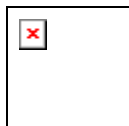


**CRIMINAL INJURIES COMPENSATION BOARD:
REPORT AND ACCOUNTS FOR 1999**

**Presented to the States on 10th October 2000
by the Home Affairs Committee**



STATES OF JERSEY

STATES GREFFE

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Report

1. The States on 4th December 1990, approved a draft Act (R & O 8143, as subsequently amended by R & Os 82 8497, 8769 and 9234) 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). Article 10(a) of the 1990 Act set 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, sustained in the Island, personal injury directly attributable to -

- (i) a crime of violence (including arson or poisoning); or
 - (ii) 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.
2. 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. A number of amendments have been made to the 1990 Scheme, which are reflected in the current version of the guide to the Scheme (entitled "Victims of Crimes of Violence").
 4. The Criminal Injuries Compensation Board comprises Advocate R.J. Michel (Chairman) - re-appointed as Chairman for a further five-year period from 1st May 1996; Advocates L.M. Gould (formerly Chairman), A.S. Regal and C.J. Dorey who, together with Mr. R.J. Short, are the members who are "advocates or solicitors of the Royal Court of not less than two years' standing". Advocates Gould and Regal and Mr. Short were also re-appointed for five years from 1st May 1996; with Advocate Dorey having been appointed in March 1998. Mr. Short has indicated his wish to retire at the end of 1999 and will be replaced by Advocate P.deC. Mourant. The 'lay' members of the Board are Dr. M.P. Bruce and Messrs. J.W. Gollop and R.L. Oakey - who were all re-appointed for five years from 1st May 1996 - and Mrs. B.M. Chiang, who was appointed in February 1997. There is currently one vacancy on the Board (see also paragraph 13 below). The Committee wishes to record its appreciation to all members of the Board for the work they have undertaken, with particular thanks to Mr. R.J. Short, who has been a member of the Board from its inception.
 5. The Board has received 76 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 1999. Because of the length of time it sometimes takes to finalise an award, not all applications are concluded in the calendar year they are received. Examples of the nature of applications and the awards made in 1999 are as follows -
 - (a) Applicant assaulted in nightclub after visiting various public houses throughout the evening. Board decided that drunken condition of applicant and his friend were factors contributing to the assault. Applicant suffered undisplaced fractured mandible and neck injury. Applicant admitted to an alcohol consumption of 30-50 units during weekends. General Damages awarded of £5,250, plus Special Damages. However, 40 per cent deducted for "character", conduct and way of life.
 - (b) Applicant had been drinking in a public house after mending broken window there in the course of his employment as a carpenter. He was approached by a man who had caused the damage and who was responsible for the payment for the repair. Later assaulted by the same man on his way home. Applicant suffered lacerations to nose, mouth and leg and a fractured nose and left zygoma involving the orbital floor. Applicant intoxicated and was not prepared to make statement of complaint at the time and when he did, he could not recall the events too well. General Damages of £3,500 awarded, plus Special Damages. 40 per cent deducted in respect of applicant's criminal convictions and ten per cent in respect of his drunken condition.
 - (c) Applicant, known alcoholic, subjected to a 'glassing' assault by another alcoholic, causing 10cm long cut to cheek. Application rejected on the basis of applicant's extensive record of convictions for, *inter alia*, drunk and disorderly conduct, assault and grave and criminal assaults. Application also rejected because applicant failed to keep numerous appointments with police regarding the recording of a statement and the level of his

intoxication at the time of the assault.

