



Criminal Injuries Compensation Board

35th Annual Report 2009 - 2010

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CHAIR'S MESSAGE 2009-10

A Word of Thanks

2009-10 was a year of considerable achievement for the Criminal Injuries Compensation Board. The Board continued to make advances in honouring its nearly 40 year old legislative mandate to offer financial compensation to victims of violent crime in Ontario through a fair and timely adjudicative process.

The Board was able to continue its progress towards service excellence because of the support and cooperation of senior management at the Ministry of the Attorney General and other partners in Ontario's victim services sector. Moreover, the staff and management of the Board are helped every day by the many victim service agencies, lawyers, community justice advisors and health care professionals who provide support to victims in pursuing their claims.

The Board's team of staff were recently recognized with a Ministry of the Attorney General *Prix Excelsior* Award. The Ministry has noted their contributions to making the Board a more efficient, a more effective and a more accessible public service provider. I too would like to recognize those at the Board who work to give a sometimes complicated process a human face – and ensure that victims



have a mechanism to be heard and to be assisted.

Key Operational Results

During 2009-10, the Board continued its efforts to respond comprehensively to concerns of victims and of the provincial Ombudsman in his February 2007 Report, and to improve problematic areas of its operations. One of the most significant areas of concern in recent years has been delays in completing the claims process. I am pleased to say that the Board completed its Claims Caseload Reduction Initiative in 2009-10. As of March 31, 2010, 99.0% of the backlog cases had been heard or were scheduled for a hearing.

Additional staff and Board members have continued to make the difference in ensuring the Board could address the backlog. As at March 31, 2010, there were 36 Board members and 64 staff. These human resources were crucial to our success throughout the year.

The Board's incoming claims totals, workload and output of adjudicated claims were in line with the previous year's totals. The Board received 4,031 applications, heard 3,792 cases and completed 3,548 files.

We continued to make some progress in reducing the time required to take an application from receipt to a final decision. Over the past three years, the timeline has been reduced significantly. Today, it takes approximately 24 months from the receipt of an application to receipt of a Board decision and award. In contrast, it took 32 months in 2007-08. In 2009-10, we reduced the average time for addressing claims filed within the two-year statutory period by 10.6% and, for claims filed beyond the two-year period, the average was reduced by 12.6%. Overall, the average time taken to complete claims fell by almost 4½ months.

Average Award Results

The Board awarded more than \$32 million in compensation to victims last year; \$29.5 million in lump sum awards and the remainder in monthly periodic payments. The average lump sum award was \$7,800. This figure represents the total amount of compensation awarded as a lump sum divided by the total number of claims completed. When calculated against only those cases for which an award was granted, the average rises to \$9,200.

Overall, the average award was lower than it was in fiscal year 2008-09. This reduction is attributable to a number of factors. First, fiscal years 2006-07 to 2008-09 had record high average awards that were inconsistent with the Board's long term trends for awards. The 2009-10 figures have returned to the historical trend. A chart of the 10 year award trend is included in this report. Secondly, we understand that financial compensation provided through the Ontario Victim Services Secretariat's Victim Quick Response Program (VQRP) rose considerably in 2009-10. Hence, some of the financial needs that would have been paid by the Board have been covered by the Ministry of the Attorney General's VQRP.

On-going Policy Issues

Since the *Compensation for Victims of Crime Act* received Royal Assent in 1971, public awareness of the rights and needs of victims has grown significantly throughout Canada and the world.

Ontario has expanded assistance to victims through the creation of the *Victims' Bill of Rights, 1995*, the development of programs under the Ontario Victim Services Secretariat such as the VQRP, the Victim Witness Assistance Program, and Support Link. Further, public disclosure of domestic violence and childhood sexual abuse – crimes that historically were often hidden from public view – has grown significantly since the Act was first passed raising many questions as to how best to respond to the compensation needs of victims of these heinous crimes.

The Board strives to apply the Act in a manner that is relevant and meaningful to the range of victims and situations of victimization that occur, while at the same time respecting the rights and interests provided in the Act. This is sometimes a difficult task. Two particularly challenging issues are the participation of alleged offenders in Board hearings and the scope of compensation available for loved ones of victims. Some stakeholders suggest that the Board should decline to notify alleged offenders of applications thereby extinguishing their rights to participate in the hearing process as contemplated by the Act. Other stakeholders would

like to see the legislation re-define who is a victim to provide greater coverage for family members and other loved ones who are impacted by violent crime committed against a victim. The Board remains committed to do its part in finding workable resolutions to these challenging questions while recognizing that we must respect the legislation which we have been tasked to administer.

A New Commitment to Board Service Delivery

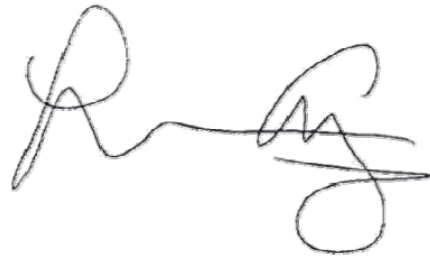
With the Claims Caseload Reduction Initiative at a close, the Board has commenced in earnest its plans to make significant organizational changes to further improve our performance. Our goals are to substantially reduce claims processing time, offer a more informative, user-friendly system for victims and improve the transparency of our operations. We have already implemented several modifications, and are planning more, to help achieve these objectives including:

- For the first time in its history, the Board is making application forms available to the public on-line. This will allow victims to access the forms when they want and from wherever they are without delays.
- We will be offering updated information about the Board's process in various formats and in multiple languages.

- We are developing a triage system that will allow us to better tailor our processes based on the needs of the claimant and the type of claim.
- We are amending our Rules of Procedure to clarify and update several elements.
- We have converted our paper-based hearings process to an electronic one. Board members now review hearings material and prepare orders using a fully electronic system. This new system reduces time to complete orders, reduces the risk of privacy breaches associated with the distribution of large volumes of paper, is a cost savings to the Board, and a healthy step for the environment.
- We have obtained new and improved access to relevant court information that assists the Board in rendering its decisions quickly. Rather than requesting this information from courts and awaiting a response, the Board can now obtain some details of criminal or civil cases that it requires instantaneously to better serve victims.

We are optimistic that more can be done to improve our service to victims. We have set an ambitious long-term goal of reducing the claim processing timeline to 12 months. We are committed to trying new and innovative measures to achieve that objective.

I am confident that, this time next year, we will have made significant strides toward that goal.

A handwritten signature in black ink, appearing to read 'Maureen Armstrong', with a stylized, cursive script.

Maureen Armstrong,
Chair,
Criminal Injuries Compensation Board

PERFORMANCE SUMMARY

Activities in 2008-09 and 2009-10 reflect a period of time when the Caseload Reduction Initiative was fully functional with additional staff hired to address the backlog of cases, an increased complement of Board members to hear cases, and various procedure changes in place and operational.

In 2009-10, emphasis was placed on processing and hearing the outstanding balance of the pre-April 1, 2008, backlog cases. At the start of the fiscal year there were 2,729 backlog cases in process. As of March 31, 2010, 94.3% of them had been heard, 4.0% were to be scheduled for hearing or awaiting the hearing date. Only 20 cases or 0.7% were still in process. A small percentage of other cases (1.0%) were held in abeyance at the request of the applicant.

