

# **STATES OF JERSEY**



## **CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2002**

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**Presented to the States on 2nd December 2003  
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 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 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; 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 83 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2002. 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 2002 are as follows –

(a) Applicant a minor, aged 16 years. He was out celebrating his brother's birthday. Applicant interrupted someone's phone conversation by knocking on the door of the phone box situated near a taxi rank. He was sworn at but retaliated. He was allegedly punched. A second person offered to help the applicant although he became angry because blood had dripped on him. This person then head butted the applicant. This was captured on CCTV. Applicant sustained a depressed fracture of the left nasal bones and several chipped teeth due to the assault. The second assailant was convicted of Grave and Criminal assault, although the first assailant remained unidentified. General Damages awarded of £3,400.00 plus Special Damages of £430. Under Article 15 of the Scheme the Board took account of the fact that the applicant was extremely intoxicated to such an extent that he did not recognise his first assailant, the first assault lead directly to the second assault and the applicant had a criminal record. 75% was deducted from the overall total. Net award of £937.50.

(b) Applicant accidentally bumped into his assailant whilst dancing in a nightclub. Applicant apologised and as a friendly gesture ruffled his hair. Applicant was confronted by assailant's brother who was then ejected from the club. He then approached his assailant to shake his hand however was punched in the face. As a result of the attack the applicant sustained a crack fracture of the tip of the nasal bones, bruising across the nose and left eyelid plus suffered from congestion and headaches and psychological symptoms. General Damages awarded of £1,300.00. 25% deduction with regard to applicant's intoxicated state and apparent behaviour leading up to the actual assault. Net Award of £975.00.

(c) Applicant indecently assaulted and had acts of gross indecency perpetrated upon her by her stepfather. Assaults occurred prior to the date when the Criminal Injuries Compensation Scheme came into force on 1st May 1991. The application was only made on 13th March 2002 and the Chairman exercised his discretion in accordance with Article 36 of the Scheme to extend the period within which the application could be made. The Board was only able to compensate her for the ongoing effects of the injuries from the date the Scheme came into operation. Applicant felt depressed as a result of these assaults and from the lack of support from her family. The depression and anxiety caused the applicant to take an overdose in 2001. Applicant exhibited psychological difficulties. General Damages awarded £5,000.

(d) Applicant, a Custody Sergeant was assaulted whilst attempting to remove a prisoner's shoes in the cell. He was kicked in the chest which sent him flying backwards and he ripped his right calf muscle. Applicant was certified unfit for duty and underwent a course of physiotherapy. Assailant was charged with committing an assault and ordered to complete 90 hours' community service and pay £500 compensation to the applicant. The Board had to consider whether the applicant was a victim of a crime of violence as the applicant's injury was not directly attributable to a blow inflicted by the assailant. However, the Board considered the dictum of Watkins L.J. in the case of R-v-CICB, ex parte Webb (1986) Q.B 184 (D.C) and that of Eveleigh J in the case of R-CICB, ex parte Clowes (1977) 1 WLR 1353. The assailant's actions showed that he was attempting to inflict injury upon the applicant and therefore the Board considered that the applicant was the victim of a crime of violence. General Damages awarded £1,800.00. £500 was deducted from the award, as the applicant was to receive this sum from the assailant. Net award of £1,300.

(e) Applicant witnessed a male steal money out of the till in a supermarket. He attempted to apprehend the thief. As he attempted the apprehension he was pulled off balance and fell to the ground, injuring his hand. The applicant was injured whilst attempting to apprehend a suspected offender. Therefore, the exemption of clause 15 (d) of the Scheme did not apply. It was discovered that the applicant had in fact pulled the tendon away in the left little finger. Two operations were required and the applicant was left with scarring. General Damages awarded of £5,500.00 plus Special Damages of £962.02. In accordance with Article 28 of the Scheme the compensation awarded had to be reduced to take account of any benefits received by the applicant. Therefore, a net award of £5,506.10 was made.

(f) Applicant had been estranged from her husband for 15 months preceding the incident in question. The applicant had been receiving counselling because of her fear of being stalked and attacked by her husband. On the night of the incident the applicant was walking down the road when she became aware of her husband approaching her. She was assaulted by her husband and sustained numerous injuries including pain in the neck, pain affecting her lower back and tenderness over the lower ribs. In addition the Board was satisfied that the attack would inevitably affect her mental health and recovery. Assailant was charged with committing a Grave

and Criminal assault and sentenced to one month's imprisonment. General Damages awarded of £1,200.

