
STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2011

Presented to the States on 12th June 2012
by the Minister for Home Affairs

STATES GREFFE

REPORT

The current Jersey Criminal Injuries Compensation Scheme came into force on 1st May 1991. Consequently, 2011 saw its 20th anniversary.

Some facts and figures...

During that 20 year period, the number of applications received has grown in varying degrees from 44 in 1992 (the first full year of operation) to 53 in 2011, with applications peaking in 2001 at 106 [see Appendix 2(b)]. Compensation paid to applicants increased from £45,840 in 1992 to a 'high point' of £375,282 in 2010, with a total of just over £4 million now having been paid. Currently, overall, 38% of all compensation is paid in amounts of up to £3,000; 6% of applications result in an award of £10,000 or more; whilst a further 38% of applications result in a nil award. Just under 6% of the applications received to date were from Police Officers, the majority of whom were 'on duty.' To date, a total of 116 applications (8.5% of all applications submitted) have been received for a hearing ('appeal'). The current minimum award of compensation (before deductions) is £1,500 (set in 2009); and the maximum (set in 1998) remains at £100,000.

Background

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). Most recently, the States – on 10th September 2009 – adopted a revised Scheme (P.113/2009) which consolidated all previous amendments and incorporated a number of further changes recommended by the Board. 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. In 1992, 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. The current version of the Scheme, as well as the guide to the Scheme (entitled “Victims of Crimes of Violence”), incorporates all the amendments to the Scheme since its inception.

Membership of the C.I.C.B.

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, D.J. Benest and (with effect from 1st August 2010) Advocate M.E. Whittaker – these are the members who are “advocates or solicitors of the Royal Court of not less than 5 years’ standing” [Article 4(a) of the Scheme] – and ‘lay’ members Mr. M.A. Payne, Mrs. C.L. Jeune, Dr. G. Llewellyn and (appointed in June 2011 under new procedures*) Mrs. J. Carlin. Mrs. B.M. Chiang, a lay member since 1997, indicated her intention of retiring during the year. The Minister wishes to record his appreciation to all members of the Board for the work they have undertaken. The existing Board members were re-appointed by the Minister for a further period of one year from 1st May 2011, but following a review of the method of appointing to the Board*, subsequent vacancies for lay members are advertised in accordance with Appointments Commission guidelines and expressions of interest considered, leading to candidates being short-listed, interviewed and selected by a Panel comprising the C.I.C.B. Chairman and a representative from each of States Human Resources and the Appointments Commission. Any vacancy which arises for a legally-qualified member will be circulated to the Law Society of Jersey for dissemination throughout those in the legal profession with the requisite experience.

Withholding or reducing compensation

5. Under Article 15 of the Scheme, the Board may withhold or reduce compensation if it considers that –
 - (a) the applicant has not taken all reasonable steps to inform the police;
 - (b) the applicant has failed to give all reasonable assistance to the Board;
 - (c) 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 –

- (d) 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.

Operation of the Scheme in 2011

6. The Board received 53 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2011. 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 2011 are as follows –

- (a) The applicant, who worked with the assailant, had been out drinking with him. A considerable amount of alcohol had been consumed. They commenced to play-fight and the applicant held down his assailant with an arm lock. The assailant managed to release himself, went into the kitchen and returned with a couple of knives and repeatedly stabbed the applicant. The assailant was charged with grave and criminal assault. Luckily, the stab-wounds were not deep and the applicant made a reasonable recovery therefrom. However, 2 years later the applicant was confronted by his assailant who made a number of threats against the applicant's life. This caused significant psychological symptoms. The gross award (to include a significant figure for loss of earnings plus general damages) was in excess of £88,000. However, there was a 75% reduction to take into account the fact that the applicant was not of good character (he had substantial previous convictions) and alcohol was a serious contributory factor. The net award was £21,793.
- (b) The applicant was viciously attacked by 3 individuals as a result of which he was knocked unconscious and lost the sight of one eye. The assailants were convicted of grave and criminal assault. In addition to the physical injury, the applicant suffered post-traumatic stress. Although it was clear that the applicant was the victim of a crime of violence, there was a nil award since the applicant had a long string of previous convictions and, under the Scheme, the Board could withhold or reduce compensation if it considered that, having regard to the conduct of the applicant before, during or after the events, or to his character or way of life, it was inappropriate that a full award or any award be granted.
- (c) The applicant was in a night-club in town when he was head-butted by the assailant. It was clear that the applicant was the innocent victim of a crime of violence. He suffered a black eye and bruising, but no further injury. The total of damages was below the minimum figure which the Board was authorised to award (i.e. £1,500) and accordingly no award was made.
- (d) The applicant was a police constable. Whilst on patrol in town he chased after a suspected criminal. As he attempted to arrest him, he was shrugged off and the police constable fell to the ground; he fell on his right hand which caused the little finger to break. One of the

grounds of eligibility under the Scheme is where injury is sustained in apprehending or attempting to apprehend an offender, and accordingly the applicant fell within the Scheme. Surgery was required to the finger. In addition there was a shoulder sprain. The applicant was awarded £3,125.