The Board received 4,031 applications in 2009-10, almost exactly the same number as in 2008-09. A total of 3,792 hearings were held, a slight decrease (1.7%) over 2008-09 and a 9.4% increase over 2007-08. The total number of files completed increased slightly (1.2%) over 2008-09 and dramatically (36.5%) over 2007-08.

Average claims processing time from receipt of application to receipt of the Board's decision and award fell by 11.0% for applications filed within the two year limitation, from 27 months at the end of 2008-09 to 23 months at the end of 2009-10. Similarly, the average processing time for applications filed beyond the two year limitation period fell by 13.0% from 34 months to 30 months. Average time for completion of Board orders after a hearing was 32 days, a 13.5% reduction over 2008-09 and a 36.0% reduction over 2007-08.

Over the course of the year, the Board mailed out 5,646 applications and 1,780 extension request packages. A total of 1,101 extension decisions were made of which 79.8% were approved and 20.2% were denied. The Board sent out a total of 4,780 requests to police services for information relating to applications. The average time taken to receive back the information was 94 days compared to 107 days in the previous year.

The table on the next page compares some of the key performance data for the past three fiscal years.

KEY PERFORMANCE DATA

	2006-07	2007-08	2008-09	2009-10
Claims Received	3,203	4,321	4,026	4031
Average number of active claims in process (average per month)	2,333	2,743	3,695	1970
Number of Hearings	2,425	3,466	3,859	3792
Average time between Hearing and completion of Order	62 days	50 days	37 days	32 days
Average Award	\$8,773	\$10,761	\$10,085	\$7,798
Total Number of Cases at Year End Where Monthly Periodic Payments Made	236	258	287	282
Number of Files Completed	2,171	2,598	3,505	3,548
Average Time from Receipt to Hearing ¹				
a) Where Claim Filed within Two Year Statutory Limitation Period	827 days	853 days	680 days	680 days
b) Where Claim Filed Beyond Two Year Limitation Period	1,093 days	1,097 days	881 days	843 days
Average Time from Receipt to Award				
a) Where Claim Filed within Two Year Statutory Limitation Period	957 days	928 days	812 days	726 days
b) Where Claim Filed Beyond Two Year Limitation Period	1,214 days	1,187 days	1,016 days	888 days

NOTES:

1. Claims must be filed with the Board within two years from the date of the incident. In certain circumstances, this time limit may be extended as determined by the Board under S.6 of the *Compensation for Victims of Crime Act* in order to move the claim forward.

HEARINGS

A CICB hearing can be either a written or an oral hearing. An oral hearing can be conducted either in person or by teleconference.

In 2009-10, the Board held a total of 3,792 hearings, a slight decrease from the previous year (1.7%), but a 34.0% increase over the level of four years ago.

- 62.0% of the hearings were oral hearings
- 38.0% of the hearings were written hearings

In comparison, in 2008-09, 70.0% of hearings were oral hearings, and 30.0% were written hearings. This demonstrates the Board's concerted effort in 2009-2010 to conduct more written hearings, where appropriate. Written hearings generally speed adjudication and are preferred in cases where credibility is not a significant issue to be determined.

The number of written hearings includes original hearings for lump sum and periodic awards, hearings for section 14 interim awards, Section 22 and Section 25 variation awards, and Periodic Reviews. Oral hearings are usually conducted by two Board Members, and parties are required to attend and give sworn testimony.

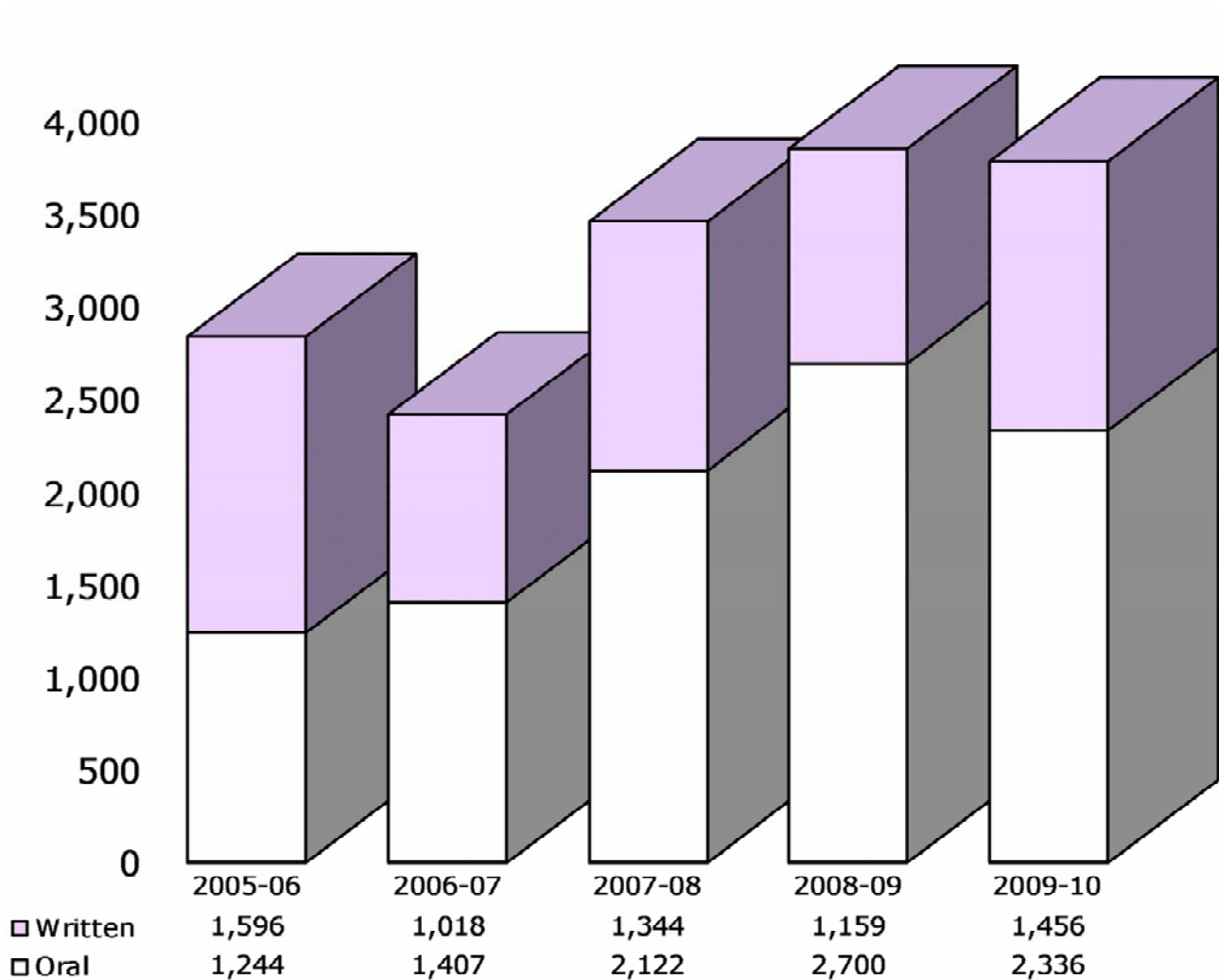
The Board held hearings in every region of the province in 2009-10. The 19 locations were Belleville, Cornwall, Hamilton, Kenora, Kingston, Kitchener, London, North Bay, Orillia, Ottawa, Peterborough, Sault Ste. Marie, Sioux Lookout, St. Catharines, Sudbury, Thunder Bay, Timmins, Toronto, and Windsor. The Board held hearings in Cornwall for the first time, based on the number of claims the Board receives annually from that location.

