

STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2003

**Presented to the States on 10th August 2004
by the Home Affairs Committee**

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). 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, 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 “advocates or solicitors of the Royal Court of not less than 2 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 5 years with effect from 1st May 2001, on 22nd March 2001. There is currently one vacancy on the Board (see also paragraph 14 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 received 54 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2003. 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 awards made in 2003 are as follows –

- (a) Applicant aged 12 was indecently assaulted on many occasions by family friend. Chairman exercised discretion because incidents outside three-year limit. Applicant later married and enjoyed a happy marriage until he revealed incidents to his wife. Marriage deteriorated and they split. Applicant referred for psychological counselling. Psychologist stated that earlier abuse was pre-eminent both in the marriage breakdown and the subsequent trauma. Applicant was awarded £2,500;
- (b) Applicant, aged 15, alleged he was headbutted in a town street in an unprovoked attack. However, a friend and witness painted a different picture of the circumstances of the assault to that of the applicant. Applicant had been drinking. On the evidence before it, the Board decides that the applicant could and should have left the assailant alone and there was provocation. Interim Award (pending receipt of report from dentist) reduced by 40 per cent;
- (c) Applicant, a doorman, assaulted in town hotel, whilst assisting a colleague to remove a disorderly person. Assailant was charged with committing an assault on applicant, but no evidence was offered at the Magistrate's Court appearance and the charge was dismissed. Applicant suffered marked swelling and bruising to left calf, foot and ankle, causing heavy bleeding into the calf muscles. Claim made by applicant to the Board put in question as conflicting information on how applicant received injuries. Application dismissed by the Board on the basis that applicant had not been forthcoming in assisting the Board. In any event, application would have been dismissed on the ground that no crime of violence took place as charge against assailant dismissed;
- (d) Applicant sexually assaulted by father whilst she was aged between 8 and 11 years old. Applicant reported assaults to police 4 years later. Father left Island and has not been found. Chairman exercised discretion as application made more than 3 years after the assault. Board of the clear view that notwithstanding the fact that the perpetrator had not been arrested, applicant was victim of assaults. Damages however could only be awarded for injuries suffered after Scheme came into force (1st May 1991). Total award, including loss of overtime and allowances, £4,339.63;
- (e) Applicant, taking a lunch break, saw assailant unsteady on his feet bump into parked lorry, causing applicant and colleagues to laugh. Later, assailant seen carrying a lump of wood which he threw at applicant, but it missed. Some 5 minutes later, assailant returned brandishing a knife. Applicant picked up scaffolding board and raised it in a defensive manner. Assailant walked away but again returned throwing lengths of wood at applicant's lorry. Applicant decided to restrain assailant and struck him on the chin. Assailant charged, but charge of grave and criminal assault abandoned. No physical contact, but assailant did throw wood and threaten with knife. Board considered actions of applicant and decided that applicant should have retreated from incident. Claim dismissed on this basis and Board stated that, in any event, no evidence was produced with regard to any injury to applicant;
- (f) Applicant playing pool in public house. Disagreement over game and general abuse flowing between applicant and another player. Witnesses confirm aggressive manner of applicant. Applicant punched and a fight ensued. Assailant charged with committing a grave and criminal assault, but failed to appear in the Magistrate's Court. Board decides that applicant provocative and could and should have retreated from developing situation, rather than aggravating the matter. Evidence of assault fuelled by consumption of alcohol, aggression, provocation and failure to retreat. Application dismissed;
- (g) Applicant clipping hedge when neighbour complained about noise and the fact that clippings had landed in neighbour's garden. Police called by applicant's wife, but before they attended, neighbour had punched applicant in face causing concussion, 2 black eyes and damage to teeth. Assailant admitted assaulting applicant. 25 per cent deduction from award on the basis of applicant's previous convictions. Total award, including Special Damages, £2,305.12.

7. The Board received 8 requests for a hearing during 2003 all of which related to claims in respect of which

the applicants had appealed against the decision of the 2 Board members' initial award. The Board determined that there was justification for making an award, or a revised award, in respect of 4 of those hearings. Further information was awaited in respect of one of the outstanding applications; and a date was awaited as at the year-end for the remaining 3 applications. In addition, 3 applications for a hearing which had been made in previous years remained current during 2003, with the decision of the original Panel being upheld in one case; a revised (increased) award having been made in respect of a second; and further information being awaited in respect of the third.

