



OFFICE OF CRIMINAL INJURIES COMPENSATION

DEPARTMENT OF THE ATTORNEY GENERAL

**Chief Assessor's Report
for the
Financial Year Ending 30 June 2006**



CRIMINAL INJURIES COMPENSATION

The Honourable J A McGinty MLA
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STATUTORY REPORT - CRIMINAL INJURIES COMPENSATION 2005/06

The following is my report pursuant to section 62 of the *Criminal Injuries Compensation Act 2003* ("the Act") on the operation of the Office of Criminal Injuries Compensation for the financial year ending on 30 June 2006,

During 2005/06:

\$19,381,180 was awarded in compensation,

1207 new applications were received,

1180 applications were accepted for processing,

1465 applications were finalised,

1277 compensation awards were made, with an average of \$15,177.00

21 hearings were held into applications for compensation,

109 applications for compensation were refused,

the caseload was reduced by 282 to 674 current applications, and

\$1,407,133 of debt owed to the State was recovered.

STATISTICAL PROFILE

Year	2000	2001	2002	2003	1 Jan 2004 30 Jun 2004*	2004/2005	2005/2006
New applications received	1170	1041	1021	1370	752	1441	1207
Applications accepted	1176	1017	1180	1307	453	1137	1180
Rejected applications	**	**	**	**	297	1088	709
Resubmitted applications	***	***	***	***	***	784	645
Applications determined (granted and refused)	1096	806	1090	1011	613	1400	1386
Applications closed or discontinued	271	276	134	102	69	149	79
Applications outstanding at 31 December	1482	1441	1238	1598	N/A	N/A	N/A
Applications outstanding at 30 June	N/A	N/A	N/A	N/A	1371 (June 2004)	956 (June 2005)	674

* 2003 Act requires financial year report, previous requirement was calendar year.

** Statistics were kept from March 2004

*** Statistics were kept from July 2004

NEW APPLICATIONS RECEIVED

1207 new applications were received. On 709 occasions applications were returned to the applicant for further work and of the returned applications, 645 were resubmitted. Of the initial applications received and returned to the applicant for further work, 304 were not ultimately registered. Although the number of new applications submitted was less than in the previous year, 43 more applications were accepted for processing.

NUMBER OF CLAIMS FINALISED

Year	2000	2001	2002	2003	1 Jan to- 30 June 2004	2004/2005	2005/2006
Granted	1086	766	1062	951	566	1320	1277
Refused	40	33	19	51	47	79	109
Discontinued	28	26	4	6	3	5	4
Closed	194	244	125	91	67	144	75
Total	<u>1348</u>	<u>1069</u>	<u>1210</u>	<u>1099</u>	<u>683</u>	<u>1549</u>	<u>1465</u>

NATURE OF OFFENCES INVOLVED

The table below illustrates the types of offences for which awards were made.

TYPE OF OFFENCE	NUMBER
Assault with intent	13
Assault occasioning bodily harm	354
Assault of a public officer	90
Breach of restraining order	12
Burglary	43
Common/simple assault	114
Damage	1
Deprivation of liberty/unlawful detention	11
Dog Act offences	12
Escaping lawful custody	3
Extortion	0
Forgery and/or uttering	0
Fraud	1
Grievous bodily harm	64
Gross indecency	3
Hinder police	1
Do an indecent act in a public place	1
Kidnapping	0
Murder/Manslaughter	54
On premises without lawful excuse	0
Other	97
Resist arrest	6
Robbery	117

Serious assault	7
Sexual offences	163
Stalking	3
Stealing	17
Stealing from the person	3
Making a threat	6
Unlawful wounding	81
Wilful damage	0
TOTAL	1277

RANGE OF AWARDS

The table below illustrates the monetary range of awards made.

<u>DOLLARS</u>	<u>NUMBER</u>	<u>PERCENTAGE (%)</u>
0 – 5,000	346	27.09
5,001 – 10,000	295	23.10
10,001 – 20,000	323	25.30
20,001 – 30,000	146	11.43
30,001 – 40,000	82	6.42
40,001 – 50,000	66	5.17
50,001 – over	19	1.49
TOTAL	1277	100%

PERCENTAGE OF MALES & FEMALES TO WHOM AWARDS WERE MADE

GENDER	PERCENTAGE (%)
Male Adults	53.49
Female Adults	40.72
Male Children	2.11
Female Children	3.68

TYPES OF INJURIES

	PERCENTAGE (%)
Bruising, Lacerations, Minor Injuries	27.67
Head and Facial	17.74
Other Bodily Injuries	22.25
Mental and Nervous Shock	32.34

PRIMARY & SECONDARY VICTIM

Primary	1221
Secondary	70

REPRESENTATION

In person	43.30
Solicitor	56.70

INTERIM PAYMENTS

Funeral	2
Ambulance Transport	17
Dental Treatment	9
Travel Expenses	0
Personal Items	0
Treatment and Reports	94
Total	122

The number of interim payments made is less than the 152 orders made in the previous year. The improvement in the processing time (see page 10) has meant that there is less need for interim payments, and on occasions an applicant has withdrawn a request for an interim payment because the application was ready for finalisation.

