
STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2009

Presented to the States on 29th June 2010
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 and 51/2002) 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 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 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. de C. Mourant and D.J. Benest – these are the members who are “advocates or solicitors of the Royal Court of not less than 5 years’ standing” – and ‘lay’ members Mrs. B.M. Chiang, Mr. M.A. Payne, Mrs. C.L. Jeune and Dr. G. Llewellyn. Advocate P.M. Livingstone retired from the Board during 2009. The Minister wishes to record his appreciation to all members of the Board for the work they have undertaken.
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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 51 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2009. Because of the length of time it sometimes takes to finalize an award, not all applications are concluded in the calendar year they are received. Examples of the nature of applications and awards made in 2009 are as follows –

- (a) G had been drinking and watching T.V. in some staff accommodation. He fell asleep. He was awoken by somebody returning to the staff accommodation who punched him in the face several times and also smashed a mug into his face. The assailant was convicted of a grave and criminal assault. G had several cuts to his face, a deviated septum, a fractured nose and other soft tissue injuries. He was left with scarring which was visible at conversational distances. The gross award of £8,200 with regard to the injuries was reduced by 97.5% in accordance with Article 15(c) of the Scheme by reason of G's several previous convictions, some of which were in respect of serious matters, and also by reason of his semi-drunken state. The net award was £205;
- (b) K had been in town during the course of the evening where he had been drinking comparatively heavily. Without any form of provocation, and whilst in a public house, he was punched and kicked. K sustained bruising to the eyelids, the forehead, the jaw, the chest and the arm. In addition, K described ongoing symptoms of anxiety and paranoia. The Board needed medical evidence with regard to the same, but K failed to produce any such medical evidence despite such requests. Accordingly it could only make its award on the basis of the physical injuries sustained and they fell below the minimum level of damages as set out in the Scheme and thus there was a nil award;

- (c) M was sitting outside a public house in town when he was the subject of an unprovoked assault during which he was kicked and punched about the head and chest. M suffered fractures to both sides of his jaw and an injury to his right ear. The injury to his ear was such that M lost his hearing in that ear. An interim award of £35,000 was made with regard to the physical injuries.
8. Of the 1,248 applications received since 1st May 1991 – 1,165 had been resolved as at 31st December 2009. Of the 83 applications in the process of resolution as at the end of 2009, 6 related to hearings which remained unresolved, 18 had received awards which included an element of interim payment and 17 others had been determined which awaited acceptance by the applicant. A total of 42 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 51 applications received in 2009, 26 of those (that is 51%) involved the consumption of alcohol by either the assailant or the victim, either on licensed premises or elsewhere. Many of these incidents occur 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 relating to claims made under the Criminal Injuries Compensation Scheme during the period 1st January to 31st December 2009.
11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2009 (51); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 1999 to 2009.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2009.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2009 and for the years 2001 to 2008, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended. For 2009, the majority of its budget was provided through the Criminal Offences Confiscation Fund (COCF) rather than directly from the budget of the Home Affairs Department. The Board notes that there has been 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 into line with similar awards made in respect of common law damages. 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 2009. Had the Board's recommendation that the maximum award payable under the Scheme be increased been implemented, it is likely that the award payable to some applicants who are presently limited to receiving £100,000 would be 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. However, the Minister for Home Affairs has indicated a willingness to review the level of the maximum award, and the Board members will consider what information they could make available to him in order that he could carry out such a review.

