

STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2005

**Presented to the States on 25th April 2006
by the Minister for Home Affairs**

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 –

- (i) sustained, in the Island or on a Jersey ship, personal injury directly attributable to a crime of violence (including arson or poisoning) or 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, or
 - (ii) sustained personal injury directly attributable to a crime of violence (including arson or poisoning) in respect of which a court in the Island has jurisdiction by virtue of section 686 or 687 of the Merchant Shipping Act 1894 or such enactments as from time to time replace them.
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, Mrs. B.M. Chiang, Mr. M.A. Payne and Mrs. C.L. Jeune. 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; with the exception of Advocate Livingstone (who joined the Board in August 2004) and Mrs. Jeune (who joined the Board on 1st December 2005). Mr. R.L. Oakey, who had been a member of the Board since 1993, retired on 30th November 2005. 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; 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 49 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2005. 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 2005 are as follows –
- (a) The applicants were a mother, Mrs. C, and her 5 yearold son who had been subjected to an horrific ordeal in 2002, whereby Mrs. C's husband had attacked her with a knife and stabbed her 5 times. The other applicant, their son, had witnessed the attack and had tried to stop his father from stabbing his mother. Mrs. C's physical injuries were serious and both applicants suffered from Post Traumatic Stress Disorder, which was exacerbated by a barrage of threatening letters and phone calls from the husband whilst he was in prison serving a sentence for the attack. Various interim awards were made and the application was concluded on receipt of medical evidence on the level of scarring suffered by Mrs. C after her injuries had healed. The total award to Mrs. C was £37,815.83 for her physical injuries and PTSD, with an additional £8,886 in relation to the scars (including various items of special damages) and £10,000 for her son in respect of the PTSD;
 - (b) In December 2003 JALF, who was aged 15 at the time, was subjected to a vicious and unpleasant attack by a gang of other teenagers. She had abuse shouted at her, was punched in the head, had a bottle of urine thrown at her, and had a rope placed round her neck in an attempt to strangle her. Though fortunately she was rescued by another girl after about an hour, she not surprisingly developed significant post traumatic stress reactions. Initially she was awarded £1,000 but appealed. At the Hearing the Board was able to consider evidence from JALF's mother regarding the background to the incident and JALF's subsequent problems, and also more detailed medical evidence. Consequently the award was raised to £15,000;
 - (c) The applicant, G, was taking part in a cycle race at Les Quennevais Cycle Track. On the 9th lap, travelling at around 30 miles per hour, the racers rounded a blind bend to discover that a cricket canopy had been placed across the track in the couple of minutes between laps. The applicant braked and skidded, dislocating his shoulder and sustaining deep cuts and bruises. The total award was £2,380, with a small element of special damages and a deduction to take into account the fact that G had some criminal convictions;
 - (d) P was a serving Police Officer at the time of the incident, which took place in 2001. On making an arrest, P was kicked twice in the groin. At the time the injury, though painful, was not severe and P recovered within a few days. In November 2004, P was diagnosed with testicular cancer. On researching his illness he discovered that this cancer can sometimes be caused by previous trauma. He therefore made an application to the Board in May 2005. Under Article 12 of the Scheme, the Chairman waived the normal 3-year time limit for applications on the grounds that it was only in 2005 that P could have become aware of the possibility that his illness may have been the result of the assault upon him. However, the medical evidence obtained by the Board stated that there was no evidence to suggest that the cancer had been caused by trauma. Neither was the original injury sufficiently serious to merit an Award. Therefore the Board was not able to make any award to P;
 - (e) CML was aged 11 at the time of the incident, which took place in August 2005. He was having a water fight with his 9 yearold cousin SE. During the course of the game SE accidentally filled her container with hot water instead of cold and threw it at JML. He received superficial partial thickness burns to his neck and shoulder. Despite the fact that Article 13 of the Scheme allows the Board to consider applications in which the assailant is below the age of criminal responsibility, the police report into the incident stated that the incident was an innocent accident and therefore no crime. Accordingly no Award was made, as CML could not be said to be a victim of a crime of violence.
7. The Board received 5 requests for hearings during 2005, all of which related to claims in respect of which

the applicants had appealed against the decision of the 2-member Panel's initial award. The Hearing Board determined that there was justification for making an award, or a revised award, in respect of 2 of those hearings, with the Panel's award being upheld in a further 2 cases. The date for one hearing has been set for March 2006. Further information was awaited in respect of 2 hearings which had been requested in the previous year.