8. Of the 901 applications received since 1st May 1991 – 814 had been resolved as at 31st December 2003. Of the 87 applications in the process of resolution as at the end of 2003, 7 related to hearings which remained unresolved, 11 had received awards which included an element of interim payment and 20 others had been determined which awaited acceptance by the applicant. A total of 49 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 2003, 30 (that is, 76%) of the 54 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 2003.
11. **Appendix 2(a) and (b)** shows, in the form of a bar graph, the rate of applications received during 2003 (54); and in tabular form month by month, the total number of applications received annually from 1995 to 2003.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2003.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2003 and for the years 1996 to 2003, 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. In all other respects, the Board was generally satisfied with the working of the 1990 Scheme, as amended, save that there has been no 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.

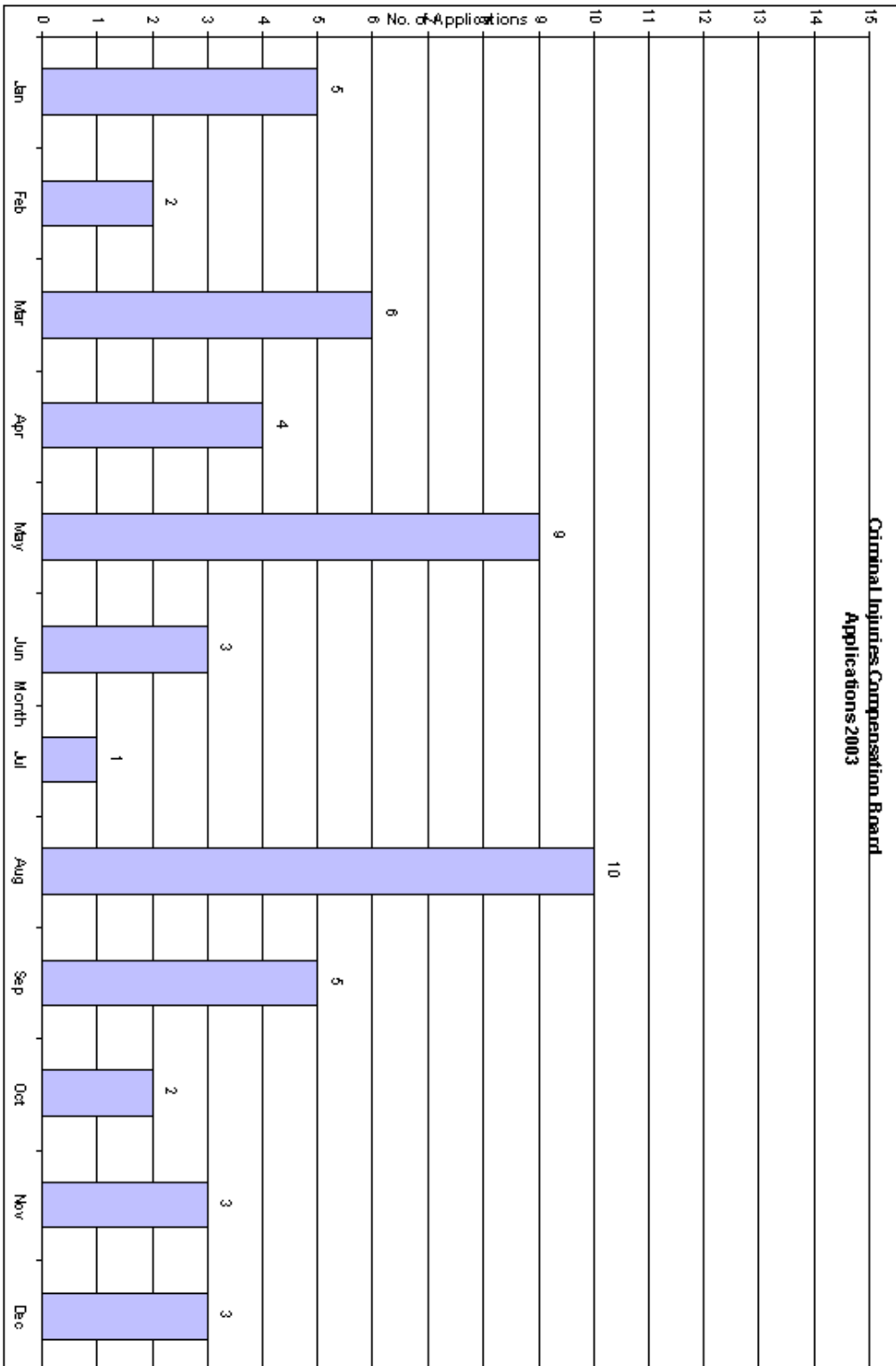
APPENDIX 1

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2003

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
<u>2003</u>				
January	6	2	9	7,947.00
February	2	9	1	1,765.60
March	6	6	10	7,484.74
April	4	4	4	7,126.00
May	10	11	7	36,720.97
June	3	7	6	7,478.20
July	1	4	7	2,250.00
August	10	4	4	3,923.39
September	4	1	1	4,339.63
October	2	8	11	19,999.66
November	3	4	8	13,248.38
December	3	1	11	41,399.98
	54	61	79	152,683.55