REFUSALS

Awards were refused on 109 applications, as outlined below:

Section of Act	Number	Reason for Refusal
9	13	Time expired, extension of time refused
10	1	Death of a person entitled to compensation
12	4	Assessor not satisfied applicant injured in the commission of a proved offence
13	14	Alleged offender acquitted
14	1	Alleged offence: acquittal due to unsoundness of mind.
16	2	Alleged offence: charge not determined
17	26	Assessor not satisfied applicant injured in the commission of an alleged offence
29	1	Assessor's general discretion
35	4	Limitation of compensation for mental and nervous shock
36	2	No award if compensation likely to benefit offender
37	5	Injury caused by a motor vehicle
38	19	Applicant did not assist investigation, apprehension or prosecution of offender
39	9	Victim engaged in criminal conduct
40	1	Compensation already awarded or refused
41	3	Behaviour etc. of victim to be considered
42	1	Insurance payments etc. to be deducted from award
43	3	Award to be off set against any amount owed to the State

FUTURE PAYMENTS PROVISION

Less than \$5000	159
\$5000 - \$10000	26
\$10001 - \$20000	16
\$20001 - \$30000	5
\$30001 - \$40000	1
\$40001 - \$50000	0
More than \$50,000	0
TOTAL	207

Provision was made in 2005/06 for future payments of \$773,018. Of this provision, \$72,833 has been paid in 2005/06.

The total provision for future payments made under the 2003 Act since 1 January 2004 is \$1,397,632 of which \$88,938 has been paid.

APPEALS

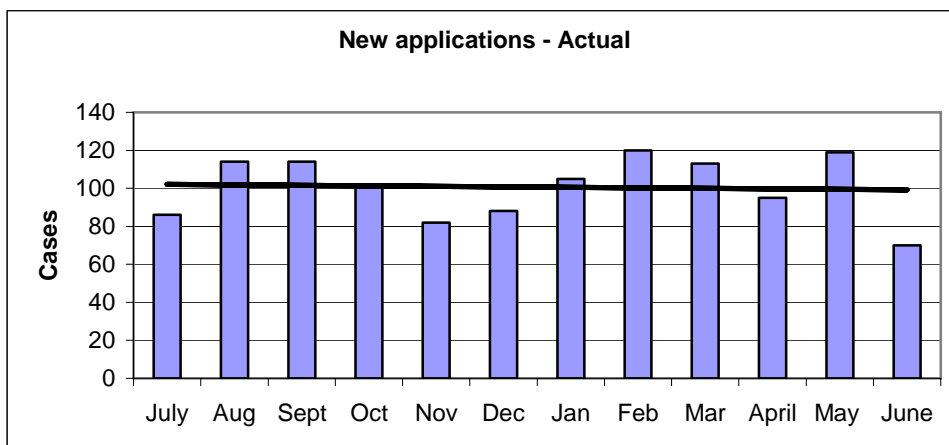
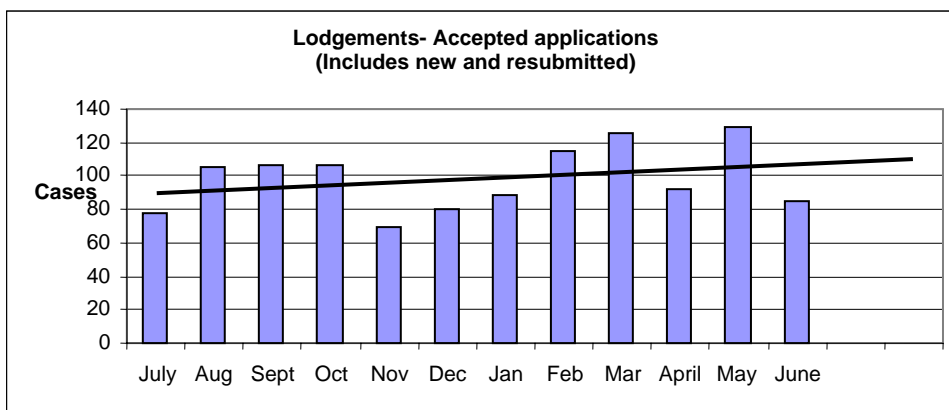
5 appeals were lodged against refusals of compensation and 52 appeals were lodged against compensation awards. In the same period 46 appeals were finalised. Of these, 15 were successful, 12 were dismissed and 19 were discontinued.