- (e) The applicant was in a night-club when he was assaulted (but without injury) by 2 males. When he left the night-club, one of the males invited him across the road and then hit him over the head with a bottle. The assailant was convicted of grave and criminal assault and the Board accepted that the applicant was the victim of a crime of violence. The Scheme, however, requires the applicant to co-operate with the Board and to give it all reasonable assistance. The applicant failed to do so despite a number of requests for information and documentation. In light of that failure to provide any assistance and after due warning, a nil award was made.
7. The Board received 7 requests for hearings during 2011, all of which related to claims where the applicant 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 5 applications; and that Nil Awards should be maintained in 2 cases. Other hearings will be held at a later date.
8. Of the 1,359 applications received since 1st May 1991 – 1,265 had been resolved as at 31st December 2011. Of the 94 applications in the process of resolution at the end of 2011, 10 related to hearings which remained unresolved, 19 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 48 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 on the 53 applications received in 2011, 36 of those (that is 68%) involved the consumption of alcohol by either the assailant or the victim. Many of these incidents occurred 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.

Statistical information

10. **Appendix 1** sets out statistics on activities during the period 1st January to 31st December 2011, relating to claims made under the Criminal Injuries Compensation Scheme.

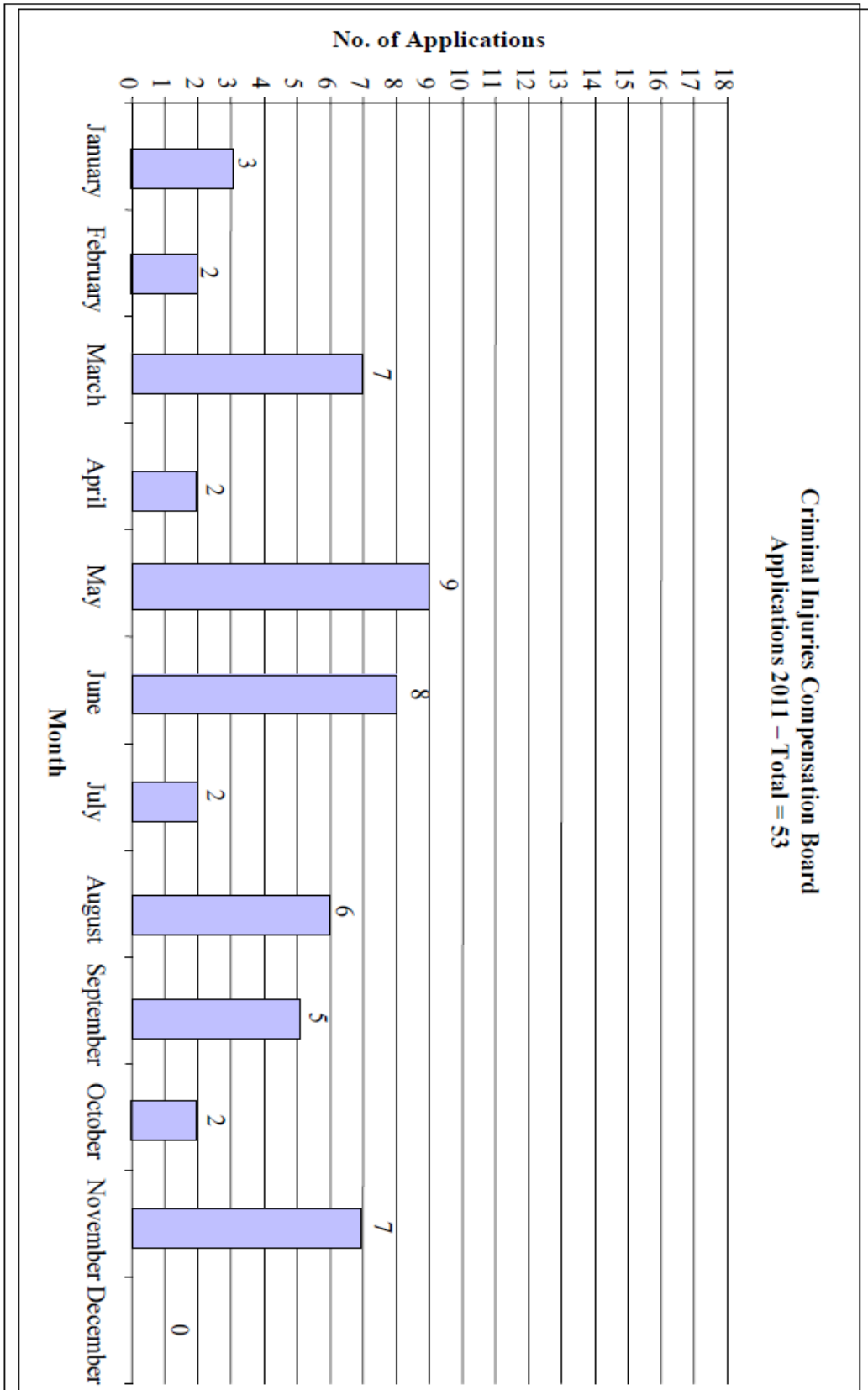
11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2011 (53); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 2001 to 2011.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2011.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2011 and for the years 2003 to 2010, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended. For 2011, funding of the Scheme was provided from the budget of the Home Affairs Department. The Board notes that 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 closer in line with similar awards made in respect of common law damages, the Minister for Home Affairs – answering an oral question asked of him in the States on 5th April 2011 – indicated that: *“In the present circumstances in which this Assembly has agreed to find cuts in existing public expenditure of the order of £65 million over 3 years and where there are significant pressures to increase public expenditure in a variety of areas, I am not able to recommend to the States an increase in the maximum award of £100,000.”* It is worthy of note that, in recent years, a number of substantial awards have been made – some in the maximum sum of £100,000. Had the Board’s recommendation that the maximum award payable under the Scheme be increased been implemented, and the necessary budget provided, it is likely that the award payable to some applicants who are presently limited to receiving £100,000 would have been significantly higher. The Board remains concerned that some very deserving applicants are suffering considerable hardship as a result of this failure to increase the maximum award. In relation to Article 43A of the Scheme whereby (w.e.f. 10th September 2009) awards are required to be accepted within 6 months of their notification to applicants, after which time they will lapse, no awards lapsed during 2011 under that provision.