Hearings Location Breakdown

Region	Location	% of Oral Hearings
Toronto	Toronto	44.0%
East & Central East	Belleville, Cornwall, Kingston, Ottawa, Orillia, and Peterborough	20.0%
West & Central West	Kitchener, London, Windsor, Hamilton, and St. Catharines	23.0%
North West & North East	Kenora, North Bay, Sault Ste. Marie, Sioux Lookout, Sudbury, Thunder Bay, and Timmins	13.0%

The following chart shows the number and type of hearings held in 2009-10, with comparative results for the previous four years.

Hearings Held by Type



COMPENSATION AWARDS

The Board may order lump sum awards or periodic awards. Lump sum awards represent one time payments made to an eligible applicant. The lump sum total includes all lump sum payments including those awarded under Section 14 (interim awards), Section 25 (variation of awards) and Section 22 (costs) as well as payments for medical reports used in support of the claim. Periodic payments represent awards that are paid on a monthly basis.

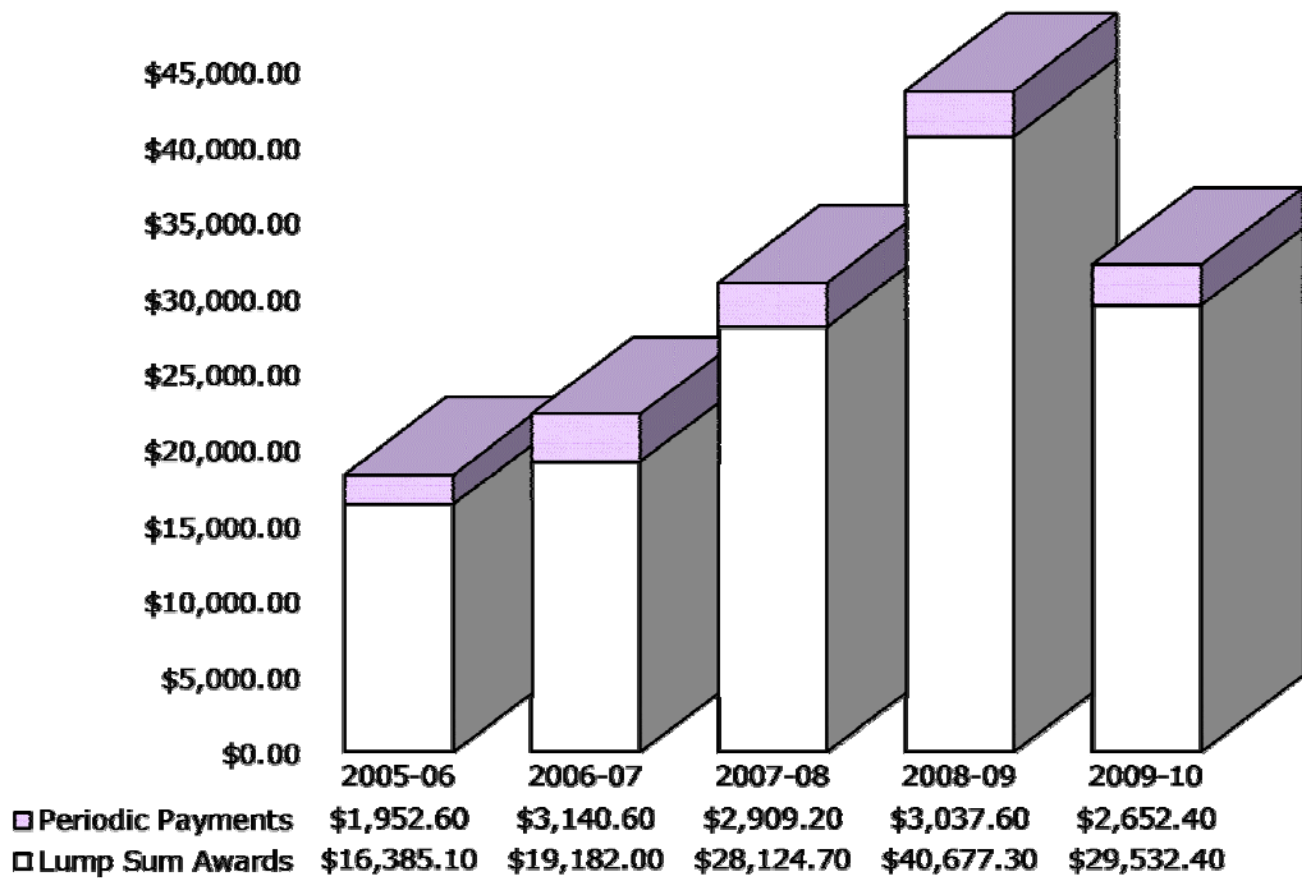
Between 2005-06 and 2009-10, total awards increased 76.0%. As in previous years, the majority of awards made in 2009-10 were paid as a lump sum. In 2009-10, 92.0% of all awards were lump sum, compared with 93.0% in 2008-09. As noted on the next page, the single largest category of lump sum awards is pain and suffering. In 2008-09, \$36 million was awarded for pain and suffering. This accounted for 89.0% of all lump sum awards in that year. In 2009-10, pain and suffering awards accounted for 88.0% of total lump sum awards to a total of \$26 million.

The average lump sum award in 2009-10 was \$7,798, a 22.0% decrease over 2008-09. This brings it in line with the longer term trend of awards. It represents a 27.0% increase over 2000-01 and matches the 10-year average. Fiscal years 2007-08 and 2008-09 were anomalous relative to the rest of the past decade.

As can be seen in the chart of lump sum awards by offence type, applications involving general assaults accounted for 43.5% of the claims awarded and received 36.5% of total lump sum awards. Applications involving sexual assault, whether committed against a child or an adult, represented 30.0% of applications awarded and 37.5% of total lump sum awards. Domestic violence applications were 14.2% of claims awarded and 15.1% of total lump sum awards. Claims involving murder or attempted murder represented 6.0% of applications awarded and 8.1% of lump sum awards. Applications by peace officers represented 3.5% of applications but only 1.2% of lump sum awards.

The following three tables show details regarding awards paid in 2009-10 compared to previous years.

