

STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2006

Presented to the States on 8th August 2007
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 a 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 C.J. Dorey (Chairman, from June 2006), Advocates R.J. Michel and L.M. Gould (former Chairmen), Advocates A.S. Regal, P. de C. Mourant P.M. Livingstone– these are the members who are “advocates or solicitors of the Royal Court of not less than 2 years’ standing” – and ‘lay’ members Dr. M.P. Bruce, Mrs. B.M. Chiang, Mr. M.A. Payne Mrs. C.L. Jeune. The Minister for Home Affairs approved the reappointment of the current members of the Board, for a further period of 5 years with effect from 1st May 2006. The Minister wishes to record her 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 69 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2006. Because of the length of time it sometimes takes to finalize an

award, not all applications are concluded in the calendar year they are received. Examples of the nature of applications and awards made in 2006 are as follows –

- (a) *H* was a Taxi Driver. He was hailed by a group of men and stopped. He was kicked in the groin but managed to get back into his taxi and drove home. His wife found him in the taxi, unconscious. He was taken to hospital. He was unconscious for almost 10 days, was diagnosed as having an extensive diverse myelitis between certain vertebrae and is now in a wheelchair. The medical evidence was that *H*'s condition was not as a direct result of the kick to the groin and thus was not directly connected to the crime of violence. The Board was unable to satisfy itself that *H*'s paralysis was clearly linked in respect, and thus there was a nil award;
 - (b) *I* was in a bar with friends when he was twice punched in the head. He hit his head on the bar. Upon getting up he was hit again and fell back onto the floor, unconscious. He suffered brain injury, is now significantly disabled and requires constant nursing care. He was aged 32 at the time of the incident. Taking into account damages for pain and suffering and loss of earnings for both past and future, and deducting therefrom the deductions required under the Scheme, *I* would have been awarded close to £300,000. By reason of the statutory cap he was awarded £100,000;
 - (c) *D* was a serving Police Officer and was punched in the hand and groin whilst dealing with an arrested person. There was reddening to the groin area and to the right hand. *D* did not require medical attention. Although he was found to be a victim of a crime of violence the damages would have been below the minimum allowed by the Scheme and there was a nil award;
 - (d) *B* was at West Centre with her young daughter and her friend. A man walked up and punched her in the face. She suffered some bruising and continuing anxiety and stress. She was wary of walking around town. She was awarded £750 for the physical damages and £2,500 for the post-traumatic stress;
 - (e) *D*, aged 50 at the time of his application, brought a claim relating to a series of sexual assaults upon him when he was a child. An officer in St. John Ambulance made a habit of sexually abusing young cadets. A complaint was made by another of the victims in 2004 which resulted in the Police contacting other potential victims, including *D*. It was apparent that the sexual abuse had affected *D* over the years and had resulted in him having to attend a psychotherapist. He was diagnosed as suffering from post-traumatic stress, suffered from poor self-esteem, lack of confidence and had difficulties in his marital relationship. As a result of therapy he improved. He was awarded £5,000;
 - (f) Mrs. *N* was at home having a celebration with friends. At about 2 a.m. she heard someone banging on her front window. She investigated, saw 2 men walking away and shouted after them. They returned and one of them pushed her. She pushed him back. She was then punched twice in the face and kicked. Although an award was made there was a 20% deduction by reason of *N*'s own actions in leaving a property to investigate and pushing back. Her net award was £640.
7. The Board received 2 requests for hearings during 2006, both 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 hearings, with the Panel's award being upheld in one further case.
 8. Of the 1,093 applications received since 1st May 1991– 1,001 had been resolved as at 31st December 2006. Of the 92 applications in the process of resolution as at the end of 2006, 2 related to hearings which remained unresolved, 13 had received awards which included an element of interim payment and 19 others had been determined which awaited acceptance by the applicant. A total of 58 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. From information available in 53 of the 69 applications received in

