



OFFICE OF CRIMINAL INJURIES COMPENSATION

DEPARTMENT OF JUSTICE

Chief Assessor's Annual Report

for year ending
31 December 2002



Our Ref:
Your Ref:
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CRIMINAL INJURIES COMPENSATION

The Honourable J A McGinty MLA
Attorney General of Western Australia
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STATUTORY REPORT - CRIMINAL INJURIES COMPENSATION ACT 1985

Following my appointment as Chief Assessor on 1 November 2002, it is now my duty to report to you pursuant to section 48 of the *Criminal Injuries Compensation Act 1985* ("the Act") on the operation of the Act for the year ending 31 December 2002. The statistical data provided in the Report will largely follow the format of previous years, with the addition of some further matters of interest. Again as in previous years, I will report separately on the administration of the *Criminal Injuries Compensation Act 1982*.

The total amount awarded in 2002 under both Acts was \$14.2 million, an increase of 56% over the previous year, in which a total of \$9.1 million was awarded. The increase in the total amount awarded is reflected in an increase in the number of awards made. The number of awards made rose by 305 from the previous year an increase of 38.5%. The average award increased to \$13,312.05 in 2002. 52.8% of all awards were for \$10,000.00 or less, and 57.3% of those were for \$5,000.00 or less.

STATISTICAL PROFILE*

Year	2000	2001	2002
New applications received during	1170	1041	1021
Number of applications determined (granted and refused)	1096	806	1090
Number of applications closed, discontinued, refused time	271	276	134
Applications outstanding as at 31 st December	1482	1441	1238

*Note: 1982 and 1985 Act figures are combined in this statistic only.

NEW APPLICATIONS (1985 Act only)

During 2002, 1008 new applications were received, a decrease of 20 (2%) over the previous year. Over the last 3 years there has been a steady decline in the number of new applications received. Applications declined 2.8% in 2000 and 10.5% in 2001.

This decline may in part, be caused by the Office practice to require applications received without adequate material to enable them to be processed, to be returned to the applicant with an explanation as to the deficiency and advice as to what is required. The practice has been in existence over some years but has since August 2002 been more vigorously pursued. There has been some opposition to the practice from solicitors acting for applicants. However, because the return of the form to the applicant is taken as an opportunity to provide information and guidance on its completion, the practice has been generally well received. The practice is supported by a very successful program of Information Sessions run together with the Victim Support Service to provide guidance to applicants in completing their applications.

I have reviewed the practice and endorse it. It is the experience of the staff that at the time the application is first lodged an applicant is in the best position and best motivated to provide information and supporting documentation, and that as time goes by the delay experienced in awaiting receipt of further material is extended. It

may be expected that there will be an increase in applications with the return to the office of adequately documented applications.

DISPOSITION OF APPLICATIONS

Year	2000	2001	2002
Granted	1086	766	1062
Refused	40	33	19
Discontinued	28	26	4
Closed	194	244	125
Total	<u>1348</u>	<u>1069</u>	<u>1210</u>

AWARDS MADE

As a result of the 1062 awards made during the year, a total of \$14,074,913.11 was awarded in compensation, at an average of \$13,253.21 per award. Hearings were conducted in 25 cases, compared to 43 in 2000 and 21 in 2001. The balance of applications was assessed without a hearing and was determined on the written material placed before the Assessors, as provided for by section 33 of the Act.

NATURE OF OFFENCES INVOLVED

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

	<u>Offences</u>
Assault	93
Assault Occasioning Bodily Harm	278
Assault Public Officer and Resisting Arrest	90
Grievous Bodily Harm	54
Unlawful Wounding	52
Armed Robbery and Stealing with Violence	96

Armed Robbery and Stealing with Violence, Bank	14
Sexual Offences	136
Incest	3
Homicide and Attempted Homicide	38
Deprivation of Liberty	2
Dog Attacks	4
Handbag Snatch	17
Other	180
TOTAL	<u>1057</u>

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	325	30.35
5,001 – 10,000	242	22.6
10,001 – 20,000	252	23.4
20,001 – 30,000	124	11.3
30,001 – 40,000	62	5.8
40,001 – 50,000	64	5.9
* 50,001 – over	2	0.3
TOTAL	1071	100%

* Multiple but separate offences may result in awards over the statutory maximum of \$50,000 for a single offence or incident.