Total Compensation Paid (\$'000s)



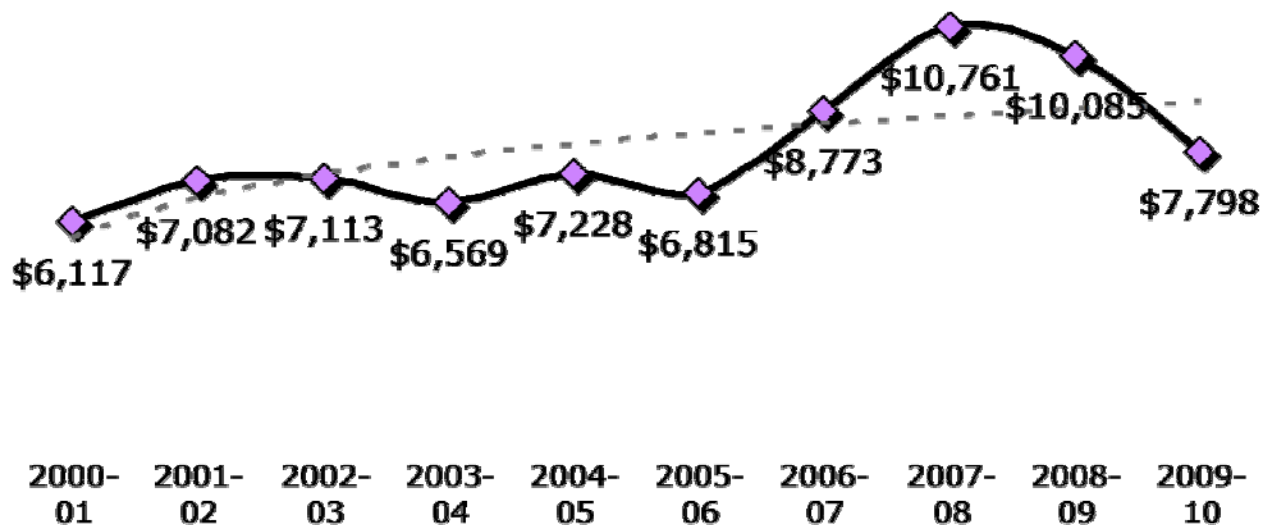
LUMP SUM AWARDS BY TYPE OF BENEFIT

AWARDS (\$000's)	2007-08	2008-09	2009-10
Pain and Suffering	\$24,192.5	\$36,227.9	\$25,982.6
Loss of Wages	\$1,011.1	\$950.1	\$754.1
Medical Expenses ¹	\$1,054.6	\$1,656.7	\$1,103.8
Funeral Expenses	\$724.2	\$473.2	\$394.5
Legal Expenses Associated with Application	\$52.2	\$68.7	\$70.4
Other Pecuniary Loss	\$174.2	\$369.2	\$189.9
Other ²	\$915.9	\$931.5	\$1,037.1
Total	\$28,124.7	\$40,677.3	\$29,532.4

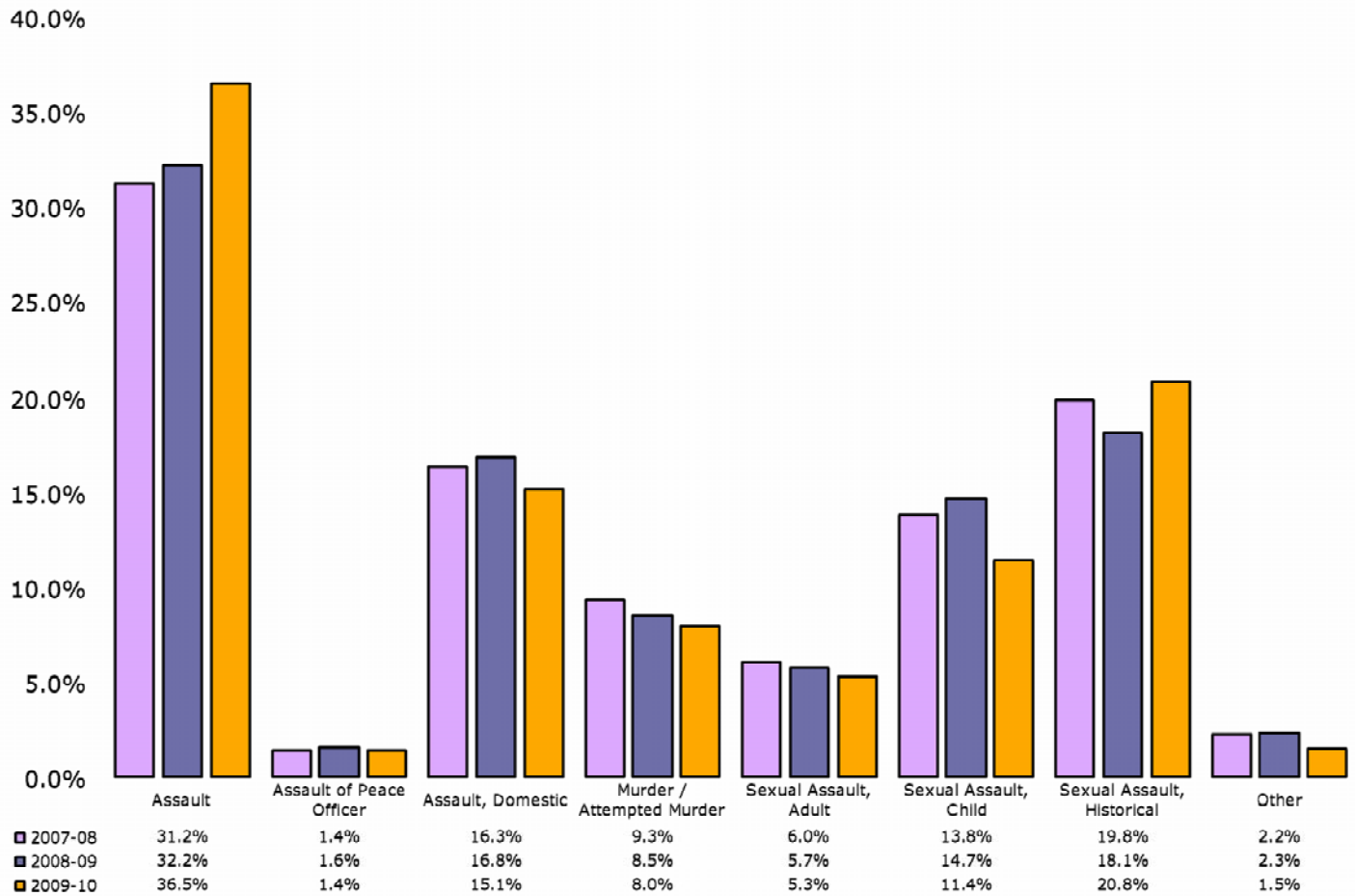
NOTES:

1. Medical Expenses include (dental expenses, counselling fees and ambulance fees) as well as the costs associated with obtaining medical reports in support of the application.
2. Other includes all Section 14 interim awards, Section 25 awards and the costs associated with obtaining reports in support of a Section 25 variation request

Average Award Ten Year Trend



LUMP SUM AWARDS BY TYPE OF OFFENSE



NOTES:

“Sexual Assault, Historical” refers to all sexual assault claims filed beyond the two year statutory limitation period.

