

**CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2001**

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**Presented to the States on 17th September 2002  
by the Home Affairs Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

120

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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), Advocates L.M. Gould (formerly Chairman), A.S. Regal, C.J. Dorey and P. de C. Mourant, the members who are "advocates or solicitors of the Royal Court of not less than two years' standing". The 'lay' members of the Board are Dr. M.P. Bruce, Mr. R.L. Oakey, Mrs. B.M. Chiang and Mr. M.A. Payne. The Home Affairs Committee approved the re-appointment of the current members of the Board, for a period of five years with effect from 1st May 2001, on 22nd March 2001. 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.
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; andfurthermore, 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 has received 106 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2001. 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 2001 are as follows -
  - (a) applicant assaulted after being forced to stop his vehicle by another vehicle blocking the road. The applicant had been following this vehicle which was using fog lights when it was unnecessary and the applicant had been flashing his headlights in an attempt to get the vehicle's driver to turn them off. At the road block, a passenger in the vehicle got out of the vehicle, opened the applicant's door and punched applicant several times around the head and face. He also punched the applicant's window causing it to shatter. Female driver of the vehicle pulled assailant away from the incident and drove off. Applicant suffered injuries to teeth and mouth and bruising to the back of the head and right ear. Police traced vehicle and assailant sentenced to three months' imprisonment. 25% deduction from award for applicant's previous motoring convictions. Net award of

£926.54.

- (b) elderly applicant disturbed an intruder in her own bedroom. She was grabbed and thrown to the floor. Assailant escaped. Despite a complete search of the area, Police were unable to locate assailant. Applicant suffered bruising to the right side of her chin and left leg. She suffered three months of back pain and four months of disabling nervousness and panic followed by a further two months of gradual recovery. Applicant awarded £3,500 for General Damages.
  - (c) applicant assaulted in a nightclub when he went to pacify an argument involving a female friend. He was given a “look” and did not speak to either of the two men involved, but on turning away, was punched by them knocking him to the ground. Applicant suffered cuts to the right eyelid and around the eye. Cuts were stitched. Applicant indicated that the injuries had left some permanent scarring and that, in addition, he was suffering from flashbacks and nervousness. However, when asked by the Board to attend upon them in order for them to view the scarring, applicant informed the Board that the injuries had healed and scarring was negligible. General Damages awarded of £600 plus Special Damages of £334.47.
  - (d) 8 year old applicant, holidaying in Jersey, was indecently assaulted by being touched in the vaginal area whilst assailant masturbated. Assailant was her cousin. However, the applicant suffered psychological problems pre-dating the indecent assault in Jersey following the sexual assault or abuse for some period of time prior to her holiday. Board restricted itself to the effects of the indecent assault in Jersey and not any of the preceding assaults in England. Effect of assault in Jersey minimal and General Damages awarded of £750.
  - (e) Female assaulted by her partner, with whom she was living, by being thrown down stairs. History of previous assaults upon her by partner. Application rejected under Article 10(b)(ii) of the Scheme on the grounds that applicant and her partner still living together at the time of the application.
  - (f) Applicant who had consumed considerable amount of alcohol was allegedly assaulted whilst walking home. He could not remember if he was struck more than once and could not supply details of the assailant. He did not attend upon the Police until six days after incident. Application rejected as applicant did not take all reasonable steps to inform the Police of the incident without unreasonable delay, did not give reasonable assistance to the Board and had drunk a considerable quantity of alcohol prior to the alleged assault.
  - (g) Applicant serving Police Officer who had made an arrest and had handcuffed arrested person, when arrested person suddenly and for no apparent reason repeatedly headbutted a kitchen cabinet. He was not attempting to assault the Police Officer and it was apparent self-harm. Applicant injured whilst trying to restrain him, when he fell on top of applicant. Applicant not injured whilst apprehending or arresting offender. Injuries sustained accidentally and not whilst applicant was taking an exceptional risk. Application rejected.
7. The Board received six requests for a hearing during 2001 all of which related to claims in respect of which the applicants had appealed against the decision of the two Board members’ initial award. The Board determined that there was justification for making an award, or a revised (higher) award, in respect of four of the hearings, the decision of the two member Board was upheld in one case and one was still to be finalised.
8. Of the 763 applications received since 1st May 1991 - 654 had been resolved as at 31st December 2001. Of the 109 applications in the process of resolution as at the end of 2001, 5 related to hearings which remained unresolved 9 had received awards which included an element of interim payment and 26 others had been determined which awaited acceptance by the applicant. A total of 69 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. In 2001, 59 (62.5 per cent) of the 106 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.
10. **Appendix 1** sets out statistics relating to claims made under the Criminal Injuries Compensation Scheme during the period 1st January to 31st December 2001.
11. **Appendix 2(a) and (b)** shows, in the form of a bar graph, the rate of applications received during 2001 (106); and in tabular form month by month, the total number of applications received annually from 1995 to 2001.

