

# **STATES OF JERSEY**



## **CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2004**

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**Presented to the States on 9th August 2005  
by the Home Affairs Committee**

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**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, P. de C. Mourant and P.M. Livingstone, members who are “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. 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; with the exception of Advocate Livingstone who joined the Board in August 2004. 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 72 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2004. 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 2004 are as follows –

- (a) Applicant assaulted after words were exchanged in fish and chip shop. Applicant had consumed a large amount of alcohol and was drunk, but proprietor of shop confirmed that applicant was not aggressive. Applicant suffered severe fractured humerus and dislocation of shoulder. Police not informed of assault until 6 weeks thereafter, but as Board had available to it independent witness evidence from the shop's proprietor, it did not dismiss the application entirely, but reduced damages by 50% for not reporting the assault earlier and 25% for alcohol consumption. Substantial claim for loss of earnings. Interim award made in the sum of £6,069.28.
  - (b) Applicant received persistent and sometimes obscene telecommunications messages over a period of many years. The Board considered in great detail the test of whether the applicant was the victim of a crime of violence. No charge of assault brought and no evidence that the applicant suffered psychological harm, which amounted to more than fear, distress or panic. Applicant did not seek medical assistance. The Board concluded that the applicant was not able to satisfy it that she was the victim of a crime of violence and the application failed.
  - (c) Applicant was a male hotel receptionist who was invited to a male guest's bedroom. Oral sex took place, but when he was asked to receive anal sex, applicant refused and was attacked by guest. Applicant received multiple injuries to the face including 2 fractures to the jaw. Interim award made in the sum of £4,500. 10% deduction made for alcohol consumption.
  - (d) Applicant's original application to Board rejected on the basis that no compensation for injuries suffered in a road traffic accident can be awarded unless it could be proved, on the balance of probabilities, that the driver deliberately drove at the applicant. Applicant appealed and at the Hearing, applicant gave a different version of events. He did not however take the name, address or registration details of the drivers of vehicles who witnessed the incident. When applicant reported the incident to the Police, they were unable to trace the driver of the car despite publicity given to the incident. No evidence, therefore, to prove injuries resulted from a deliberate attempt by a driver to run applicant down and Appeal failed.
  - (e) Application made by mother of baby on baby's behalf for injuries caused by the natural father. Father convicted of cruelty. Child sustained a fracture of the femur and bruising to leg, cheek and nose. Award of £3,750 made for the injuries which sum is held by the Viscount until applicant attains the age of 18.
7. The Board received 8 requests for hearings during 2004, all of which related to claims in respect of which the applicants had appealed against the decision of the two Panel members' initial award. The Hearing Board determined that there was justification for making an award, or a revised award, in respect of one of those hearings. Further information was awaited in respect of 4 of those outstanding applications; and also in respect of one hearing which had been requested in the previous year. The decision of the original Panel was upheld in 2 cases; and one application for a hearing was rejected.
  8. Of the 973 applications received since 1st May 1991 – 884 had been resolved as at 31st December 2004. Of the 89 applications in the process of resolution as at the end of 2004, 4 related to hearings which remained unresolved, 18 had received awards which included an element of interim payment and 16 others had been determined which awaited acceptance by the applicant. A total of 51 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 2004, 33 (that is, 46%) of the 72 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 2004.
11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2004 (72); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 1995 to 2004.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2004.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2003 and for the years 1996 to 2004, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended, save that there has still 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.

