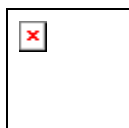


CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2000

**Presented to the States on 17th July 2001
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 dependent, 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, C.J. Dorey and P.deC. Mourant, who are the members who are "advocates or solicitors of the Royal Court of not less than two years' standing". Advocates Gould and Regal were also re-appointed for five years from 1st May 1996; with Advocate Dorey having been appointed in March 1998 and Advocate Mourant in October 1999. 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. J.W. Gollop, who has been a member of the Board from its inception and, indeed, who was a member of the Board under the previous (1970) Scheme.
 5. The Board has received 102 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2000. 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 2000 are as follows -
 - (a) a male Swedish student was subjected to an unprovoked assault near the bus station; the identity of his attacker was not established. he sustained facial injuries and chipped teeth. Temporary dental work was carried out in Jersey with permanent work carried out in Sweden. General Damages of £750 and Special Damages of £550 awarded;
 - (b) a 22 year-old male claimed to have been attacked in the street, but had been drinking heavily and could not remember the exact circumstances. he suffered a transverse comminuted fracture of the mid-shaft of his right tibia and had to undergo two operative procedures. The application was rejected because of his participation in the fight for which he was convicted, his intoxication and his prior criminal convictions;
 - (c) a visiting Gaelic football player was punched in the eye during a match causing an orbital blow-out fracture. Although doubts were raised as to whether the assault was totally unprovoked, no independent evidence was available to the Board. General Damages awarded of £6,035;
 - (d) an 18 year-old male after visiting various public houses during the evening was refused entry into a nightclub. An altercation arose between the doorman and another male. The applicant intervened with a sarcastic remark and a fight ensued. The fight was stopped and the parties moved on. It was not until well away from the area of altercation that the applicant realised he had been stabbed and in fact his intestines were

protruding through the cut. The application was rejected for the following reasons: the applicant had been drinking and alcohol may well have played a part in the events leading up to the assault; provocation and the fact that he lied to the Accident and Emergency Department, initially, as to the cause of his wound;

- (e) the applicant was punched and kicked outside a supermarket by an assailant who erroneously presumed she was blocking his access. Scarring to face and psychological problems resulted. General Damages awarded of £5,250 and Special Damages of £481 awarded;
- (f) a serving woman police officer was headbutted on the side of her forehead whilst trying to remove an arrested female to the cellblock. The applicant suffered substantial swelling to her forehead and was shaken emotionally. The injuries were not considered to merit an award in the minimum amount allowed by the Scheme of £750;
- (g) a 15-year old male was assaulted in Liberation Square and suffered a displaced fracture of the distal left humerus. General Damages of £3,500 and £50 of Special Damages awarded. Compensation of £200 awarded by Magistrate deducted from Award;
- (h) the applicant made a complaint of assault. Enquiries brought to light a history of disagreements which had occurred during the day, culminating in an altercation between the applicant and a male who lodged in the flat next to the applicant and his wife. This resulted in an exchange of blows, with both parties being warned to attend a Parish Hall enquiry for breach of the peace by fighting. The applicant sustained an anterior dislocation of his left shoulder, but the Board rejected the application as it was not satisfied that the applicant had sustained personal injury directly attributable to a crime of violence;
- (i) the applicant had been frequently indecently assaulted and raped by her stepfather in the years before 1991 when the present Scheme came into force. Only psychological symptoms since the Scheme came into force were considered. General Damages of £10,000 awarded;
- (j) a female applicant was punched in the mouth in ladies toilets in a nightclub. The injuries consisted of bruising around one eye, a tender area on the bridge of the nose, bruising and abrasions inside the upper lip and a red mark and scratch on the back of her elbow. The Board considered that the injuries suffered by the applicant could not justify the minimum amount allowed by the Scheme, but also concluded that even if this had not been the case, any award would have been subjected to deductions for delay in reporting the incident to the police and the consumption of alcohol by the applicant;
- (k) a male nurse was bitten by a patient. This injury was minor and the wound healed. However, the applicant was not covered against Hepatitis B virus and the assailant refused to provide a blood sample. The applicant suffered a great deal of anxiety and stress before results showed that he was not affected by the virus. General Damages of £1,500 awarded;
- (l) the applicant, whose relationship with her boyfriend had become acrimonious, had an argument with him which developed into a fracas, with the applicant alleging that he had grabbed her by the hair and pulled her head back. She in turn grabbed hold of his face and scratched it. Although the boyfriend was charged with assault, the case was dismissed. There was, therefore, insufficient evidence that a crime of violence had taken place and the application was rejected.