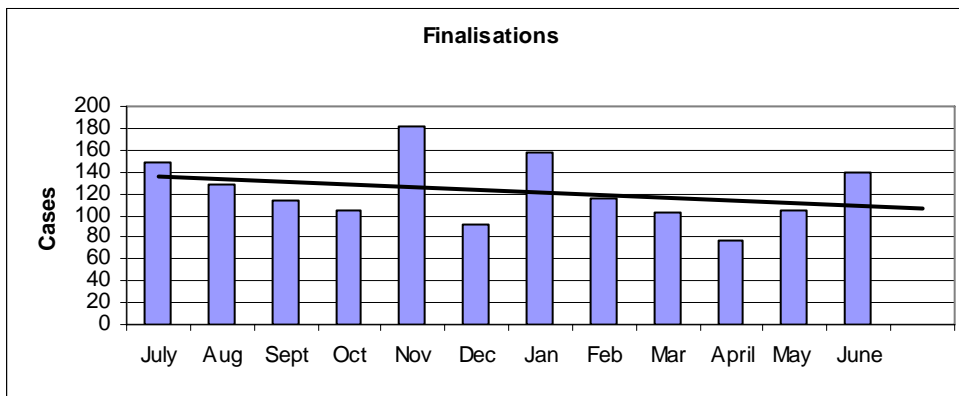
REDUCTIONS TO AWARDS FOR CONTRIBUTION

Section 41 of the Act requires that regard be had to “any behaviour, condition, attitude, or disposition of the victim that contributed, directly or indirectly, to the victim’s injury or death”, and allows the award to be refused or the amount of any award to be reduced in proportion to the contribution found to have occurred. Reductions for contributory behaviour, ranging from 10% to 40%, were made in 18 awards. Of these 11 awards were reduced by 20% or less and 7 awards were reduced by over 20%. Awards were refused on 3 occasions because of contributory behaviour (see table above).

PERFORMANCE MEASURES

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Lodgements-accepted	289	256	329	306	1180
New Applications-Actual	314	271	338	284	1207
Finalisations	390	377	376	322	1465
39 weeks & less	157	274	291	247	969
52 weeks & less	118	31	30	18	197
> 52 weeks	115	72	55	51	293
Listings matters heard	9	5	4	5	23
Cases on hand	854	734	688	674	674
< 39 weeks	612	537	492	510	510
< 52 weeks	34	31	61	28	28
> 52 weeks	208	166	135	136	136
Applications New & Resub	524	453	474	437	1888
Applications Rejected	235	197	145	132	709
Resubmitted	210	182	136	117	645





ASSESSMENT TIME

The average time taken to assess an application was 5.3 months. For the first 6 months of the financial year the average was 5.7 months and for the second half of the year it was 4.9 months.

OUTSTANDING APPLICATIONS

At 30 June 2006, 674 applications were outstanding, a decrease of 282 over the preceding 12 months. The breakdown of the age of the cases on hand in the table below shows that the reduction in the caseload continues to be achieved by reducing the number of files which have been in the Office for more than 9 months. The proportion of the caseload represented by applications which have been in the Office under 9 months has increased from 66% at June 2005 to 75% at June 2006. The proportion of cases aged over 9 months and over 12 months has decreased in each category. This reflects the improvement in the average time taken to process an application and a continued "targeting" of older files to bring these to a resolution. In addition, the returning to the applicant of applications which have not been submitted in a condition to enable their prompt resolution ensures that when an application is properly prepared, it is dealt with in a timely manner.

FINALISATION STATISTICS

Cases on hand	Under 9 months	9 to 12 months	Over 12 months
2005/2006	506 (75.07%)	28 (4.15%)	140 (20.78%)
2004/2005	631 (66.00%)	75 (7.85%)	250 (26.15%)
2004			
At 30/06/2004	703 (51.28%)	215 (15.68%)	453 (33.04%)
2003 Annual figure			
At 31/12/03	905 (56.6%)	183 (11.5%)	510 (31.9%)

Consistent with the overall reduction in the caseload, the number of files aged less than 9 months went down by 125 from 631 to 506, while the number of files aged over 9 months went down by 157 from 325 to 168.