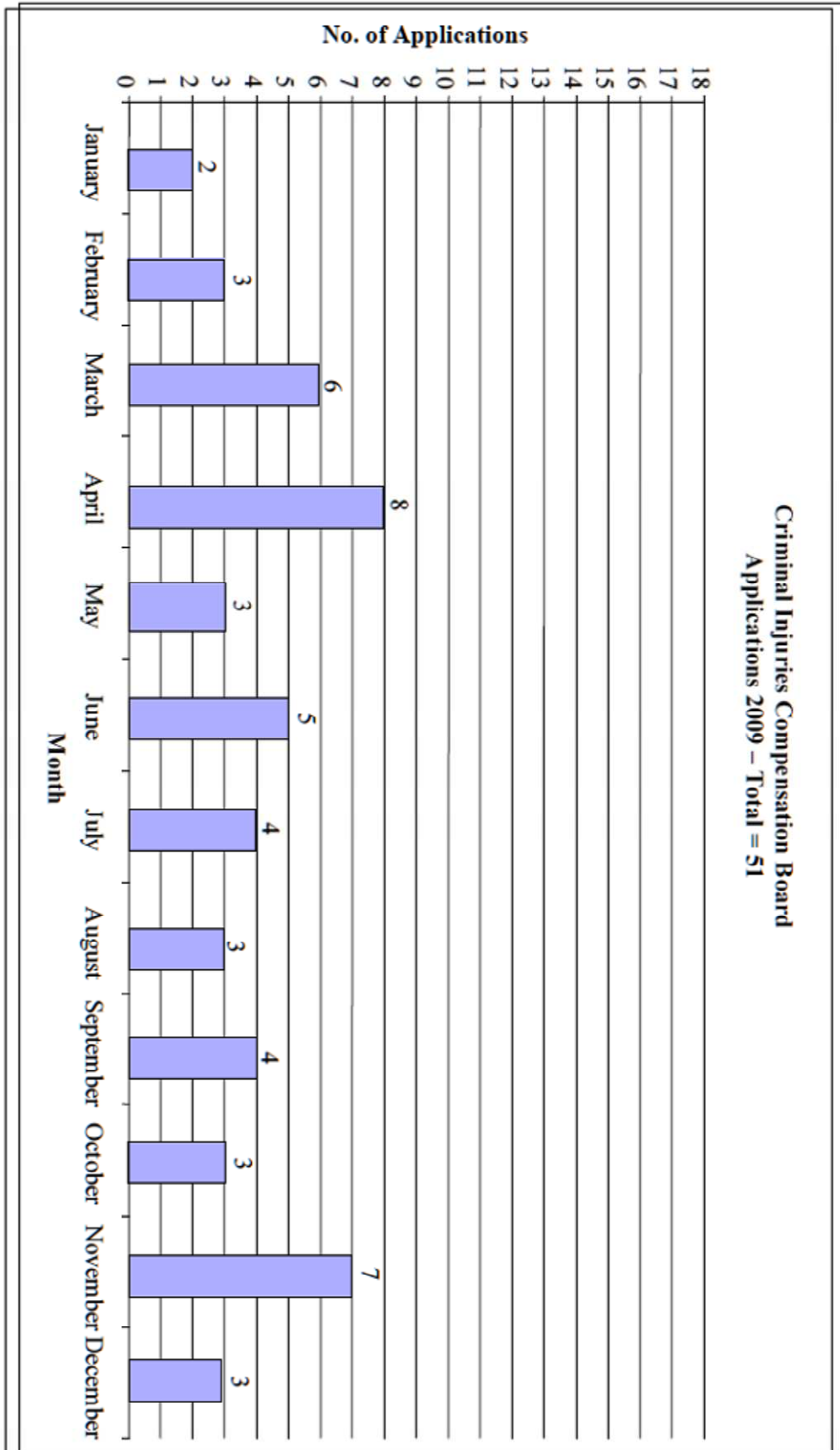
APPENDIX 1

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2009

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
2009				
January	2	2	7	5,884
February	3	4	6	95,333
March	6	5	4	2,066
April	8	5	–	–
May	3	4	4	23,609
June	5	4	1	1,874
July	4	8	6	10,772
August	3	4	7	29,862
September	4	3	2	2,682
October	3	4	13	4,002
November	7	3	4	26,750
December	3	2	12	106,723
	51	48	56	309,557

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 2009**
(and comparative figures for 2000 to 2008)

	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
January	2	7	5	2	5	3	6	7	7	4
February	3	7	9	4	3	8	2	6	12	8
March	6	4	3	5	6	4	6	7	8	13
April	8	2	4	5	3	11	4	7	6	5
May	3	3	5	7	4	5	10	4	8	3
June	5	2	2	3	5	9	3	6	8	9
July	4	1	4	11	3	10	1	9	13	12
August	3	6	3	5	4	2	10	13	10	9
September	4	2	6	6	8	5	4	6	5	10
October	3	4	9	8	2	4	2	7	12	6
November	7	3	5	7	5	5	3	10	7	17
December	3	3	5	7	2	6	3	1	10	6
	51	44	60	70	50	72	54	83	106	102

APPENDIX 3**RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2009**

Total number of applications received = 1,248

Total number of applications determined = *1,165

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)	(77)
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								
–	<u>1,550</u>	<u>12,531</u>	<u>22,196</u>	<u>10,071</u>	<u>4,000</u>	<u>17,000</u>	<u>242,209</u>	<u>309,557</u>
(19)	(3)	(9)	(9)	(3)	(1)	(3)	(9)	(56)
TOTALS								
–	141,600	241,494	300,054	209,977	198,248	732,760	1,691,593	3,515,726
(489)	(211)	(174)	(122)	(66)	(46)	(110)	(73)	(1,291)*
[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 2 figures for the total number of applications determined do not match because some applications receive elements of an award in different calendar years.)

APPENDIX 4

ACCOUNTS FOR THE PERIOD 1ST JANUARY TO 31ST DECEMBER 2009

(AND COMPARATIVE FIGURES FOR 2001 TO 2008)

	2009	2008	2007	2006	2005	2004	2003	2002	2001
	£	£	£	£	£	£	£	£	£
Publications	245	409	–	261	251	143	–	20	85
Printing and stationery	–	–	323	–	–	635	256	310	290
Payment to members of the Board	16,421	25,562	17,352	19,264	22,624	25,475	21,143	21,378	24,758
Medical reports	755	2,321	565	669	1,730	1,785	1,095	2,569	2,235
Hearing costs	–	–	–	–	–	157	614	–	995
Compensation paid	323,628	315,486	182,842	418,763	180,767	230,219	162,952	156,885	298,222
Administration	27,595	–	25,955	–	25,000	23,500	–	–	–
	368,644	343,778	227,037	438,957	230,372	281,914	186,060	181,162	326,585

- Notes: 1. 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 1996 are as follows –

Year	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996
Hours	400	499	290	392	432	457	209	435	495	372	379	457	355	505

2. 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.
3. 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.
4. The years 2006 and 2009 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.