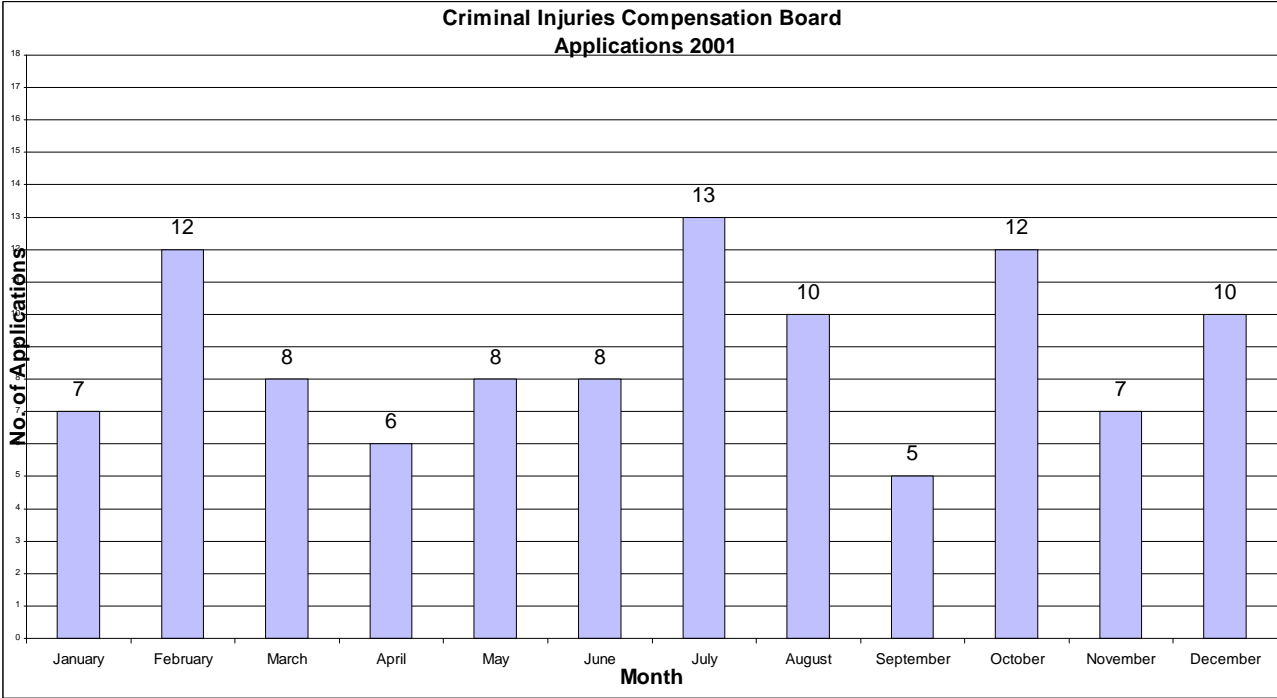
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2001.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2001 and for the years 1995 to 1999, for comparative purposes.
14. As mentioned in paragraph 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. A further amendment to the Scheme was brought to the States by the Home Affairs Committee (and adopted on 11th June 2002 - P.51/2002) which made provision for compensation to be paid where an injury was sustained outside the Island, for instance, on a British ship. The amendment further related to the grant of compensation in relation to the receipt of maternity grant. In all other respects, the Board was generally satisfied with the working of the 1990 Scheme, as amended, save that it is considering recommending an increase in the maximum award.