APPENDIX 1**RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2011**

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
<u>2011</u>				
January	3	3	6	19,944
February	2	1	7	18,428
March	7	4	–	nil
April	2	3	2	nil
May	9	5	2	12,500
June	8	5	6	23,416
July	2	2	8	15,014
August	6	6	3	14,452
September	5	2	5	8,976
October	2	1	6	9,892
November	7	8	10	68,646
December	–	9	6	27,557
	53	49	61	218,825

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)



APPENDIX 2(b)

CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st January to 31st December 2011
 (and comparative figures for 2001 to 2010)

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001
January	3	4	2	7	5	2	5	3	6	7	7
February	2	4	3	7	9	4	3	8	2	6	12
March	7	7	6	4	3	5	6	4	6	7	8
April	2	6	8	2	4	5	3	11	4	7	6
May	9	6	3	3	5	7	4	5	10	4	8
June	8	2	5	2	2	3	5	9	3	6	8
July	2	10	4	1	4	11	3	10	1	9	13
August	6	4	3	6	3	5	4	2	10	13	10
September	5	8	4	2	6	6	8	5	4	6	5
October	2	3	3	4	9	8	2	4	2	7	12
November	7	4	7	3	5	7	5	5	3	10	7
December	–	1	3	3	5	7	2	6	3	1	10
	53	59	51	44	60	70	50	72	54	83	106

APPENDIX 3

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2011

Total number of applications received = 1,359

Total number of applications determined = *1,265

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
	£	£	£	£	£	£	£	£
1991								
–	–	1,706	–	–	–	–	–	1,706
(–)	(–)	(1)	(–)	(–)	(–)	(–)	(–)	(1)
1992								
–	3,901	8,160	5,452	3,886	–	5,899	–	27,298
(7)	(6)	(6)	(2)	(1)	(–)	(1)	(–)	(23)
1993								
–	3,919	8,985	17,444	6,641	–	11,500	53,084	101,573
(5)	(6)	(7)	(7)	(2)	(–)	(2)	(3)	(32)
1994								
–	10,411	8,728	14,735	9,678	17,900	28,121	–	89,573
(11)	(16)	(6)	(6)	(3)	(4)	(4)	(–)	(50)
1995								
–	10,000	8,095	2,438	10,254	17,346	13,690	–	61,823
(16)	(17)	(5)	(1)	(3)	(4)	(2)	(–)	(48)
1996								
–	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141
(28)	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)
1997								
–	6,608	10,557	18,216	6,825	4,500	33,178	–	79,884
(28)	(9)	(7)	(8)	(2)	(1)	(5)	(–)	(60)
1998								
–	11,896	27,984	16,412	22,338	9,047	50,272	53,320	191,269
(48)	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)
1999								
–	10,897	16,829	19,312	9,938	–	37,360	34,744	129,080
(34)	(16)	(12)	(8)	(3)	(–)	(6)	(2)	(81)
2000								
–	11,874	14,080	15,904	20,157	13,112	35,361	180,491	290,979
(46)	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)
2001								
–	16,035	17,367	11,920	21,084	4,612	77,468	141,400	289,886
(42)	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)
2002								
–	11,930	13,533	19,772	6,437	13,829	27,177	38,995	131,673
(29)	(16)	(10)	(8)	(2)	(3)	(5)	(2)	(75)
2003								
–	6,465	11,133	20,390	7,612	8,485	33,883	65,715	153,683
(43)	(9)	(8)	(8)	(2)	(2)	(5)	(2)	(79)