[* 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 one request for a hearing during 2000 and, together with a request received in 1998, two

hearings were held. Both cases heard related to claims in respect of which the applicants had appealed against the decision of the two Board members' initial award. In both cases, the Board determined that there was justification for making an award, or a revised (higher) award.

7. Of the 657 applications received since 1st May 1991 - 548 had been resolved as at 31st December 2000. Of the 109 applications in the process of resolution as at the end of 2000, four related to hearings which remained unresolved, 15 had received awards which included an element of interim payment, and 12 others had been determined which awaited acceptance by the applicant. A total of 67 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 2000, 66 (65 per cent) of the 102 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 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.
9. **Appendix 1** sets out statistics relating to claims made under the Criminal Injuries Compensation Scheme during the period 1st January to 31st December 2000.
10. **Appendix 2(a) and (b)** shows, in the form of a bar graph, the rate of applications received during 2000 (102); and in tabular form month by month, the total number of applications received annually from 1992 to 2000.
11. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2000.
12. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2000 and for the years 1992 to 1999, 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. In addition, it is hoped that a lay member will be appointed shortly in order to replace Mr. Gollop, who will be retiring in May 2001. The Board is presently considering the desirability of amending the Scheme in a number of respects, and this matter is reaching fruition following discussion with the Home Affairs Committee. In all other respects, the Board is generally satisfied with the working of the 1990 Scheme, as amended.

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2000

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
<u>2000</u>				
January	4	9	12	6,050.00
February	8	4	9	22,114.64
March	13	10	5	48,734.62
April	5	7	3	13,992.00
May	3	4	9	8,855.87
June	9	4	9	23,388.07
July	12	12	10	17,044.28
August	9	5	2	675.00
September	10	5	6	69,974.15
October	6	19	11	25,148.00
November	17	8	17	21,569.20
December	6	15	14	37,960.66
	102	106	104	291,506.49

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2000

Total number of applications received = 657

Total number of applications determined*

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
	£	£	£	£	£	£	£	£
<u>991</u>	-	1,706	-	-	-	-	-	1,706
-)	(-)	(1)	(-)	(-)	(-)	(-)	(-)	(1)
<u>992</u>	3,901	8,160	5,452	3,886	-	5,899	-	27,298
7)	(6)	(6)	(2)	(1)	(-)	(1)	(-)	(23)
<u>993</u>	3,919	8,985	17,444	6,641	-	11,500	53,084	101,573
5)	(6)	(7)	(7)	(2)	(-)	(2)	(3)	(32)
<u>994</u>	10,411	8,728	14,735	9,678	17,900	28,121	-	89,573
11)	(16)	(6)	(6)	(3)	(4)	(4)	(-)	(50)
<u>995</u>	10,000	8,095	2,438	10,254	17,346	13,690	-	61,823
16)	(17)	(5)	(1)	(3)	(4)	(2)	(-)	(48)
<u>996</u>	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141
28)	(19)	(13)	(11)	(10)	(3)	(4)	(9)	(100)
<u>997</u>	6,608	10,557	18,216	6,825	4,500	33,178	-	79,884
28)	(9)	(7)	(8)	(2)	(1)	(5)	(-)	(60)
<u>998</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>999</u>	10,897	16,829	19,312	9,938	-	37,360	34,744	129,080
34)	(16)	(12)	(8)	(3)	(-)	(6)	(2)	(81)
<u>000</u>	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)
TOTALS	82,991	123,307	138,044	110,006	71,137	263,954	452,887	1,242,236
223)	(127)	(87)	(56)	(37)	(17)	(39)	(24)	(610)*