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)



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CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st January to 31st December 2003
(and comparative figures for 1995 to 2002)

	2003	2002	2001	2000	1999	1998	1997	1996	1995
January	6	7	7	4	8	7	5	9	4
February	2	6	12	8	4	7	11	5	3
March	6	7	8	13	5	8	6	4	2
April	4	7	6	5	4	9	5	5	5
May	10	4	8	3	5	5	6	11	4
June	3	6	8	9	10	6	8	6	8
July	1	9	13	12	6	11	7	10	9
August	10	13	10	9	7	7	4	1	6
September	4	6	5	10	8	9	10	7	8
October	2	7	12	6	5	6	11	10	9
November	3	10	7	17	8	4	4	9	9
December	3	1	10	6	6	10	10	2	9
	54	83	106	102	76	89	87	79	76

APPENDIX 3

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2003

Total number of applications received = 900

Total number of applications determined = *814

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>1</u>	£	£	£	£	£	£	£	£
	–	1,706	–	–	–	–	–	1,706
	(–)	(1)	(–)	(–)	(–)	(–)	(–)	(1)
<u>2</u>								
	3,901	8,160	5,452	3,886	–	5,899	–	27,298
	(6)	(6)	(2)	(1)	(–)	(1)	(–)	(23)
<u>3</u>								
	3,919	8,985	17,444	6,641	–	11,500	53,084	101,573
	(6)	(7)	(7)	(2)	(–)	(2)	(3)	(32)
<u>4</u>								
	10,411	8,728	14,735	9,678	17,900	28,121	–	89,573
	(16)	(6)	(6)	(3)	(4)	(4)	(–)	(50)
<u>5</u>								
	10,000	8,095	2,438	10,254	17,346	13,690	–	61,823
	(17)	(5)	(1)	(3)	(4)	(2)	(–)	(48)
<u>6</u>								
	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141
	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)
<u>7</u>								
	6,608	10,557	18,216	6,825	4,500	33,178	–	79,884
	(9)	(7)	(8)	(2)	(1)	(5)	(–)	(60)
<u>8</u>								
	11,896	27,984	16,412	22,338	9,047	50,272	53,320	191,269
	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)
<u>9</u>								
	10,897	16,829	19,312	9,938	–	37,360	34,744	129,080
	(16)	(12)	(8)	(3)	(–)	(6)	(2)	(81)
<u>0</u>								
	11,874	14,080	15,904	20,157	13,112	35,361	180,491	290,979
	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)
<u>1</u>								
	16,035	17,367	11,920	21,084	4,612	77,468	141,400	289,886
	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)
<u>2</u>								
	11,930	13,533	19,772	6,437	13,829	27,177	38,995	131,673
	(16)	(10)	(8)	(2)	(3)	(5)	(2)	(77)
<u>3</u>								
	6,465	11,133	20,390	7,612	8,485	33,883	65,715	153,683
	(9)	(8)	(8)	(2)	(2)	(5)	(2)	(79)
FALS								
	110,956	154,207	169,736	137,527	89,578	368,599	633,282	1,663,885
)	(175)	(118)	(77)	(47)	(23)	(60)	(32)	(869)*

N.B. The lowest award (other than nil) was £208, 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 2003

(AND COMPARATIVE FIGURES FOR 1996 TO 2002)

	2003	2002	2001	2000	1999	1998	1997	1996
			£	£	£	£	£	£
ions	–	20	85	100	374	798	101	–
and ry	256	310	290	260	429	517	352	516
t to s of rd	21,143	21,378	24,758	16,421	18,681	22,645	16,717	26,822
	1,095	2,569	2,235	2,119	2,766	2,184	2,159	2,444
costs	614	–	995	40	–	–	–	–
isation	162,952	156,885	298,222	281,322	118,003	170,413	115,371	195,617
	186,060	181,162	326,585	300,262	140,253	196,557	134,700	225,399

- 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, with 371 hours spent during 1995, 505 hours during 1996, 355 hours during 1997, 457 hours during 1998, 379 hours during 1999, 372 hours during 2000, 495 hours during 2001, 435 during 2002 and 209 during 2003.
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.