PERCENTAGE OF MALES & FEMALES TO WHOM AWARDS MADE

GENDER	PERCENTAGE (%)
Male Adults	49.5
Female Adults	43
Male Children	2.5
Female Children	5

TYPES OF INJURIES

	PERCENTAGE (%)
Bruising, Lacerations, Minor Injuries	22
Head and Facial	22
Other Bodily Injuries	22
Mental and Nervous Shock	34

REPRESENTATION (for claims lodged in 2002)

In person	42%
Solicitor	58%

OCCUPATIONS OF VICTIMS

Of all awards made 109 (8.9%) were to Police Officers and a further 19 (1.5%) were to Bank Staff.

REFUSALS

Awards were refused on 25 applications, as outlined below:

Section of the Act	Number Refused	Reason for Refusal
7(3) and 13	20	Not satisfied that the applicant had suffered an injury in consequence of an offence or an injury as defined in the Act.
14	1	Offender had been acquitted
23	0	Award likely to benefit offender
24	4	Applicant failed to do all that was reasonably required to assist police
24B	0	Claim arising from a traffic accident
27	0	Award not appropriate
26	0	Applicant had received compensation from another source

APPEALS

At the commencement of 2002, 104 appeals were outstanding from previous years and during the year a further 67 appeals were lodged. In 2002, 61 appeals were determined. Of these 15 were successful and 46 were dismissed or discontinued. At the end of the year therefore, there were 110 Appeals outstanding, an increase of 6 over the previous year.

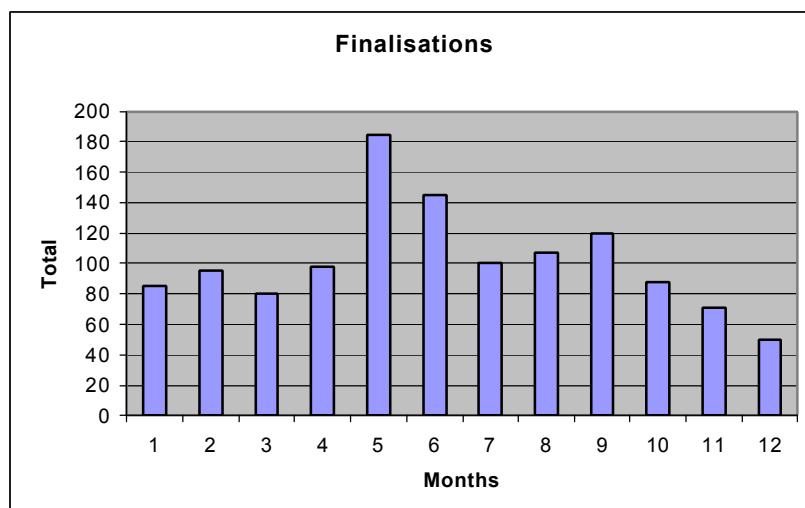
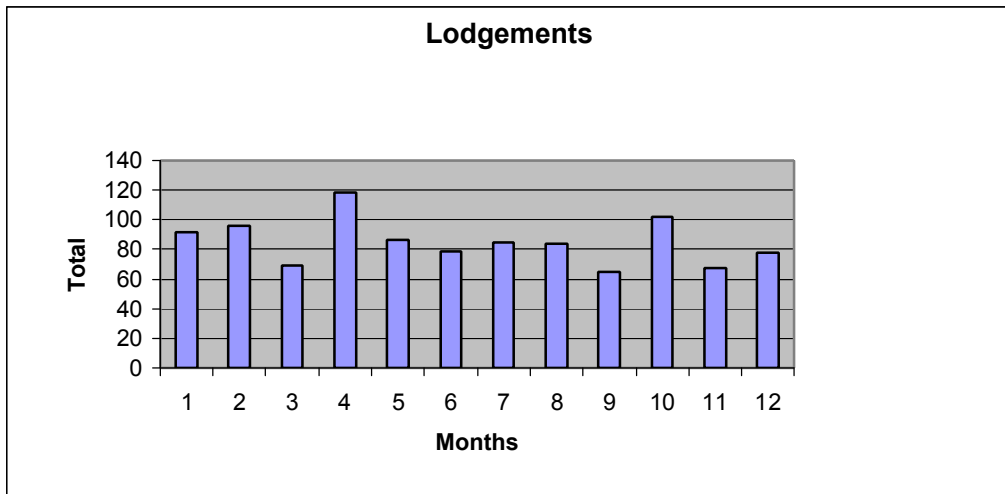
The number of appeals lodged in 2002 represents 6.2% of all applications which were determined (6% in 2001).