- 2006, 40 of those (that is 75%) involved the consumption of alcohol by either the assailant 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 2006.
 11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2006 (69); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 1997 to 2006.
 12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2006.
 13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2006 and for the years 1998 to 2005, for comparative purposes.
 14. The Board was generally satisfied with the working of the 1990 Scheme, as amended, except for concern regarding the funding of the Scheme which is provided from within the budget of the Home Affairs Department and which, in 2006, came under severe pressure. The Board also notes 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 in order to bring it into line with similar awards made in respect of common law damages. It is worthy of note that, in 2006, 2 particularly substantial awards were made – one of £100,000 and another of approximately £93,000. Had the Board's recommendation that the maximum award payable under the Scheme be increased, it is likely that the award payable to the applicant who received £100,000 would have been significantly higher.
 15. As referred to in the Board's Report for 2005, the Board concurred with the suggestion that rather than use United Kingdom data on "gross average industrial earnings... (as published by the United Kingdom Department of Employment Gazette)..." [Article 24(a) of the Scheme refers], it would be preferable instead to use Jersey figures as even the use of the U.K. Annual Survey of Hours and Earnings (ASHE) renders the Jersey Criminal Injuries Compensation Scheme out of kilter with the equivalent U.K. Scheme. 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 figure of full-time equivalent (F.T.E.) employees is published regularly and the Board considers that this would be an improvement upon using U.K. figures. Consequently, in 2005, the Board requested the Minister for Home Affairs to authorize the preparation of a draft amendment to the Scheme for presentation to the States. To date, this has not been progressed.
 16. The Board has also requested a number of 'housekeeping' amendments to the Scheme. The Board understands that such amendments, along with the amendment proposed at paragraph 15, are subject to bids for law drafting time and that owing to bids with higher priorities, time has not yet been made available. It is hoped that such amendments will be included in a bid for contingency law drafting time in due course.