8. Of the 1,022 applications received since 1st May 1991 – 942 had been resolved as at 31st December 2005. Of the 77 applications in the process of resolution as at the end of 2005, 3 related to hearings which remained unresolved, 16 had received awards which included an element of interim payment and 13 others had been determined which awaited acceptance by the applicant. A total of 45 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 2005, 27 (that is, 55%) of the 49 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 2005.
11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2005 (49); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 1996 to 2005.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2005.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2005 and for the years 1997 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. However, in obtaining updated information regarding "the gross average industrial earnings... (as published by the United Kingdom Department of Employment Gazette)..." [Article 24(a) of the Scheme refers], the Board is advised that the DoE Gazette has been superseded by the U.K. Annual Survey of Hours and Earnings (ASHE). The Board recognizes that using data drawn from ASHE renders the Jersey Criminal Injuries Compensation Scheme out of kilter with the equivalent U.K. Scheme, and the Board concurs with the suggestion that it would be preferable to move away from using U.K. data and instead to use Jersey figures. The Statistics Unit compiles earnings data in Jersey every year – collected by way of a survey of the private sector – and a census of the public sector – in order to determine the Jersey Average Earnings Index. The mean ('average') earnings of full-time equivalent (FTE) employees is published regularly and the Board considers that this would be an improvement upon using U.K. figures. Consequently, the Board has requested the Minister for Home Affairs to authorise the preparation of a draft amendment to the Scheme for presentation to the States in due course.