(g) Applicant was working as a doorman at a bar. Assailant was previously ejected from the bar by door staff although somehow regained entry. Applicant approached assailant and asked him to leave. Assailant became argumentative but was eventually ejected. Subsequently the applicant was punched in the face by this man and sustained a black eye. The assailant was convicted of committing an assault although the injuries sustained by the applicant fall below the minimum award of £750. Accordingly a nil award was made.

(h) Applicant was seated in a pub with his girlfriend. A male, already known to the pair knocked on the window of the pub and shouted to the applicant to 'come outside'. Applicant did and an altercation occurred followed by punches from both men. On returning to the public house it was clear that the applicant had been stabbed. Following a visit to another pub the applicant decided to go to the Hospital to receive treatment. He had sustained 4 straightedged wounds measuring from 6 millimetres to 16 millimetres in length and other superficial injuries. Assailant was presented before the Court charged with a Grave and Criminal assault upon the applicant although he was acquitted of that charge. The Board decided to dismiss this application as to qualify for compensation under the Scheme the Board must be satisfied that the injury sustained by the applicant is directly attributable to a crime of violence. As his assailant was acquitted of the charge the applicant's application failed and no Award was made.

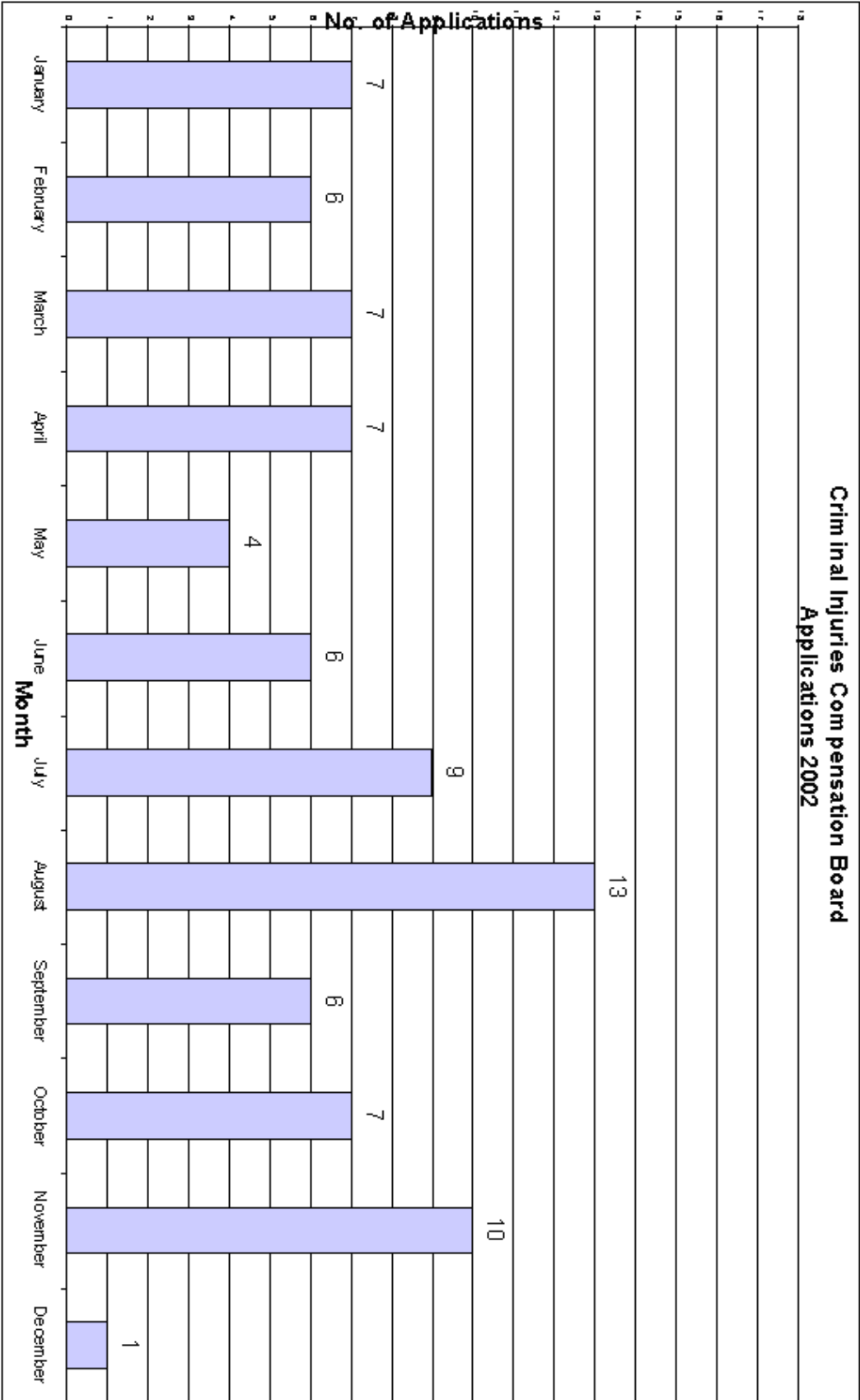
7. The Board received 4 requests for a hearing during 2002 all of which related to claims in respect of which the applicants had appealed against the decision of the 2 Board members' initial award. The Board determined that there was justification for making an award, or a revised (higher) award, in respect of 3 of the hearings and the decision of the 2-member Board was upheld in one case.
8. Of the 846 applications received since 1st May 1991 – 760 had been resolved as at 31st December 2002. Of the 107 applications in the process of resolution as at the end of 2002, 8 related to hearings which remained unresolved, 9 had received awards which included an element of interim payment and 17 others had been determined which awaited acceptance by the applicant. A total of 73 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 2002, 57 (that is, 69%) of the 83 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 2002.
11. **Appendix 2(a) and (b)** shows, in the form of a bar graph, the rate of applications received during 2002 (83); and in tabular form month by month, the total number of applications received annually from 1995 to 2002.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2002.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2002 and for the years 1996 to 2002, 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.76/2002) 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 has recommended an increase in the maximum award (which is currently £100,000) to £250,000.