“Other” includes arson, robbery and criminal harassment

FINANCIAL SUMMARY

The funds allocated to the Criminal Injuries Compensation Board for awards and operating expenses come from the Consolidated Revenue Fund and the Victims' Justice Fund. In the table below, "Transfer Payments" refers to awards that go directly to victims. The other expenses are operating expenses used to administer the program.

For 2009-10, the government provided additional funding to allow for payment of awards, particularly the remaining balance of the pre-April 1, 2008, backlog cases outstanding, based on the 2008-09 average award of \$10,085, as well as the recognition of the expense of new cases initiated in 2009-10 to be compensated in future years.

The total transfer payment expense of \$20.89 million reported for 2009-10 includes this accrual plus the amount of periodic and medical expense payments made during the year. Actual compensation award payments totalled \$32.18 million in 2009-10, of which \$19.92 million pertained to backlog cases and was charged against the Backlog Cases Accrued Liability account. This compares to \$43.71 million of actual compensation payments in 2008-09, including \$37.94 million related to backlog cases.

Comparative Financial Summary – Accrual Basis

Account Item	Fiscal Year (April 1 – March 31)	
	2008-09 Actuals	2009-10 Actuals
Salaries and Wages	\$3,733,424	\$3,884,072
Employee Benefits	\$580,166	\$630,134
Transportation and Communications	\$582,517	\$471,975
Services	\$2,016,189	\$2,388,237
Supplies and Equipment	\$55,427	\$59,449
Transfer Payments	\$35,671,671	\$20,888,270
Total	\$42,639,394	\$28,322,137

NOTES:

1. For 2009-10, actual compensation paid out was \$32.18 million; in 2008-09, actual compensation payments were \$43.71 million.
2. For 2009-10, the \$110,542 or 19.0% reduction in Transportation and Communications costs was due to a \$60,466 reduction in Board members' travel expenses, attributable to a concerted effort in 2009-10 to conduct more written hearings. There was also a \$53,475 reduction in regular postage expenses as a result of reallocating these expenses to the Services account when CICB moved its postage activities to the government's internal mail service.

FINANCIAL SUMMARY (cont'd)

CICB Liability Balances on March 31, 2010, (with comparative figures for March 31, 2009)

	2008-09	2009-10
	Year End Balance	Year End Balance
TP Backlog Cases Accrued Liability	\$34,568,159	\$4,852,184
TP 2008-09 New Cases Accrued Liability	\$28,842,516	\$14,511,547
TP 2009-10 New Cases Accrued Liability		\$19,416,860
Total Backlog & New Cases Accrued Liability	\$63,410,674	\$38,780,591
TP Periodic Payments Accrued Liability	\$31,772,185	\$28,462,933

NOTES:

1. The Periodic Payments Accrued Liability of \$28.46 million is calculated as the 20-year liability accrual from April 1, 2010, to March 31, 2030, on periodic payment obligations existing at March 31, 2010.

PROGRAM DESCRIPTION

Overview

The Criminal Injuries Compensation Board is a quasi-judicial administrative tribunal that provides compensation to victims of violent crime occurring in the Province of Ontario. The Board is governed by the *Compensation for Victims of Crime Act* and it follows the rules and procedures set out in the *Statutory Powers Procedure Act*. It is subject to the *Freedom of Information and Protection of Privacy Act*.

Applications may be made by or on behalf of victims who have been injured, and for expenses and for pecuniary loss incurred as a result of death arising from a criminal act as defined under the *Criminal Code*. Applicants must prove on a balance of probabilities that a violent crime took place, causing an injury or death, and any financial loss associated with the injury or death. Where a person has been criminally convicted of the crime, that conviction is deemed conclusive evidence that the offence has been committed.

All claims must be filed with the Board within two years from the date of the incident. In certain circumstances, the Board may decide to extend the time limit where it is warranted. The Board will consider several factors including the length and the reasons for the delay, and whether adequate evidence is available to support the claim. An extension request must be made and approved in order to move the claim forward.

In assessing whether to give compensation and the amount to award, the Board considers all of the circumstances surrounding the incident including whether the victim's behaviour caused or contributed to the injury or death, whether the victim reported the incident promptly to the police and cooperated with any investigation, and if the victim has received compensation or benefits from some other source.

Who is Eligible for Compensation?

- Individuals who have been injured as a result of a crime of violence committed in Ontario; examples of a violent *Criminal Code* offence include assault, sexual assault, and dangerous use of a firearm.
- Individuals who are responsible for the care of a victim of violent crime and suffered a loss of income or had expenses as a result of the victim's injury or death.
- Individuals who are the dependants of a deceased victim (in the case of a murder).

- Peace officers injured while attempting to arrest a person, or individuals injured while trying to prevent a crime or while helping a police officer make an arrest.

What compensation is available:

- Expenses actually and reasonably incurred or to be incurred resulting from the victim's injury or death.
- Emergency medical, dental or counselling expenses, funeral expenses and support.
- Loss of wages generally to a maximum of \$250 per week to a maximum of \$1,000 per month, as a consequence of the total or partial disability affecting the victim's capacity to work.
- Pecuniary loss to the dependents of a deceased victim.
- Pain and suffering.
- Maintenance of a child born as a result of a sexual assault.

The Board does not award compensation for the following:

- Damaged or stolen property.
- An accident involving a motor vehicle (i.e. drunk driving or hit and run).
- Legal fees for criminal court and/or civil suits.
- Distress of attending criminal court.
- Workplace accidents (claim should be filed with the Workplace Safety and Insurance Board).
- Grief and sorrow experienced by relatives or friends of a deceased victim.

The following types of awards can be made:

Lump Sum Awards

The Board may award up to a maximum amount of \$25,000 for the injury arising out of an incident. If more than one person is affected by an occurrence, the maximum award to all applicants in respect of any one occurrence cannot exceed \$150,000. Lump sum awards are the awards most frequently issued by the Board.

Periodic Awards (monthly payments)

Where the Board is satisfied there is an on-going financial loss (e.g. lost wages as a result of permanent injury), it can award up to a maximum payment of \$1,000 per month, totalling \$365,000 for all applicants affected by a single

occurrence. If both a lump sum and a periodic award are made, the amount of the lump sum component cannot exceed \$12,500. Periodic awards are reviewed regularly and may cease at a future date.

Interim Awards (Section 14 of the Compensation for Victims of Crime Act)

Where there is an immediate need for compensation to cover medical expenses, support and/or funeral expenses, the Board may authorize those expenses to be paid in advance of the hearing. This can only be provided where the Board has sufficient evidence that an award will likely be granted following the hearing.

Variation Awards (Section 25 of the Compensation for Victims of Crime Act)

After a hearing, the Board may vary an order for payment in certain instances such as where there has been a change in circumstances. A variation can only be granted if an award was made initially.

THE PROCESS

Filing a Claim

Claim packages are available through the Criminal Injuries Compensation Board website at www.cicb.gov.on.ca and can be requested by telephone at toll-free: 1-800-372-7463, locally (GTA): 416-326-2900, and in writing to 439 University Avenue, 4th Floor, Toronto, Ontario M5G 1Y8.

