which the victims might have avoided had they been sober or not willing to run some kind of risk. In such circumstances the Board may make an award, but only after looking very carefully at the circumstances to ensure that the applicant's

conduct “before, during or after the events giving rise to the claim” was not such that it would be inappropriate to make a payment from public funds.

10. **Appendix 1** sets out statistics on activities during the period 1st January to 31st December 2010, relating to claims made under the Criminal Injuries Compensation Scheme.
11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2010 (59); and **Appendix 2(b)** shows, in tabular form, month by month, the total number of applications received annually from 2001 to 2010.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2010.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2010 and for the years 2002 to 2009, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended. For 2010, the budget for the Scheme was provided by means of the adoption by the States on 6th July 2010 of a proposition (P.74/2010) under Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2010, which had been previously approved by the States on 5th October 2009, in respect of a number of departments (e.g. the Home Affairs Department in the case of the funding for the Criminal Injuries Compensation Scheme) to permit increased withdrawals from the Consolidated Fund to fund Court and Case Costs. The Board notes that there continues to be little progress in relation to its recommendation made in 2002 that there should be an increase in the maximum award (which is currently £100,000) to £250,000 in order to bring it closer in line with similar awards made in respect of common law damages. However, in 2009, the Minister for Home Affairs agreed to review the level of the maximum award, although that review has not yet been concluded. It is worthy of note that, in recent years, a number of substantial awards have been made – some in the maximum sum of £100,000. This also occurred in 2010, with 2 maximum awards being made. Had the Board’s recommendation that the maximum award payable under the Scheme be increased been implemented, and the necessary budget provided, it is likely that the award payable to some applicants who are presently limited to receiving £100,000 would have been significantly higher. The Board is concerned that some very deserving applicants are suffering considerable hardship as a result of this failure to increase the maximum award. The year 2010 was the first full year of operation of Article 43A, whereby (with effect from 10th September 2009) awards are required to be accepted within 6 months of their notification to applicants, after which time they will lapse. This did not apply to any awards during 2010.