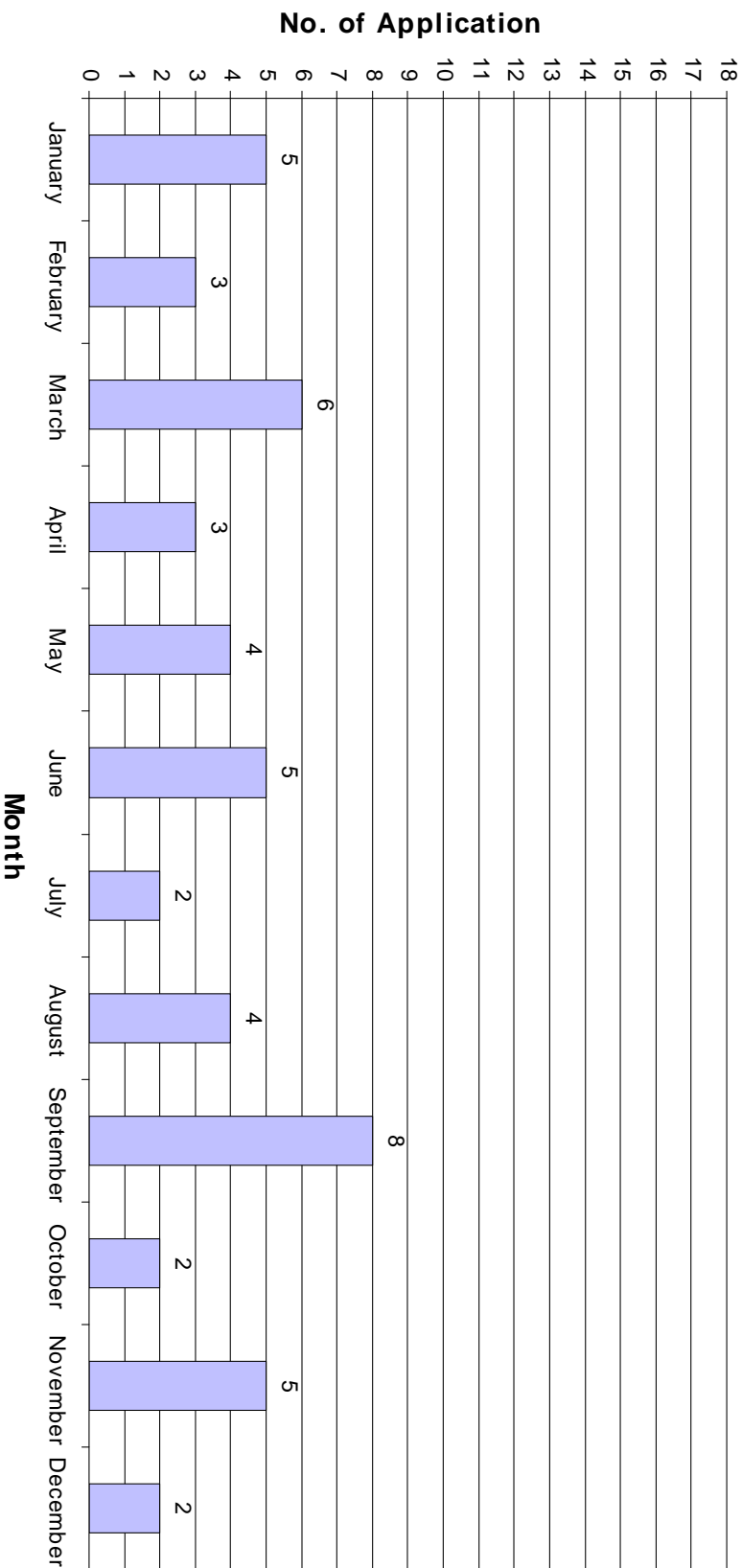
APPENDIX 1

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2005

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
<u>2005</u>				
January	5	3	4	6,934.98
February	3	4	8	32,139.16
March	6	4	5	8,459.02
April	3	11	6	17,286.10
May	4	4	8	46,358.81
June	5	4	8	22,698.05
July	2	2	2	2,413.00
August	4	8	4	14,309.38
September	8	4	7	4,585.50
October	2	8	3	Nil
November	5	4	17	36,216.12
December	2	-	2	Nil
	49	56	73	191,400.07

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 2005**



CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st January to 31st December 2005
 (and comparative figures for 1996 to 2004)

	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996
January	5	3	6	7	7	4	8	7	5	9
February	3	8	2	6	12	8	4	7	11	5
March	6	4	6	7	8	13	5	8	6	4
April	3	11	4	7	6	5	4	9	5	5
May	4	5	10	4	8	3	5	5	6	11
June	5	9	3	6	8	9	10	6	8	6
July	2	10	1	9	13	12	6	11	7	10
August	4	2	10	13	10	9	7	7	4	1
September	8	5	4	6	5	10	8	9	10	7
October	2	4	2	7	12	6	5	6	11	10
November	5	5	3	10	7	17	8	4	4	9
December	2	6	3	1	10	6	6	10	10	2
	49	72	54	83	106	102	76	89	87	79

APPENDIX 3

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2005

Total number of applications received = 1,022

Total number of applications determined = *945

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)
<u>4</u>								
	4,783	10,669	19,784	13,919	31,581	67,240	93,294	241,270
	(7)	(7)	(8)	(4)	(7)	(11)	(7)	(85)
<u>5</u>								
	4,909	17,889	19,115	10,698	12,142	51,997	74,650	191,400
	(7)	(13)	(8)	(3)	(3)	(7)	(4)	(73)

FALS								
	127,113	193,898	229,025	169,756	141,786	521,719	866,941	2,250,238
b)	(189)	(138)	(93)	(54)	(33)	(78)	(43)	(1027)*

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 1997 TO 2004)

2005	2004	2003	2002	2001	2000	1999	1998	1997
£				£	£	£	£	£
-	-	-	20	85	100	374	798	101
251	778	256	310	290	260	429	517	352
22,624	25,475	21,143	21,378	24,758	16,421	18,681	22,645	16,717
1,730	1,785	1,095	2,569	2,235	2,119	2,766	2,184	2,159
-	157	614	-	995	40	-	-	-
180,767	230,219	162,952	156,885	298,222	281,322	118,003	170,413	115,371
25,000	23,500							
230,372	281,914	186,060	181,162	326,585	300,262	140,253	196,557	134,700

Notes:

- 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, 457 hours during 2004 and 432 during 2005.
- 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.
- 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.