- (d) Applicant received blow to the side of his face by assailant who was known to him by sight after he had left nightclub in the company of his old girlfriend. He chased assailant and struggle ensued. However, he told doctors at the Hospital that he had been elbowed during a football match. Injury in fact facial fracture. Police unable to identify attacker as assault was not reported until after six days. Application rejected as a result of applicant's delay in reporting events, his untruthfulness to the doctors and the fact that he failed to produce assailant, although he said he was in contact with him, frustrating the efforts of the police.
- (e) Applicant alleged that two males approached him and punched him more than once, then ran off. Police approached but because of language difficulties, applicant was asked to attend police station later so interpreter could be present. Applicant failed to attend and when police attended upon him, he stated that he no longer wished to make a complaint. Application rejected for failure to assist the police.
- (f) Completely unprovoked attack outside nightclub after applicant had left the premises. Although he had been drinking, Board of the opinion that the level of alcohol consumption was not excessive or that it contributed to the assault and no deductions made. As a result of the attack, applicant left with permanent hearing loss in one ear. No deductions made and £15,000 General Damages awarded plus Special Damages.
- (g) Two applications received from minors on a rugby tour of the island. Both suffered facial lacerations after being attacked by a group of youths in a completely unprovoked attack. Although one assailant was charged for one attack, there was insufficient evidence to prefer charges against anyone for the assault on the other applicant. Awards made of £1,600 and £850 respectively, for General Damages, plus Special Damages.

[* 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 eight requests for hearings during 1999 and, together with a request received in 1998, nine hearings were held. All cases heard related to claims in respect of which the applicants had appealed against the decision of the two Board members' initial award. In six of the cases heard, the Board determined that there was justification for making an award, or a revised award. In a further two cases, the applications were rejected, with a decision on another being deferred pending the receipt of further information. Of the nine cases heard, the initial decision of the original Panel was maintained in only one of them; with awards of a higher amount being awarded in six cases, one award being reduced and one case deferred.
- 7. Of the 555 applications received since 1st May 1991 - 447 had been resolved as at 31st December 1999. Of the 108 applications in the process of resolution as at the end of 1999, seven related to hearings which remained unresolved, 13 had received awards which included an element of interim payment and 23 others had been determined which awaited acceptance by the applicant. A total of 65 applications awaited reports and/or further information.
- 8. Alcohol related incidents. The Board receives many applications in which drink has been a substantial cause of the victim's misfortune. In 1999, 42 (58 per cent) of the 73 applications received in respect of which information is available involved the consumption of alcohol by either the assailant and/or the victim, either on licensed premises or elsewhere. Many of these incidents occur in places and situations which the victim might have avoided had he 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.
- 9. **Appendix 1** sets out statistics relating to claims made under the Criminal Injuries Compensation Scheme during the period 1st January to 31st December 1999.

10. **Appendix 2(a) and (b)** shows, in the form of a bar graph, the rate of applications received during 1999 (76); and in tabular form month by month, the total number of applications received annually from 1992 to 1999.
11. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 1999.
12. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 1999 and for the years 1992 to 1998, for comparative purposes.
13. As mentioned in paragraph 4 above, there is currently one vacancy on the Board which it is proposed to fill with a legally-qualified member in order to assist with the steady stream of applications. The Board is presently considering the desirability of amending the Scheme in a number of respects and this matter will be progressed to discussion with the Home Affairs Committee in due course. In all other respects, the Board is generally satisfied with the working of the 1990 Scheme, as amended.

APPENDIX 1

RATE OF APPLICATIONS 1st JANUARY TO 31st DECEMBER 1999

<i>Month</i>	<i>Received</i>	<i>Applications on which reports sent to Board</i>	<i>Applications determined</i>	<i>Amount awarded £</i>
<u>1999</u>				
January	8	11	*19	16,257.24
February	4	4	7	40,559.83
March	5	10	7	20,876.38
April	4	3	5	8,078.81
May	5	-	*8	3,692.76
June	10	10	*9	9,518.54
July	6	9	12	10,179.83
August	7	3	*11	24,863.10
September	8	8	*12	7,204.34
October	5	7	7	7,809.66
November	8	12	*8	19,245.45
December	6	2	*9	22,893.00
	76	79	114	191,268.94

* includes interim awards

CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st to 31st January 1999
 (and comparative figures for 1992, 1993, 1994, 1995, 1996, 1997 and 1998)