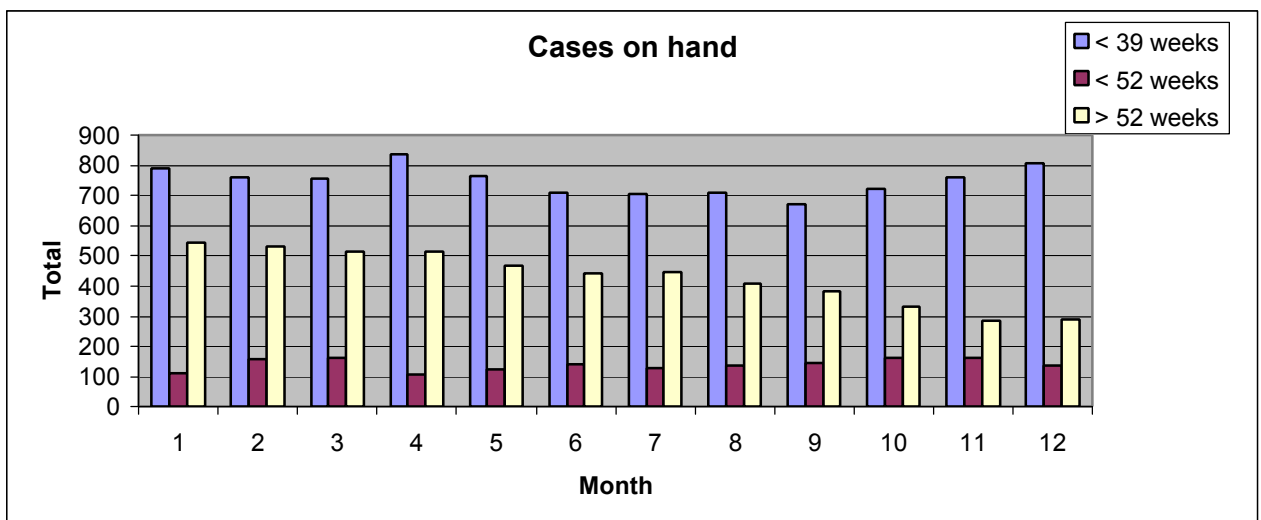
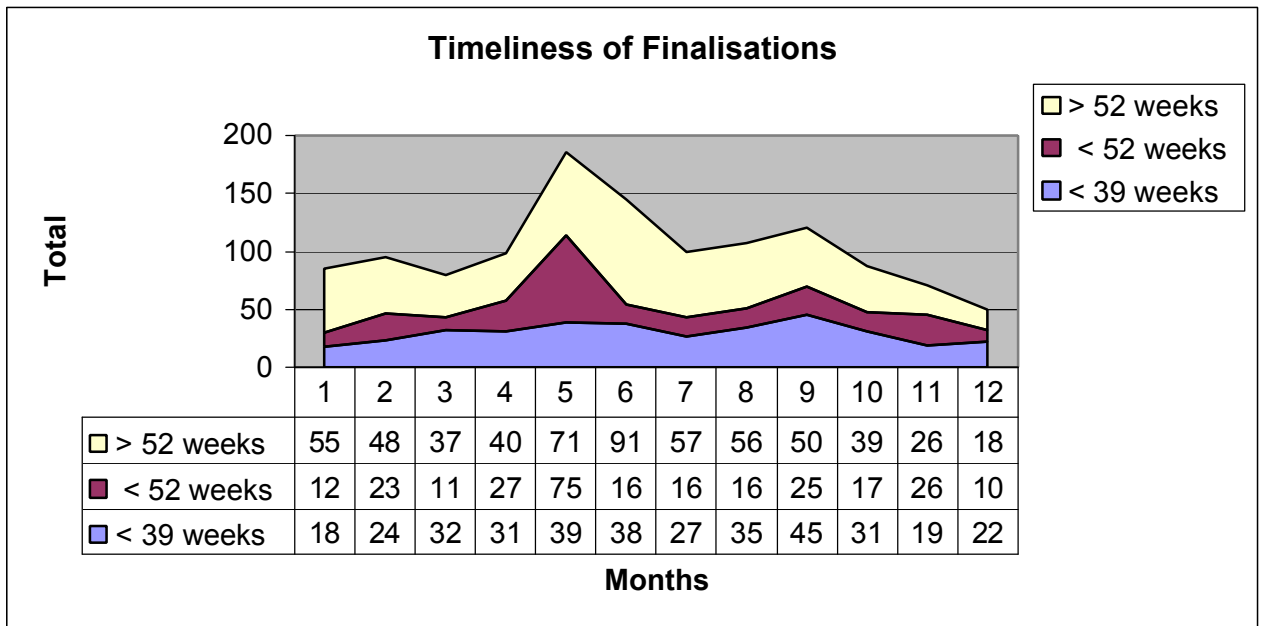
REDUCTIONS TO AWARDS