2004								
–	4,783	10,669	19,784	13,919	31,581	67,240	93,294	241,270
(34)	(7)	(7)	(8)	(4)	(7)	(11)	(7)	(85)
2005								
–	4,909	17,889	19,115	10,698	12,142	51,997	74,650	191,400
(28)	(7)	(13)	(8)	(3)	(3)	(7)	(4)	(73)
2006								
–	6,570	9,608	14,698	3,972	26,214	45,029	334,241	440,332
(27)	(9)	(7)	(6)	(1)	(6)	(6)	(8)	(70)
2007								
–	3,022	5,815	9,829	19,819	13,327	75,558	110,246	237,616
(23)	(4)	(5)	(4)	(6)	(3)	(12)	(4)	(61)
2008								
–	3,345	19,642	24,306	6,359	12,921	73,454	137,956	277,983
(23)	(6)	(15)	(10)	(2)	(3)	(11)	(9)	(79)
2009								
–	1,550	12,531	22,196	10,071	4,000	17,000	242,209	309,557
(19)	(3)	(9)	(9)	(3)	(1)	(3)	(9)	(56)
2010								
–	1,376	12,537	10,844	22,355	4,526	55,111	305,886	412,635
(25)	(2)	(8)	(5)	(6)	(1)	(8)	(5)	(60)
2011								
–	1,685	6,213	17,902	10,093	43,755	44,889	94,286	218,823
(20)	(2)	(4)	(8)	(3)	(10)	(7)	(7)	(61)
TOTALS								
–	144,661	260,244	328,800	242,425	246,529	832,760	2,091,765	4,147,184
(536)	(215)	(186)	(135)	(75)	(57)	(125)	(85)	(1,414)*
[38%]	[15.%]	[13%]	[10%]	[5%]	[4%]	[9%]	[6%]	[100%]

N.B. The lowest award (other than nil) was £149, and the highest £100,000.

(Numbers in brackets represent numbers of applications. *The 2 figures for the total number of applications determined do not match because some applications receive elements of an award in different calendar years.)

[Numbers in square brackets represent, by category, the percentage of awards made of the total number of awards made.]

APPENDIX 4

ACCOUNTS FOR THE PERIOD 1ST JANUARY TO 31ST DECEMBER 2011

(AND COMPARATIVE FIGURES FOR 2003 TO 2010)

	2011	2010	2009	2008	2007	2006	2005	2004	2003
	£	£	£	£	£	£	£	£	£
Publications	–	373	245	409	–	261	251	143	–
Printing and stationery	–	–	–	–	323	–	–	635	256
Payment to members of the Board	16,277	20,488	16,421	25,562	17,352	19,264	22,624	25,475	21,143
Medical reports	2,609	2,944	755	2,321	565	669	1,730	1,785	1,095
Hearing costs	6	429	–	–	–	–	–	157	614
Compensation paid	208,778	375,282	323,628	315,486	182,842	418,763	180,767	230,219	162,952
Administration	28,147	28,147	27,595	–	25,955	–	25,000	23,500	n/a
	255,817	427,663	368,644	343,778	227,037	438,957	230,372	281,914	186,060

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. Comparative figures from 1998 to date are as follows –

Year	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998
Hours	352	376	400	499	290	392	432	457	209	435	495	372	379	457

- 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” was introduced in 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 2006 and 2008, in view of the pressure upon the Home Affairs budget at the time, this cost was not passed on for those years.
4. The years 2006, 2009 and 2010 saw a number of awards being made at or near the maximum permitted under the Scheme (£100,000). This led to higher than usual calls on the Scheme and necessitated a significantly increased allocation of funding to meet the awards made in those years.