	<i>1999</i>	<i>1998</i>	<i>1997</i>	<i>1996</i>	<i>1995</i>	<i>1994</i>	<i>1993</i>
January	8	7	5	9	4	3	5
February	4	7	11	5	3	4	2
March	5	8	6	4	2	4	4
April	4	9	5	5	5	4	3
May	5	5	6	11	4	1	3
June	10	6	8	6	8	7	2
July	6	11	7	10	9	7	7
August	7	7	4	1	6	5	-
September	8	9	10	7	8	5	2
October	5	6	11	10	9	4	2
November	8	4	4	9	9	12	8
December	6	10	10	2	9	2	3
	76	89	87	79	76	58	41

RANGE OF AWARDS 1st MAY 1991 TO 31st DECEMBER 1999

Total number of applications received = 555

Total number of applications determined ---*

<i>nil</i>	<i>£1 to £999</i>	<i>£1,000 to £1,999</i>	<i>£2,000 to £2,999</i>	<i>£3,000 to £3,999</i>	<i>£4,000 to £4,999</i>	<i>£5,000 to £9,999</i>	<i>£10,000 and over</i>	<i>Total</i>
	£	£	£	£	£	£	£	£
<u>1991</u>								
-	-	1,706	-	-	-	-	-	1,706
(-)	(-)	(1)	(-)	(-)	(-)	(-)	(-)	(1)
<u>1992</u>								
-	3,901	8,160	5,452	3,886	-	5,899	-	27,298
(7)	(6)	(6)	(2)	(1)	(-)	(1)	(-)	(23)
<u>1993</u>								
-	3,919	8,985	17,444	6,641	-	11,500	53,084	101,573
(5)	(6)	(7)	(7)	(2)	(-)	(2)	(3)	(32)
<u>1994</u>								
-	10,411	8,728	14,735	9,678	17,900	28,121	-	89,573
(11)	(16)	(6)	(6)	(3)	(4)	(4)	(-)	(50)
<u>1995</u>								
-	10,000	8,095	2,438	10,254	17,346	13,690	-	61,823
(16)	(17)	(5)	(1)	(3)	(4)	(2)	(-)	(48)
<u>1996</u>								
-	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)
<u>1997</u>								
-	6,608	10,557	18,216	6,825	4,500	33,178	-	79,884
(28)	(9)	(7)	(8)	(2)	(1)	(5)	(-)	(60)
<u>1998</u>								
-	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)
<u>1999</u>								
-	10,897	16,829	19,312	9,938	-	37,360	34,744	129,080
(34)	(16)	(12)	(8)	(3)	(-)	(6)	(2)	(81)
<u>Totals</u>								
-	71,117	109,227	122,140	89,849	58,025	228,593	272,396	951,347
(177)	(109)	(76)	(50)	(31)	(14)	(34)	(16)	(507)*

N.B. The lowest award (other than nil) was £120, and the highest £38,320.

(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.

ACCOUNTS FOR THE PERIOD 1st JANUARY TO 31st DECEMBER 1999

(and comparative figures for 1994, 1995, 1996, 1997 and 1998)

	1999 £	1998 £	1997 £	1996 £	1995 £	1994 £
Printed and stationery	374	798	101	-	108	775
Publications	429	517	352	516	252	449
Payment to members of the Board	18,681	22,645	16,717	26,822	13,220	12,000
Medical reports	2,766	2,184	2,159	2,444	1,157	2,291
Hearing costs	-	-	-	-	514	-
Compensation paid	118,003	170,413	115,371	195,617	117,282	95,803
	140,253	196,557	134,700	225,507	133,200	110,543

[Note: Payment to members of the Board in respect of their time spent on applications and hearings, commenced from 1st October 1993. The Committee allocated a sum of £3,000 for this three month period which, in the event, worked out at a rate of £26.20 an hour for the 114 hours spent during that period. Payment for 1994 was made from the sum of £12,000 allocated for that purpose for the 12 month period, which worked out at a rate of £34.01 an hour for the 353 hours spent during that year. From 1995 (371 hours), payment has been made at a rate of £50 an hour, with 505 hours spent during 1996, 355 hours during 1997, 457 hours during 1998 and 379 hours during 1999.]