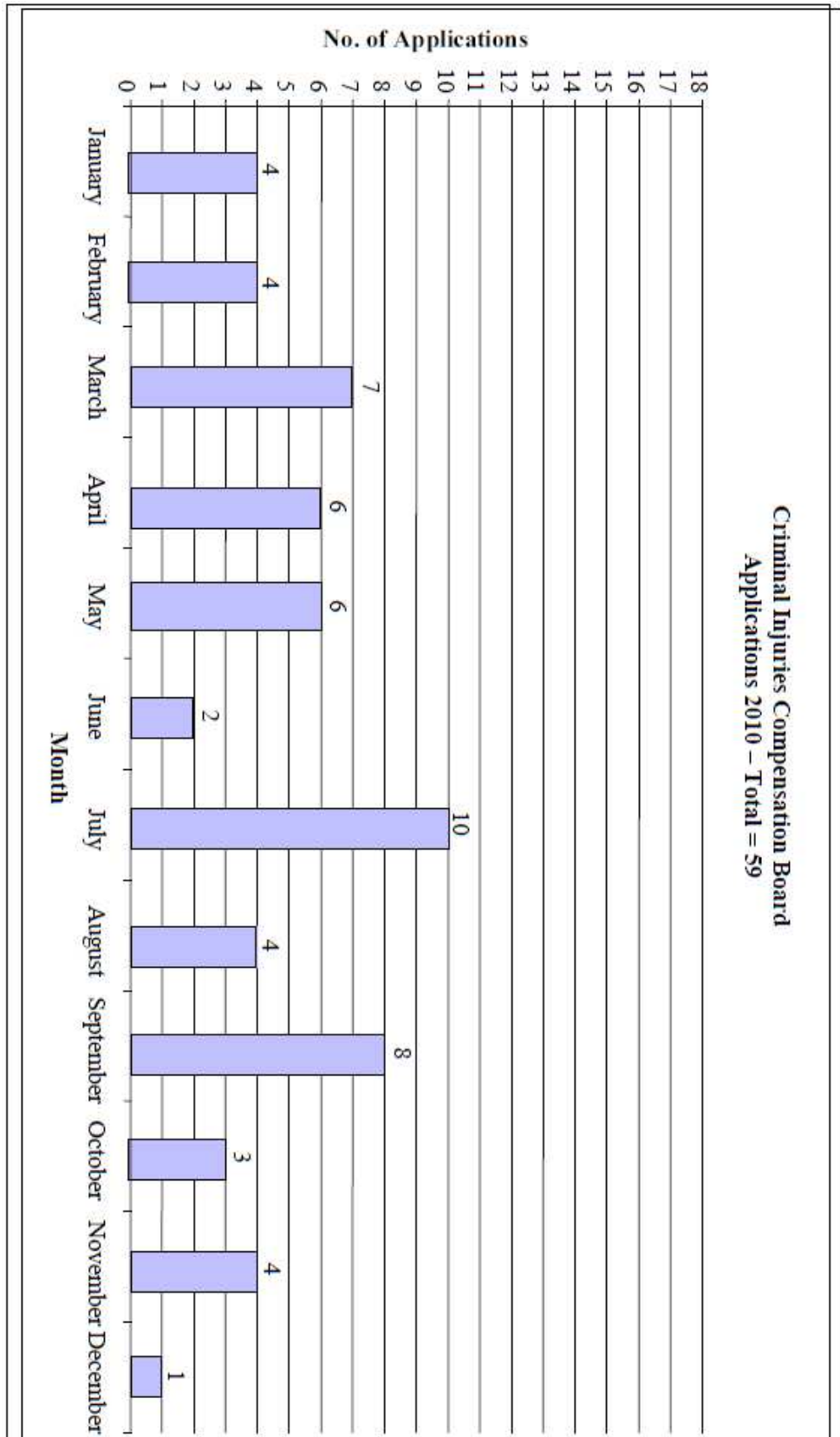
APPENDIX 1

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2010

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
2010				
January	4	3	5	15,052
February	4	6	1	nil
March	7	4	6	9,724
April	6	4	6	7,301
May	6	8	4	10,976
June	2	3	9	115,523
July	10	5	6	19,400
August	4	11	4	6,025
September	8	1	8	9,302
October	3	3	3	107,730
November	4	4	4	92,102
December	1	5	4	19,498
	59	57	60	412,183

NOTE: The figure for the total “Amount awarded” in this Appendix does not match the figure for the total “Compensation paid” in Appendix 4 because some awards are not paid until the following year and/or some payments relate to awards made in a preceding year.

APPENDIX 2(a)



APPENDIX 2(b)**CRIMINAL INJURIES COMPENSATION BOARD****Applications received for the period 1st January to 31st December 2010**
(and comparative figures for 2001 to 2009)

	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001
January	4	2	7	5	2	5	3	6	7	7
February	4	3	7	9	4	3	8	2	6	12
March	7	6	4	3	5	6	4	6	7	8
April	6	8	2	4	5	3	11	4	7	6
May	6	3	3	5	7	4	5	10	4	8
June	2	5	2	2	3	5	9	3	6	8
July	10	4	1	4	11	3	10	1	9	13
August	4	3	6	3	5	4	2	10	13	10
September	8	4	2	6	6	8	5	4	6	5
October	3	3	4	9	8	2	4	2	7	12
November	4	7	3	5	7	5	5	3	10	7
December	1	3	3	5	7	2	6	3	1	10
	59	51	44	60	70	50	72	54	83	106

APPENDIX 3

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2010

Total number of applications received = 1,307

Total number of applications determined = *1,219

nil	£1 to £999	£1,000 to £1,999	£2,000 to £2,999	£3,000 to £3,999	£4,000 to £4,999	£5,000 to £9,999	£10,000 and over	TOTAL
1991	£	£	£	£	£	£	£	£
–	–	1,706	–	–	–	–	–	1,706
(–)	(–)	(1)	(–)	(–)	(–)	(–)	(–)	(1)
1992								
–	3,901	8,160	5,452	3,886	–	5,899	–	27,298
(7)	(6)	(6)	(2)	(1)	(–)	(1)	(–)	(23)
1993								
–	3,919	8,985	17,444	6,641	–	11,500	53,084	101,573
(5)	(6)	(7)	(7)	(2)	(–)	(2)	(3)	(32)
1994								
–	10,411	8,728	14,735	9,678	17,900	28,121	–	89,573
(11)	(16)	(6)	(6)	(3)	(4)	(4)	(–)	(50)
1995								
–	10,000	8,095	2,438	10,254	17,346	13,690	–	61,823
(16)	(17)	(5)	(1)	(3)	(4)	(2)	(–)	(48)
1996								
–	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141
(28)	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)
1997								
–	6,608	10,557	18,216	6,825	4,500	33,178	–	79,884
(28)	(9)	(7)	(8)	(2)	(1)	(5)	(–)	(60)
1998								
–	11,896	27,984	16,412	22,338	9,047	50,272	53,320	191,269
(48)	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)
1999								
–	10,897	16,829	19,312	9,938	–	37,360	34,744	129,080
(34)	(16)	(12)	(8)	(3)	(–)	(6)	(2)	(81)
2000								
–	11,874	14,080	15,904	20,157	13,112	35,361	180,491	290,979
(46)	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)
2001								
–	16,035	17,367	11,920	21,084	4,612	77,468	141,400	289,886
(42)	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)
2002								
–	11,930	13,533	19,772	6,437	13,829	27,177	38,995	131,673
(29)	(16)	(10)	(8)	(2)	(3)	(5)	(2)	(75)
2003								
–	6,465	11,133	20,390	7,612	8,485	33,883	65,715	153,683
(43)	(9)	(8)	(8)	(2)	(2)	(5)	(2)	(79)
2004								
–	4,783	10,669	19,784	13,919	31,581	67,240	93,294	241,270
(34)	(7)	(7)	(8)	(4)	(7)	(11)	(7)	(85)