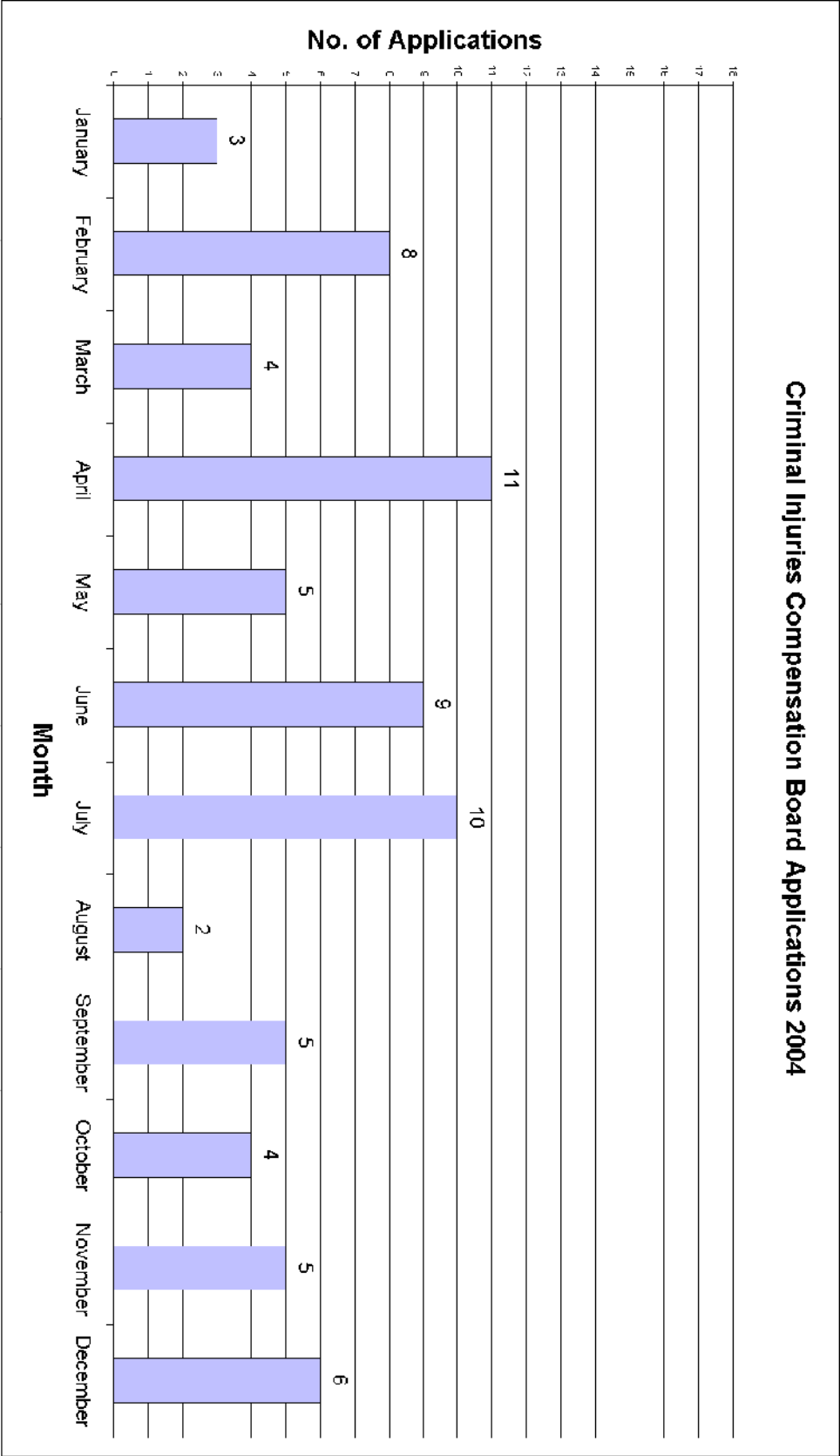
**APPENDIX 1**

## RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2004

<b>Month</b>	<b>Received</b>	<b>Applications on which reports sent to Board</b>	<b>Applications determined</b>	<b>Amount awarded</b>
				<b>£</b>
2004				
January	<b>3</b>	3	5	13,686.66
February	<b>8</b>	3	8	33,626.51
March	<b>4</b>	7	7	6,047.64
April	<b>11</b>	8	3	23,621.32
May	<b>5</b>	4	2	17,162.74
June	<b>9</b>	3	13	35,580.94
July	<b>10</b>	11	3	7,879.15
August	<b>2</b>	3	12	33,866.41
September	<b>5</b>	6	10	25,884.39
October	<b>4</b>	8	6	15,964.53
November	<b>5</b>	1	2	Nil
December	<b>6</b>	11	14	27,198.00
	<b>72</b>	<b>68</b>	<b>85</b>	<b>241,270.29</b>

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**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.