Section 25 of the Act requires that regard be had to “any behaviour, condition, attitude or disposition of the applicant which contributed directly or indirectly to the injury or loss suffered”, and allows the amount of any award made to be reduced. Reductions for contributory behaviour were made in 19 awards, the reductions ranging from 8% to 40%.

MONTHLY WORK PERFORMANCE MEASURES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Lodgements	92	96	69	118	86	79	85	84	65	102	67	78	257	283	234	247	1021
Finalisations	85	95	80	98	185	145	100	107	120	88	71	50	260	428	327	209	1224
39 weeks & less	18	24	32	31	39	38	27	35	45	31	19	22	74	108	107	72	361
52 weeks & less	12	23	11	27	75	16	16	16	25	17	26	10	46	118	57	53	274
> 52 weeks	55	48	37	40	71	91	57	56	50	39	26	18	140	202	163	83	588
Listings																	
No matters heard	5	2	1	3	3	3	3	3	7	4	3	7	8	9	13	14	44
Cases on hand																	
< 39 weeks	1448	1449	1438	1458	1359	1293	1278	1255	1200	1214	1210	1238	1438	1293	1200	1238	1238
< 52 weeks	793	760	759	838	765	711	705	710	672	721	763	809	759	711	672	809	809
< 52 weeks	111	158	163	106	125	139	128	136	146	162	162	138	163	139	146	138	138
> 52 weeks	544	531	515	514	469	443	445	409	382	331	285	291	515	443	382	291	291





OUTSTANDING APPLICATIONS

As at 31 December 2002, 1238 current applications were outstanding, a decrease of 203 over the previous year when the total was 1441 at 31 December 2001. These figures show a slow but steady reduction in the number of cases on hand. This is in part brought about by the 2% reduction in numbers of new applications, but was contributed to by a significant effort on the part of the Assessors to address the situation, as reflected in the increase of 284 matters determined this year compared to 2001.

FINALISATION STATISTICS

As at 31/12/02	Under 9 months	Between 9 and 12 months	Over 12 months
Cases on hand	809	138	291
%	65.3%	11.2%	23.5%

As at 31/12/01	Under 9 months	Between 9 and 12 months	Over 12 months
Cases on hand	772	103	566
%	53.6%	7.1%	39.3%

The number of cases on hand at the end of the year which had been in the office more than 12 months was 291, compared with the number at the end of December 2001, of 566. The “old files” case load steadily declined throughout the year from 39.3% to 23.5% of the total caseload. At the same time, the caseload of files aged less than 9 months ranged between 772 and 809, with the average being 790 (from 53.6% to 65.3% over the year). Cases aged between 9 and 12 months ranged from 103 to 138 with the average being 120 (from 7.1% to 11.2% over the year). There was therefore a 15.8% reduction of the backlog of older claims, compared to 8% in the previous year.