Information Gathering Stage

In order to determine whether to award compensation to an applicant, the Board requires sufficient evidence that a crime of violence took place and the relevant circumstances surrounding the incident, the nature of the injury, and the expenses or wage loss for which the applicant is seeking compensation. Board staff assist with identifying information that is required to support the claim, such as hospital, medical, dental, therapy and/or court reports directly related to the incident. If the incident was reported to the police, the Board will contact the police service involved and request a written report.

The Hearing

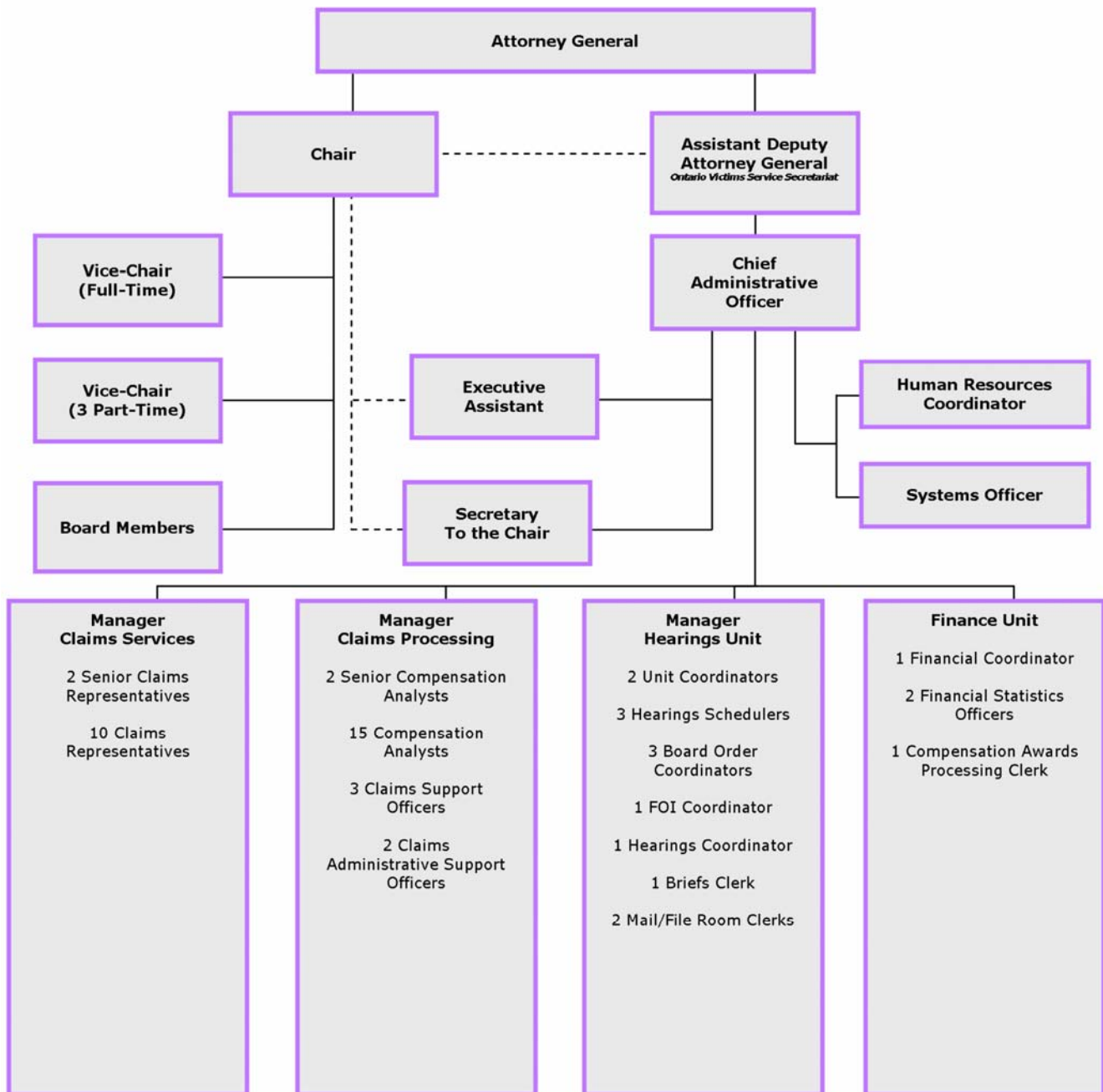
Once all of the relevant documentation is provided, Board members decide on the application after holding either an oral or written hearing. During an oral hearing, parties and witnesses give sworn testimony either in person or sometimes by telephone. During a written hearing, the Board members make a decision based on the documents and information available on the file. The applicant, the offender and the Attorney General are all parties to the hearing and may provide documentation and/or attend an oral hearing.

Once the hearing is complete, the Board prepares a written order and sends it to the parties. If the Board has decided to award compensation to the applicant, a cheque is sent to him or her along with the written order.

After the Hearing

If an applicant does not agree with the Board's order and that decision was made by a single Board member, the applicant can request that the matter be reviewed by two or more Board members by making the request to the Board within 15 days of receiving the original decision. If the original decision was made by more than one Board member, it can only be appealed on a question of law to the Superior Court of Justice (Divisional Court) within 30 days of receiving the order.

ORGANIZATIONAL CHART



BOARD MEMBERS

The composition of the Board is intended to reflect the diversity of Ontario's population and its various regions. The following individuals were members as of March 31st, 2010.

Chair

Maureen Armstrong
Toronto
August 2008 to
August 2011

Vice-Chair (Full-time)

Paula Klein
Toronto
November 2007 to
November 2011

Vice-Chair (Part-time)

Al Spadaccini
Ottawa
March 2010 to
March 2012

Vice-Chair (Part-time)

Anne Stanfield
Ottawa
November 1973 to
open-ended

Vice-Chair (Part-time)

Maria Tassou
Richmond Hill
May 2009 to
May 2011

Board Members

M Saleem Akhtar
Mississauga
September 2009 to
September 2011

George Berrigan
North Bay
February 2007 to
February 2012

Marion Boyd
London
October 1999 to
October 2012

John Brothers
Kitchener
June 2005 to
May 2013

Nicole Chenier-Cullen
Ottawa
September 2009 to
September 2011

Emily Crocco
Ottawa
December 2008 to
December 2010

Roderick Flynn
Toronto
June 2007 to
June 2012

Bruce Goulet
North Bay
June 2007 to
June 2012

Gemma Harmison
Oro-Medonte
September 2006 to
March 2011

BOARD MEMBERS

Board Members

Jo-Anne Hughes Kitchener October 2008 to October 2010	The Honourable Joseph James Campbellcroft September 2009 to September 2011	Kirsten Kurzuk Amherstburg December 2008 to December 2010
William Liber Toronto March 2009 to March 2012	Janet MacEachen Toronto September 2009 to September 2011	Ronaq Massey Mississauga April 1999 to April 2012
Charlotte McQuade Stouffville September 2009 to September 2011	Willson McTavish Mississauga February 2003 to February 2012	Jay Meunier Timmins September 2009 to September 2011
Virginia Morra Mississauga June 2007 to June 2012	Aggrey Msosa Ottawa September 2009 to September 2011	Stanley Newman Toronto June 2005 to May 2011
Bonnie Pelletier Kingston December 2008 to December 2010	John Radmore Manotick February 2004 to February 2012	Veda Rangan Thornhill September 2009 to September 2011
Kabir Ravindra Toronto, June 2007 to June 2012	Sharon A. Saunders Guelph October 2002 to October 2013	Linda Spears Toronto June 2007 to June 2011
Dawn Sullivan Ottawa February 2007 to February 2012	Norma Telfer Mississauga September 2009 to September 2011	Leni Untinen Thunder Bay February 2007 to February 2012
Dawn Wickett North Bay June 2007 to June 2012		

CICB BOARD SUMMARIES

Annually, the Board outlines its application of the *Compensation for Victims of Crime Act*, by preparing a summary of a sample of orders. The following 11 claims and resulting orders illustrate some of the issues considered when rendering decisions and the associated awards given. In an effort to protect the privacy of victims who courageously and candidly disclose a great deal of highly sensitive and personal information to the Board, we endeavour to remove detail from these summaries which could identify the victim even where the case involved a public hearing.