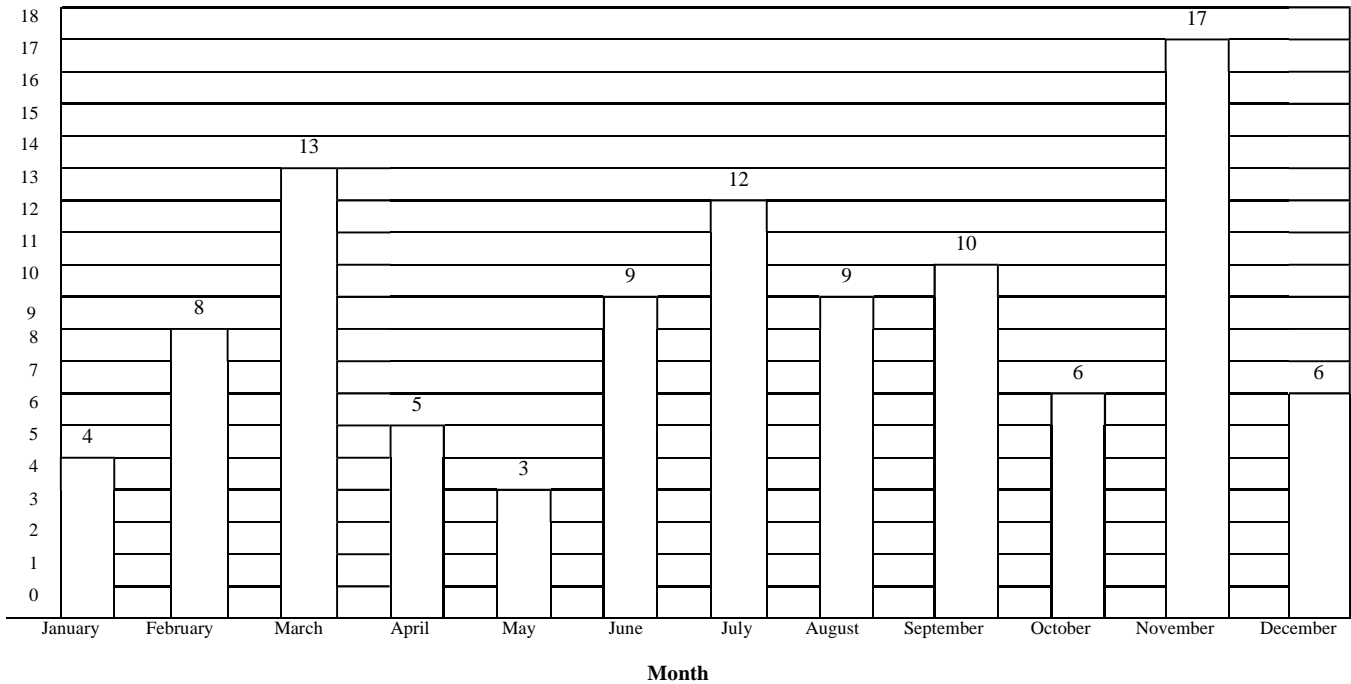
N.B. The lowest award (other than nil) was £75, and the highest £94,787.

(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.)

2000

January 4 February 8 March 13 April 5 May 3 June 9 July 12 August 9 September 10 October 6 November 17 December 6

**Criminal Injuries Compensation Board
Applications 2000**



CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st January to 31st December 2000
(and comparative figures for 1992, 1993, 1994, 1995, 1996, 1997, 1998 and 1999)

	2000	1999	1998	1997	1996	1995	1994	1993	1992
January	4	8	7	5	9	4	3	5	4
February	8	4	7	11	5	3	4	2	7
March	13	5	8	6	4	2	4	4	8
April	5	4	9	5	5	5	4	3	2
May	3	5	5	6	11	4	1	3	3
June	9	10	6	8	6	8	7	2	3
July	12	6	11	7	10	9	7	7	2
August	9	7	7	4	1	6	5	-	3
September	10	8	9	10	7	8	5	2	4
October	6	5	6	11	10	9	4	2	3
November	17	8	4	4	9	9	12	8	3
December	6	6	10	10	2	9	2	3	2
Total	102	76	89	87	79	76	58	41	44

Printing and stationery	100	374	798	101	-	775	-	396	100
Publications	260	429	517	352	516	252	449	142	713
Payment to members of the Board	16,421	18,681	22,645	16,717	26,822	13,220	12,000	3,000	-
Medical reports	2,119	2,766	2,184	2,159	2,444	1,157	2,291	1,303	1,676
Hearing costs	40	-	-	-	-	514	-	-	-
Compensation paid	281,322	118,003	170,413	115,371	195,617	49,814	95,803	80,289	45,840
	300,262	140,253	196,557	134,700	225,507	65,732	110,543	85,130	48,329

[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, 379 hours during 1999 and 372 hours during 2000.]