PROVISION OF REASONS

An Assessor is required to give written reasons for the making of an award if requested in writing, and in all cases where the making of an award is refused. Where an Assessor forms the view that by reason of the operation of the legislation an applicant is ineligible for compensation, the applicant may be advised in writing by letter of the reasons for that outcome, rather than in formal written reasons. Formal reasons for decision have been provided in 91 cases and, in total, reasons have been provided in 121 cases. The table below sets out the breakdown of these reasons.

	FORMAL REASONS AWARD	FORMAL REASONS REFUSAL	INFORMAL REFUSAL LETTER	SUPPLEMENTARY REASONS FOR DECISION	TOTAL
2006	83	8	30	0	121
2005	64	15	31	0	110
2004*	26	15	32	0	73
2003	45	14	37	0	96
2002	77	6	7	1	91

*for 6 months to June 2004

The requirement for reasons has increased because of a series of decisions on appeals to the District Court to the effect that an appellant must show error on the part of the assessor to succeed. This has meant that reasons have been requested on some appeals in which they would not otherwise have been required. This line of decisions has brought about an increase in workload, which impacts on the output of compensation awards. A recommendation to amend the Act has been made.

JUDGEMENT PROCESSING SYSTEM

Formal reasons for decision are published on the Supreme Court Judgement Processing System, from which a link makes the decisions available on the internet through the Austlii legal research website and via the Department of the Attorney General website.

RECOVERY OF DEBT

A Compensation Reimbursement Order to recover the amount of an award from a convicted offender may be sought on the instructions of the Chief Executive Officer of the Department of the Attorney General.

	2001	2002	2003	2004	2005	2006
Number of Applications	143	124	568	203	390	262
Number of Orders made	131	115	508	172	356	229

Although the figures show a decrease in the number of applications made for Reimbursement Orders, the value of recovered debt has increased over the previous year. This increase has been brought about by improved stability of staff and ongoing review and improvement of work processes. \$1,407,133 of debt owed to the State was recovered which is a significant increase on the previous year's recovery total of \$1,040,000.

HUMAN RESOURCES

The number of compensation awards made has a direct effect on the recoveries workload. Since the recoveries work was transferred from the State Solicitors Office to the Office of Criminal Injuries Compensation in July 2000, apart from a recent approval for a temporary (6 Months) Level 1 officer the number of staff in the Recoveries Office has remained the same. With the staff numbers there is no ability for the section to process the large and increasing backlog of cases on hand (see table below). The recovery team are working at full capacity to commence recovery on all new applications. Therefore, no work is being undertaken to address the volume of old files which represent significant debt owed to the State by offenders.

Cases on Hand	Status	Approximate Debt Outstanding
6,003	Pended – The majority of these cases have not been subjected to the full recovery process due to limited human resources. Attempts have been made to address the issue with the limited resources however it is physically impossible to monitor and action such a volume of files.	\$60 million
1551	Open active cases (OAC). In 1290 of the OAC recovery staff have negotiated an agreement or an order has issued for periodic payment, and/or negotiated lump sum payments. 261 of the OAC are pending legal action.	\$9.6 million

Despite the volume of cases on hand the amount recovered in the 2005/2006 financial year demonstrates that the application of targeted resources to the recovery task is cost effective. The amount recovered is \$369,991.00 over budget. However, the workload continues to increase and I am concerned this may impact on the morale of the recoveries staff. Attempts are being made to secure additional staff to overcome this problem.

The output of compensation awards has been negatively impacted upon by the inadequate level of secretarial staff. Temporary agency staff have been hired on a number of occasions at a cost of \$33,251.00 over the 2005/06 period. The table below sets out the amount spent on agency staff in recent years.

	2002/03	2003/04	2004/05	2005/06
Budget provision	Nil	\$5,000.00	\$25,382.00	\$21,665.00
Expenditure	\$20,105.00	\$5,718.00	\$15,299.00	\$33,251.00

The expenditure in the 2005/06 year is a significant increase over previous years. Temporary agency staff provide some assistance but are a drain on existing resources due to the need for permanent staff to train the agency officers. There is a high turnover of agency staff who often complete their placement just when they achieve a sufficient level of competence to make their input effective. Permanent staff are then required again to train a new agency officer. A request for an additional full time FTE, Level 2 Secretary has been made.

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

27 September 2006