PROVISION OF REASONS

An Assessor is required to give formal written reasons for the making of an award if requested in writing, and in all cases where the making of an award is refused. On occasions formal written reasons which have been provided may require supplementation to clarify or correct the original reasons. Where an Assessor forms the view that by reason of the operation of the legislation an applicant is ineligible to apply, he or she will advise the applicant in writing by letter of the reasons for that view. Reasons for decision were provided in 91 cases during 2002. The table below sets out the breakdown of these reasons.

	REASONS FOR AWARD	FORMAL REASONS FOR REFUSAL	REFUSAL LETTER	SUPPLEMENTARY REASONS FOR DECISION
<u>TOTAL</u>	77	6	7	1

REFUND ORDERS

Refund Orders are sought on the instructions of the Chief Executive Officer of the Department of Justice to recover the amount of an award from the offender. There were 124 applications made for refund orders and a total of 115 orders made in 2002 against offenders. The table below shows that in 2002 there was a reduction in the number of Refund Orders sought. This was due to staff changes, in particular the employment of a new Supervisor in June, followed by the recruitment of 2 experienced debt collection staff in December.

	2001	2002
Number of Applications	143	124
Number of Orders made	131	115

The listing of Refund Order hearings was re-instituted late in the year. Experience during the last months of 2002 has indicated their usefulness in the resolution of outstanding debts. The listing of these hearings has recently been doubled to take place once per week from Jan 2003 in order to deal with the backlog of matters requiring an Assessor's involvement. This is a significant increase in the workload of the Assessors, and can be expected to have an impact on the output of assessments of claims. It is however regarded as a necessary measure to assist and support the Recoveries Branch to achieve the goal of bringing the debt collection system up to date as far as possible.

PROPOSED AMENDMENTS TO LEGISLATION

During the latter part of 2002 work was done on proposals to amend the Criminal Injuries Compensation scheme. Some of the recommendations have been discussed for a number of years, and reform in those areas is overdue. I recommend the proposals which have been made and am confident that if they become law the scheme to compensate victims of crime will function more efficiently and equitably.

OTHER PROPOSALS

At the commencement of my term I formed the view that the client reception facilities of the Office were inadequate both from the point of view of applicants and of the staff. Applicants attending to submit claims or to obtain information have

difficulty in locating the Office and can only make contact via staff of another agency on the same floor. In addition when meeting with applicants as is often required, staff have no access to a confidential and secure environment in which to deal with the applicant. Visitors to the Office are often traumatised and angry, and some find the requirement to document his or her claim to be intrusive and upsetting. In addition applicants may suffer intellectual disability or injury and require confidential, patient and sensitive handling by the staff of the Office. Approval has been given to plans to create a reception area and a secure interview room, and it is hoped that work will commence on the first stage of the building work in the first quarter of 2003. I am confident these changes will improve the quality of service to the applicants at the same time as they will ensure the safety and comfort of the staff.

A handwritten signature in black ink that reads "Helen Porter". The signature is written in a cursive, flowing style.

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION
26 MARCH 2003



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STATUTORY REPORT CRIMINAL INJURIES COMPENSATION ACT 1982

Pursuant to section 41 of the *Criminal Injuries Compensation Act 1982* ("the Act"), I furnish herewith my report on the operation of this Act for the year ending 31 December 2002.

In the past 12 months this Office has:

- Received 13 new applications,
- Listed 12 hearings,
- Made 9 awards totalling \$182,300.00,
- Reduced no awards for contributory behaviour by the applicant (s 27), and
- Closed 5 applications because contact with the applicant had been lost.

No appeals were lodged against a decision under the Act in 2002.

The nature of the injuries in all cases was mental and nervous shock. Most, although not all, claims arose from sexual offences where there is seldom any physical injury but victims invariably suffer ongoing mental trauma.

H L PORTER
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION
26 MARCH 2003