* * * * *

The largest category of offence type addressed by the Board is assault. In 2009-10, 43.5% of claims awarded were assault claims other than those relating to domestic violence or assault of peace officers. As a percentage of the Board's overall lump sum awards, however, this claim type represented 36.5% of the Board's lump sum awards.

0802-69375 – Assault

A patron at a nightclub punched this Applicant in the face in an unprovoked assault. The Applicant did not know the perpetrator, although he observed that the man had been glaring at him prior to the assault. The Applicant was knocked unconscious and when he awoke he was escorted from the bar, along with the assailant. The police arrived and charged the Alleged Offender with assault causing bodily harm. Later that night the Applicant began losing consciousness again and also began having breathing difficulty. He was taken to the hospital where he was diagnosed with a concussion and a nasal fracture, requiring surgery. He continues to experience breathing difficulties, and anticipates further surgery. Additionally, he has some hearing impairment, and occasional vertigo, which affects his ability to work in construction. The Applicant lost time from work as a result of the injury, but also lost his seniority status, which subsequently led to his being laid off. The assailant failed to appear at his trial and a warrant was issued for his arrest.

Decision: The Applicant was found to be a victim of an unprovoked attack and to have suffered physical and psychological injuries, with some ongoing impairment affecting his ability to breathe and work in his chosen field. He was awarded \$1,248.00 for his income loss during his disability period, but the Board found that he was laid off from work more for reasons unrelated to his injury. He was also awarded \$5,000.00 for pain and suffering, and preauthorized \$5,777.00

for future plastic surgery. The Applicant's claim for travel to treatment was denied because he traveled a distance of less than 40 km to treatment.

0406-48641 – Assault

This Applicant, in his late 50s, was assaulted by a friend of his who suffers from schizophrenia. This friend would sometimes stay with the Applicant when he was having difficulty with his parents. Normally, his friend could control the psychotic symptoms through medication, but when he stopped taking the medication he could become dangerous. On the night of the incident the Applicant informed his friend that he would be moving closer to his work. This news upset his friend and later that evening he repeatedly punched the Applicant. Two days later the Applicant's mother went to check on him, as he was not answering the phone. She found him in a very confused state, obviously injured. He was taken to the hospital where he underwent surgery for multiple facial fractures. The Applicant had previously sustained a brain injury in 1984, but suffered additional cognitive impairment following this incident. As a result, he could no longer live by himself, but still maintained a significant degree of independence. The Alleged Offender was still at large at the time of the hearing.

Decision: The panel found that the Applicant was a victim of a crime of violence and awarded him \$12,000.00 for pain and suffering and also for medication expenses. They were asked to consider an income loss claim as well, but found that the Applicant was compensated for his wage loss through his Long Term Disability insurance.

0610-61689 – Aggravated Assault

When this young man was 18, he was swarmed by a group of individuals intent on stealing his hat, while walking in a residential area. They punched and kicked him until he fell to the ground. When he tried to get up he was stabbed in the stomach by one of the individuals who then fled the scene. A witness called the police and the Applicant was taken to the hospital by ambulance. He underwent emergency surgery to repair much of the damage, but he lost one kidney. His physical injuries took many months to heal, during which he also experienced flashbacks and intrusive thoughts. The assailants were never identified.

Decision: The Board found this man to be a victim of aggravated assault and awarded him \$15,000.00 for pain and suffering. His claim for wage loss was denied because he was unable to provide the Board with any documentation to support his claim.

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In 2009-10 claims involving Domestic Assault represented 14.2% of the Board's awarded claims. As a percentage of the Board's overall lump sum awards, this claim type represented 15.1% of the Board's lump sum awards.

0809-73178 – Domestic Assault

This Applicant was physically abused by her common-law husband for more than a decade. She was slapped, beaten and punched all over her head, face, chest and back. She was strangled several times, once to the point of unconsciousness, and she awoke to the Offender standing on her chest. The Applicant suffered numerous injuries over the years, some of which required treatment and others that healed on their own. Her injuries included extensive bruising and swelling to various parts of her body and face, bleeding from inside her ears, and pain all over. The Applicant also suffered from depression, sleeplessness, and other trauma symptoms. She experienced shame and guilt, and became very isolated from others. The Offender was finally charged with and convicted of two counts of assault against the Applicant as well as a firearms charge.

Decision: The Board found that the Applicant suffered multiple injuries as a result of the numerous assaults over the many years, some of which had medical documentation while others did not. The Board awarded her \$12,000.00 for pain and suffering as a global award to address the countless injuries she sustained over the years. The Board declined to compensate the Applicant for income loss, as she had used banked sick days for her time off work, and not sustained an actual monetary loss.

0609-61584 – Domestic Assault

During her seven-year relationship with the Alleged Offender, this Applicant was assaulted on several occasions and once threatened with a gun. One time, the Alleged Offender threatened her with a knife and threw a chair at her. Police were called to the residence many times and an officer testified about the various police reports at the hearing. The Applicant never sought medical attention but hid her bruises with makeup and her depression with alcohol and both prescription and non-prescription drugs. While the Alleged Offender was charged with assaulting the Applicant, the charges were dismissed and the police have no record of the reason for the dismissal.

Decision: The Board found the Applicant to be eligible for compensation, and awarded her \$5,000.00 for pain and suffering as a result of the cumulative effects of the numerous minor physical injuries, the psychological injuries sustained as a result of the abuse, and the continuing fear that she experienced even after the relationship ended.

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In 2009-10, the claim type of Assault of Peace Officer represented 1.4% of lump sum awards. The claim type includes Peace Officers injured while attempting to arrest a person, or individuals injured while trying to prevent a crime or while helping a police officer make an arrest.

0807-71937 – Assault of Peace Officer, Arson

This Applicant is a Police Officer who attended a residence in response to a call where a man had barricaded himself inside his home and was threatening suicide by burning down the house. The officer entered the home and observed gasoline on the floor. The man ignited an explosion in front of the officer, setting the house on fire. The Applicant broke windows and crawled outside with his clothing in flames. The Applicant sustained 1st and 2nd degree burns to his arms, face and leg, and was hospitalized for ten days. He also experienced symptoms associated with posttraumatic stress. He was only able to return to light duties after eight months, and full time work after another two months.