## APPENDIX 1

## RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2001

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded  £
<u>2001</u>				
January	7	7	12	8,103.88
February	12	4	7	10,239.76
March	8	2	2	3,906.00
April	6	13	6	19,850.00
May	8	-	11	9,483.57
June	8	12	10	25,068.63
July	13	3	6	14,828.38
August	10	15	6	13,350.00
September	5	8	6	36,779.72
October	12	7	9	8,225.76
November	7	12	20	27,686.51
December	10	10	10	113,367.57
	<b>106</b>	<b>90</b>	<b>105</b>	<b>289,886.78</b>

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**CRIMINAL INJURIES COMPENSATION BOARD**

**Applications received for the period 1st January to 31st December 2001**  
(and comparative figures for 1995, 1996, 1997, 1998, 1999, 2000 and 2001)

	<b>2001</b>	2000	1999	1998	1997	1996	1995
January	<b>7</b>	4	8	7	5	9	4
February	<b>12</b>	8	4	7	11	5	3
March	<b>8</b>	13	5	8	6	4	2
April	<b>6</b>	5	4	9	5	5	5
May	<b>8</b>	3	5	5	6	11	4
June	<b>8</b>	9	10	6	8	6	8
July	<b>13</b>	12	6	11	7	10	9
August	<b>10</b>	9	7	7	4	1	6
September	<b>5</b>	10	8	9	10	7	8
October	<b>12</b>	6	5	6	11	10	9
November	<b>7</b>	17	8	4	4	9	9
December	<b>10</b>	6	6	10	10	2	9
	<b>106</b>	102	76	89	87	79	76

## RANGE OF AWARDS 1st MAY 1991 TO 31st DECEMBER 2001

Total number of applications received = 763

Total number of applications determined = 654\*

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
	£	£	£	£	£	£	£	£
<b>1991</b>	-	1,706	-	-	-	-	-	1,706
(-)	(-)	(1)	(-)	(-)	(-)	(-)	(-)	(1)
<b>1992</b>	-	3,901	8,160	5,452	3,886	-	5,899	27,298
(7)	(6)	(6)	(2)	(1)	(-)	(1)	(-)	(23)
<b>1993</b>	-	3,919	8,985	17,444	6,641	-	11,500	101,573
(5)	(6)	(7)	(7)	(2)	(-)	(2)	(3)	(32)
<b>1994</b>	-	10,411	8,728	14,735	9,678	17,900	28,121	89,573
(11)	(16)	(6)	(6)	(3)	(4)	(4)	(-)	(50)
<b>1995</b>	-	10,000	8,095	2,438	10,254	17,346	13,690	61,823
(16)	(17)	(5)	(1)	(3)	(4)	(2)	(-)	(48)
<b>1996</b>	-	13,485	18,183	28,131	20,289	9,232	48,573	269,141
(28)	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)
<b>1997</b>	-	6,608	10,557	18,216	6,825	4,500	33,178	79,884
(28)	(9)	(7)	(8)	(2)	(1)	(5)	(-)	(60)
<b>1998</b>	-	11,896	27,984	16,412	22,338	9,047	50,272	191,269
(48)	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)
<b>1999</b>	-	10,897	16,829	19,312	9,938	-	37,360	129,080
(34)	(16)	(12)	(8)	(3)	(-)	(6)	(2)	(81)
<b>2000</b>	-	11,874	14,080	15,904	20,157	13,112	35,361	290,979
(46)	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)
<b>2001</b>	-	16,035	17,367	11,920	21,084	4,612	77,468	289,886
(42)	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)
<b>TOTALS</b>	-	<b>99,026</b>	<b>140,674</b>	<b>149,964</b>	<b>131,090</b>	<b>75,749</b>	<b>594,287</b>	<b>1,532,212</b>
(265)	(150)	(100)	(61)	(43)	(18)	(50)	(28)	(715)*

N.B. The lowest award (other than nil) was £75, 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).



**ACCOUNTS FOR THE PERIOD 1ST JANUARY TO 31ST DECEMBER 2001**

(AND COMPARATIVE FIGURES FOR 1995, 1996, 1997, 1998, 1999, 2000 and 2001)

	2001	2000	1999	1998	1997	1996	1995
	£	£	£	£	£	£	£
ing and ery	85	100	374	798	101	-	108
ations	290	260	429	517	352	516	252
ent to ers of the	24,758	16,421	18,681	22,645	16,717	26,822	13,220
al s	2,235	2,119	2,766	2,184	2,159	2,444	1,157
ing costs	995	40	-	-	-	-	514
ensation	298,222	281,322	118,003	170,413	115,371	195,617	117,282
	<b>326,585</b>	300,262	140,253	196,557	134,700	225,399	132,533

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, 372 hours during 2000 and 495 hours in 2001.