**APPENDIX 1**

**RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2002**

<b>Month</b>	<b>Received</b>	<b>Applications on which reports sent to Board</b>	<b>Applications determined</b>	<b>Amount awarded £</b>
<u>2002</u>				
January	7	8	7	17,156.85
February	6	9	7	11,825.51
March	7	5	7	33,219.58
April	7	8	4	2,637.02
May	4	8	7	5,750.00
June	6	3	8	18,187.09
July	9	3	12	12,269.14
August	13	2	2	871.50
September	6	7	4	5,121.79
October	7	10	5	14,443.00
November	10	4	12	10,191.64
December	1	7	–	–
	<b>83</b>	<b>75</b>	<b>75</b>	<b>131,673.12</b>



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**CRIMINAL INJURIES COMPENSATION BOARD**

**Applications received for the period 1st January to 31st December 2002**  
(and comparative figures for 1995, 1996, 1997, 1998, 1999, 2000 and 2001)

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

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**APPENDIX 3**

**RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2002**

Total number of applications received = 846

**Total number of applications determined = 760\***

<b>nil</b>	<b>£1 to £999</b>	<b>£1,000 to £1,999</b>	<b>£2,000 to £2,999</b>	<b>£3,000 to £3,999</b>	<b>£4,000 to £4,999</b>	<b>£5,000 to £9,999</b>	<b>£10,000 and over</b>	<b>TOTAL</b>
<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)
<b>TOTALS</b>								
	<b>110,956</b>	<b>154,207</b>	<b>169,736</b>	<b>137,527</b>	<b>89,578</b>	<b>368,599</b>	<b>633,282</b>	<b>1,663,885</b>
<b>1)</b>	<b>(166)</b>	<b>(110)</b>	<b>(69)</b>	<b>(45)</b>	<b>(21)</b>	<b>(55)</b>	<b>(30)</b>	<b>(790)*</b>

**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 2002

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

	2002	2001	2000	1999	1998	1997	1996
		£	£	£	£	£	£
Applications	20	85	100	374	798	101	–
Printing and Stationery	310	290	260	429	517	352	516
Payment to members of Board	21,378	24,758	16,421	18,681	22,645	16,717	26,822
Medical costs	2,569	2,235	2,119	2,766	2,184	2,159	2,444
Printing costs	–	995	40	–	–	–	–
Compensation	156,885	298,222	281,322	118,003	170,413	115,371	195,617
	181,162	326,585	300,262	140,253	196,557	134,700	225,399

Note: 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 and 435 during 2002.