Decision: The Board found the Applicant to be a victim of arson and to have suffered significant injuries as a result of attempting to save the life of the Alleged Offender. The Applicant was awarded \$12,000 for pain and suffering, as he had not yet received a Non-Economic Loss (NEL) award from Workplace Safety Insurance Board. Should he receive an NEL award, he was advised to inform the Board for its consideration of reimbursement of the compensation.

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The Board made awards in 190 claims involving homicide in 2009-10.

0909-80117 – Murder

In the spring of 2009, a fight occurred at a bar between the Offenders and other individuals. The Deceased Victim was at the bar that night, but not directly involved in the altercation. After being ejected from the bar, one of the Offenders threatened retribution against those still in the bar, which included the Deceased Victim. About 10 days later, the two Offenders came to the home of the Deceased Victim and brutally beat and kicked him for almost ten minutes, in front of his terrified former partner, the Applicant. The Applicant pleaded with the Offenders to stop the beating. They eventually did and left. Once they were out of sight, the Applicant called 911. The Victim was taken by ambulance to the hospital and underwent emergency surgery, but died while in intensive care. As a result of witnessing the brutal and fatal attack, the Applicant experienced severe nightmares and flashbacks, significant memory problems and anxiety. She was diagnosed with Severe Post Traumatic Stress Disorder and was unable to work or function socially. She was prescribed anti-anxiety medication and received psychotherapy.

Decision: The Board found that the Applicant suffered a severe psychological injury as a result of witnessing the brutal assault that lead to the death of her former partner, and found that she sustained the injury know as 'mental or nervous shock'. The Board also found that this experience exacerbated pre-existing symptoms that resulted in a more substantial psychological disability for the Applicant. She was awarded \$10,000.00 for pain and suffering and authorized up to 24 sessions of psychotherapy with a registered psychologist at a rate of \$125.00 per session.

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The Board is required to determine whether to make an order for compensation and to decide upon an appropriate amount. As per the Act, adjudicators must consider all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his or her injury or death.

0703-64393 – Attempted Murder

This Applicant alleged that when he was 17 years old he was shot for no apparent reason. He claimed that he was sitting in the back seat of his car with others when his car was approached by four or five individuals who smashed the windows. He told the Board that he thought this was a case of mistaken identity. Soon thereafter, his companions went to a park to “hang out” and observed two groups of males. He was then shot with multiple gun pellets all over his body and neck. The police evidence at the hearing suggested that the Applicant and his companions had made several phone calls that night and they all agreed to meet at the park to fight. The others were known gang members. The Applicant suffered multiple wounds to various parts of his body, many requiring surgical repairs. He experienced a great deal of pain but healed well and claimed to have recovered within about nine months. An individual was charged with Attempt Murder but the Applicant claimed that he could not positively identify the assailant, so he was not convicted.

Decision: The panel found many contradictions and inconsistencies in the Applicant's testimony, which lead to further questions regarding his credibility. The Board preferred the evidence of the police witness, which indicated that the Applicant had been involved in arranging the encounter that led to the shooting. The Board found this incident to have been totally preventable and in fact orchestrated at least in part by the Applicant. The panel further believed that the Applicant likely could have identified the shooter, and that he did not provide reasonable cooperation with the police. In considering the Applicant's behaviour and lack of cooperation with the police, as well as the fact that he made a full recovery from the injuries, the Board denied this claim for compensation.

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Some of the most difficult claims that come before the Board involve the crime of sexual assault against a child. In 2009-10, child sexual assault claims represented approximately 24.0% of claims awarded and approximately 32.0% of lump sum awards granted.

0705-65330 – Child Sexual Assault

This application was brought on behalf of the Applicant's daughter, who is still a minor. The Applicant's daughter frequently played at the home of her friend, and was sexually abused by her friend's father many times over the course of about a year, when she was about nine years old. The Minor Child and her friend were made to engage in oral sex, as well as other sexual acts, with the Offender and two male youths during games of "Truth or Dare". The Minor Child was sexually assaulted on other occasions as well by the Offender during that year. She eventually indicated that she did not want to go to her friend's home any more. About the same time, the Applicant heard rumours that the Offender had been sexually inappropriate with his own children. She grew suspicious and called the police. The Offender was charged with and convicted of numerous counts of invitation to sexual touching, and sentenced to three years incarceration. The Minor Child is reported to have been quite emotionally distraught, experiencing anxiety, nightmares, anger and fear as well as other trauma symptoms.

Decision: Given the conviction, the Board accepted the fact that the crimes of violence had occurred and found that the Minor Child suffered greatly as a result of the ongoing sexual abuse. The Minor Child was awarded \$15,000.00 for pain and suffering, which was paid to the Accountant of the Superior Court of Justice to the credit of the Minor Child, until she is 18 years old. Her mother was reimbursed for the costs incurred to drive her daughter to therapy and purchase her medication.

0505-54065 – Historical Child Sexual Abuse

This young woman was sexually abused by her mother's common-law partner, beginning when he moved into their home when she was eight years old. Her application was filed when she was 19 years old. The Offender would regularly bring the Applicant into his bedroom when her mother left for work. The abuse began with fondling and oral sex and progressed over the years to intercourse. The sexual abuse continued until she was 14, when her teachers feared that she might be suicidal and referred her to counselling. There, the Applicant disclosed the abuse, and the Offender was charged with and convicted of multiple sexual offences and sentenced to five years incarceration. After being placed in foster care initially, the Applicant eventually returned to live with her mother. While still in high school, she received counselling to help with the flashbacks and nightmares, and was prescribed anti-depressant medication.

Decision: The Board found that the Applicant was eligible for compensation and awarded her \$15,000.00 for pain and suffering and preauthorized \$5,000.00 for additional counselling.

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A small number of claims submitted to the Board involve a variety of other offences such as robbery, criminal negligence causing harm or death, poisoning, and careless use of a firearm. In 2009-10 this “other” category represented 2.5% of claims awarded and 1.5% of lump sum awards.

0710-67724 – Robbery

This convenience store owner and her husband were robbed at knifepoint by a man in full disguise. The couple managed to struggle with the Offender and subdue him, during which the Applicant received some minor injuries to her hand. In addition to the physical injuries, she experienced anxiety, nightmare, paranoia and fear as a result of the experience. She did not seek treatment because she could not bear to discuss the incident. The Offender was convicted of robbery and sentenced to 15 months in prison.

Decision: The Board found that the Applicant was eligible for compensation and awarded her \$6,000.00 for pain and suffering. The panel informed the Applicant that the Board would consider varying this Order in the future, to include an award for counselling expenses should she decide to seek treatment for her continuing psychological symptoms.

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CONTACT INFORMATION

Criminal Injuries Compensation Board
439 University Avenue, 4th Floor
Toronto, Ontario
M5G 1Y8

Telephone:

416-326-2900

1-800-372-7463

Fax:

416-326-2883

Web:

www.cicb.gov.on.ca

Email:

info.cicb@ontario.ca