2005								
–	4,909	17,889	19,115	10,698	12,142	51,997	74,650	191,400
(28)	(7)	(13)	(8)	(3)	(3)	(7)	(4)	(73)
2006								
–	6,570	9,608	14,698	3,972	26,214	45,029	334,241	440,332
(27)	(9)	(7)	(6)	(1)	(6)	(6)	(8)	(70)
2007								
–	3,022	5,815	9,829	19,819	13,327	75,558	110,246	237,616
(23)	(4)	(5)	(4)	(6)	(3)	(12)	(4)	(61)
2008								
–	3,345	19,642	24,306	6,359	12,921	73,454	137,956	277,983
(23)	(6)	(15)	(10)	(2)	(3)	(11)	(9)	(79)
2009								
–	1,550	12,531	22,196	10,071	4,000	17,000	242,209	309,557
(19)	(3)	(9)	(9)	(3)	(1)	(3)	(9)	(56)
2010								
–	1,376	12,537	10,844	22,355	4,526	55,111	305,886	412,635
(25)	(2)	(8)	(5)	(6)	(1)	(8)	(5)	(60)
TOTALS								
–	142,976	254,031	310,898	232,332	202,774	787,871	1,997,479	3,928,361
(516)	(213)	(182)	(127)	(72)	(47)	(118)	(78)	(1,353)*
[38%]	[16%]	[13%]	[9%]	[5%]	[4%]	[9%]	[6%]	[100%]

N.B. The lowest award (other than nil) was £149, and the highest £100,000.

(Numbers in brackets represent numbers of applications. *The two figures for the total number of applications determined do not match because some applications receive elements of an award in different calendar years.)

[Numbers in square brackets represent, by category, the percentage of awards made of the total number of awards made.]

APPENDIX 4

ACCOUNTS FOR THE PERIOD 1ST JANUARY TO 31ST DECEMBER 2010

(AND COMPARATIVE FIGURES FOR 2002 TO 2009)

	2010	2009	2008	2007	2006	2005	2004	2003	2002
	£	£	£		£	£			
Publications	373	245	409	–	261	251	143	–	20
Printing and stationery	–	–	–	323	–	–	635	256	310
Payment to members of the Board	20,488	16,421	25,562	17,352	19,264	22,624	25,475	21,143	21,378
Medical reports	2,944	755	2,321	565	669	1,730	1,785	1,095	2,569
Hearing costs	429	–	–	–	–	–	157	614	–
Compensation paid	375,282	323,628	315,486	182,842	418,763	180,767	230,219	162,952	156,885
Administration	28,147	27,595	–	25,955	–	25,000	23,500	n/a	n/a
	427,663	368,644	343,778	227,037	438,957	230,372	281,914	186,060	181,162

Notes:

- From 1995, payment to members of the Board in respect of their time spent on applications has been made at a rate of £50 an hour. Comparative figures from 1997 are as follows –

Year	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997
Hours	376	400	499	290	392	432	457	209	435	495	372	379	457	355

- The figure for the total “Compensation paid” in this Appendix does not match the total “Amount awarded” in Appendix 1 because some awards are not paid until the following year and/or some payments relate to awards made in a preceding year.
- The heading “Administration” was introduced in 2004, as a consequence of the decisions made during the 2004 Fundamental Spending Review process, in order to reflect the payment by the Home Affairs Department to the States Greffe of a sum representing the cost incurred by the States Greffe in servicing the Board’s administrative needs. In 2006 and 2008, in view of the pressure upon the Home Affairs budget at the time, this cost was not passed on for those years.
- The years 2006, 2009 and 2010 saw a number of awards being made at or near the maximum permitted under the Scheme (£100,000). This led to higher than usual calls on the Scheme and necessitated a significantly increased allocation of funding to meet the awards made in those years.