**Criminal Injuries Compensation Board Applications 2004**



## CRIMINAL INJURIES COMPENSATION BOARD

**Applications received for the period 1st January to 31st December 2004**  
 (and comparative figures for 1995 to 2003)

	<b>2004</b>	2003	2002	2001	2000	1999	1998	1997	1996	1995
January	<b>3</b>	6	7	7	4	8	7	5	9	4
February	<b>8</b>	2	6	12	8	4	7	11	5	3
March	<b>4</b>	6	7	8	13	5	8	6	4	2
April	<b>11</b>	4	7	6	5	4	9	5	5	5
May	<b>5</b>	10	4	8	3	5	5	6	11	4
June	<b>9</b>	3	6	8	9	10	6	8	6	8
July	<b>10</b>	1	9	13	12	6	11	7	10	9
August	<b>2</b>	10	13	10	9	7	7	4	1	6
September	<b>5</b>	4	6	5	10	8	9	10	7	8
October	<b>4</b>	2	7	12	6	5	6	11	10	9
November	<b>5</b>	3	10	7	17	8	4	4	9	9
December	<b>6</b>	3	1	10	6	6	10	10	2	9
	<b>72</b>	54	83	106	102	76	89	87	79	76

## APPENDIX 3

## RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2004

Total number of applications received = 973

Total number of applications determined = \*884

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
1	£	£	£	£	£	£	£	£
	–	1,706	–	–	–	–	–	1,706
	(–)	(1)	(–)	(–)	(–)	(–)	(–)	(1)
2								
	3,901	8,160	5,452	3,886	–	5,899	–	27,298
	(6)	(6)	(2)	(1)	(–)	(1)	(–)	(23)
3								
	3,919	8,985	17,444	6,641	–	11,500	53,084	101,573
	(6)	(7)	(7)	(2)	(–)	(2)	(3)	(32)
4								
	10,411	8,728	14,735	9,678	17,900	28,121	–	89,573
	(16)	(6)	(6)	(3)	(4)	(4)	(–)	(50)
5								
	10,000	8,095	2,438	10,254	17,346	13,690	–	61,823
	(17)	(5)	(1)	(3)	(4)	(2)	(–)	(48)
6								
	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141
	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)
7								
	6,608	10,557	18,216	6,825	4,500	33,178	–	79,884
	(9)	(7)	(8)	(2)	(1)	(5)	(–)	(60)
8								
	11,896	27,984	16,412	22,338	9,047	50,272	53,320	191,269
	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)
9								
	10,897	16,829	19,312	9,938	–	37,360	34,744	129,080
	(16)	(12)	(8)	(3)	(–)	(6)	(2)	(81)
0								
	11,874	14,080	15,904	20,157	13,112	35,361	180,491	290,979
	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)
1								
	16,035	17,367	11,920	21,084	4,612	77,468	141,400	289,886
	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)
2								
	11,930	13,533	19,772	6,437	13,829	27,177	38,995	131,673
	(16)	(10)	(8)	(2)	(3)	(5)	(2)	(77)
3								
	6,465	11,133	20,390	7,612	8,485	33,883	65,715	153,683
	(9)	(8)	(8)	(2)	(2)	(5)	(2)	(79)
4								
	4,783	10,669	19,784	13,919	31,581	67,240	93,294	241,270
	(7)	(7)	(8)	(4)	(7)	(11)	(7)	(85)(85)
<b>TOTALS</b>								
	<b>115,739</b>	<b>164,876</b>	<b>189,520</b>	<b>151,446</b>	<b>121,159</b>	<b>435,839</b>	<b>726,576</b>	<b>1,905,155</b>
)	<b>(182)</b>	<b>(125)</b>	<b>(85)</b>	<b>(51)</b>	<b>(30)</b>	<b>(71)</b>	<b>(39)</b>	<b>(954)*</b>

N.B. The lowest award (other than nil) was £149, 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 2004

(AND COMPARATIVE FIGURES FOR 1996 TO 2003)

	2004	2003	2002	2001	2000	1999	1998	1997	1996
				£	£	£	£	£	£
ions	-	-	20	85	100	374	798	101	-
and ry	<b>778</b>	256	310	290	260	429	517	352	516
t to s of rd	<b>25,475</b>	21,143	21,378	24,758	16,421	18,681	22,645	16,717	26,822
	<b>1,785</b>	1,095	2,569	2,235	2,119	2,766	2,184	2,159	2,444
costs	<b>157</b>	614	-	995	40	-	-	-	-
isation	<b>230,219</b>	162,952	156,885	298,222	281,322	118,003	170,413	115,371	195,617
stration	<b>23,500</b>								
	<b>281,914</b>	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 hours during 2002, 209 hours during 2003 and 457 hours during 2004.
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" has been introduced from 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.