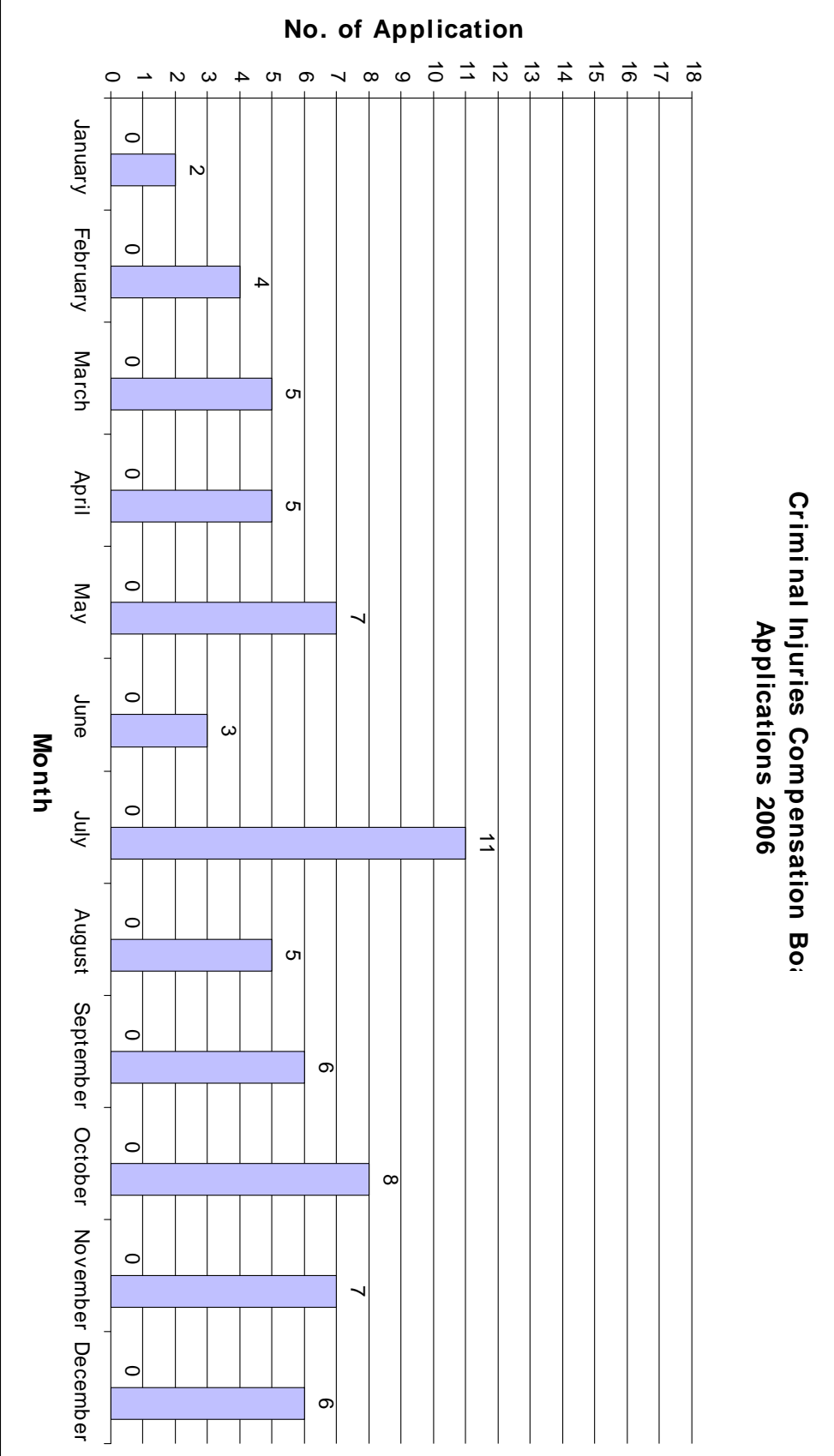
APPENDIX 1

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2006

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
2006				
January	2	3	7	28,947.91
February	4	4	7	106,334.43
March	5	6	4	4,774.45
April	5	2	4	36,971.47
May	7	5	4	2,704.81
June	3	4	2	8,000.00
July	11	3	4	14,167.40
August	5	9	9	133,897.95
September	6	6	4	14,060.00
October	8	7	4	16,319.78
November	7	4	12	51,388.03
December	6	7	6	22,765.88
	69	60	70	440,332.11

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 2006**



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CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st January to 31st December 2006
(and comparative figures for 1997 to 2005)

	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997
January	2	5	3	6	7	7	4	8	7	5
February	4	3	8	2	6	12	8	4	7	11
March	5	6	4	6	7	8	13	5	8	6
April	5	3	11	4	7	6	5	4	9	5
May	7	4	5	10	4	8	3	5	5	6
June	3	5	9	3	6	8	9	10	6	8
July	11	2	10	1	9	13	12	6	11	7
August	5	4	2	10	13	10	9	7	7	4
September	6	8	5	4	6	5	10	8	9	10
October	8	2	4	2	7	12	6	5	6	11
November	7	5	5	3	10	7	17	8	4	4
December	6	2	6	3	1	10	6	6	10	10
	69	49	72	54	83	106	102	76	89	87

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	4,909	17,889	19,115	10,698	12,142	51,997	74,650	191,400
	(7)	(13)	(8)	(3)	(3)	(7)	(4)	(73)
6								
	6,570	9,608	14,698	3,972	26,214	45,029	334,241	440,332
	(9)	(7)	(6)	(1)	(6)	(6)	(8)	(70)
FALS								
	133,683	203,506	243,723	173,728	168,000	566,748	1,201,182	2,690,570
l)	(198)	(145)	(99)	(55)	(39)	(84)	(51)	(1097)*

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 2006

(AND COMPARATIVE FIGURES FOR 1998 TO 2005)

	2006	2005	2004	2003	2002	2001	2000	1999	1998
	£	£	£	£	£	£	£	£	£
Applications	261	251	143	–	20	85	100	374	798
Printing and Stationery	–	–	635	256	310	290	260	429	517
Salaries paid to members of the Board	19,264	22,624	25,475	21,143	21,378	24,758	16,421	18,681	22,645
Legal fees	669	1,730	1,785	1,095	2,569	2,235	2,119	2,766	2,184
Printing costs	–	–	157	614	–	995	40	–	–
Compensation	418,763	180,767	230,219	162,952	156,885	298,222	281,322	118,003	170,413
Administration	–	25,000	23,500						
	438,957	230,372	281,914	186,060	181,162	326,585	300,262	140,253	196,557

- 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, 457 hours during 2004, 432 hours during 2005 and 392 during 2006.
 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. In view of the pressure upon the Home Affairs budget in 2006, this cost was not passed on for 2006.
 4. The year 2006 has seen a number of awards being made at or near the maximum permitted under the Scheme (£100,000). This has led to a higher than usual call on the Scheme and has necessitated an increased allocation of funding to meet the awards made.