

**Criminal and Law Enforcement
Injuries Compensation Boards
Thirty-fifth Annual Report**

by the Chairman

Mr Jat Sew-tong, SC

for the year ending 31 March 2008

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INTRODUCTION

The Criminal and Law Enforcement Injuries Compensation (CLEIC) Scheme came into being on 23 May 1973 to provide financial assistance to persons (or to their dependants in cases of death) who are injured as a result of a crime of violence, or by a law enforcement officer (which means any police officer or other public officer on duty) using a weapon in the execution of his duty.

2. The Scheme is non-contributory and non-means-tested. The eligibility criteria for awards under the Scheme are shown in Appendix I.

3. This report describes the administration of the Scheme for the year ending 31 March 2008.

BOARDS AND SECRETARIAT

The CLEIC Boards

4. The Scheme is administered by the Criminal Injuries Compensation Board and the Law Enforcement Injuries Compensation Board (CLEIC Boards), with the secretariat provided by the Social Welfare Department (SWD). Both Boards consist of the same chairman and members who are all appointed by the Chief Executive from outside the civil service. In administering the Scheme, the CLEIC Boards are guided by the provisions of an Administrative Document which lays down the scope of the Scheme and the powers and functions of the Boards. The terms of reference of these two Boards are shown in Appendix II.

Board Membership

5. As at 31 March 2008, there were 30 Board members, 18 of whom were barristers or solicitors, with the remainder coming from a variety of professions including business and industry, social work, education and medicine. The membership list is at Appendix III.

Board Meetings

6. Under a roster system, Board members take turns in pairs to sit at a two-member Board meeting to make an initial decision as to whether an application should be allowed, deferred, or rejected. As legal knowledge is essential, one of them must be from the legal profession. Where the two-member Board cannot reach a decision on an application, it will refer the application to a three-member Board appointed by the Chairman. Subject to the agreement of the Board concerned, an applicant may attend the Board meeting to present his case.

7. During the year, a total of 22 two-member Board meetings were held at regular intervals. No three-member Board meeting was convened. One applicant presented his case in person with the agreement of the Board concerned.

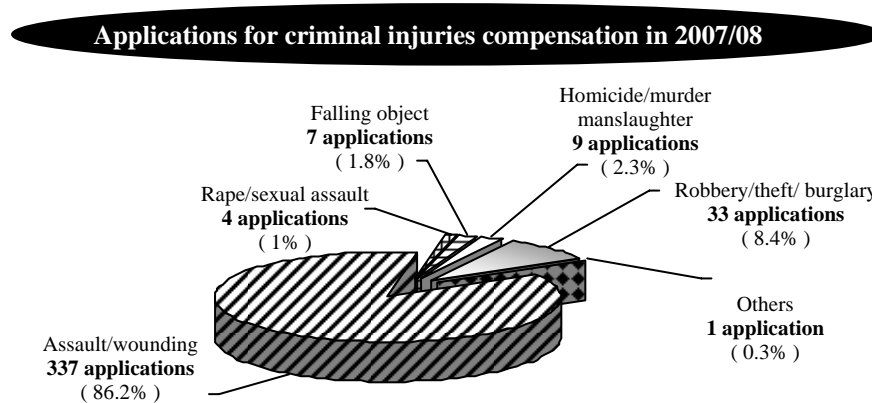
Secretariat to the Boards

8. The Secretariat to the Boards (i.e. the CLEIC Section of SWD), which is staffed by SWD officials, is responsible for receiving applications, conducting case investigations, and preparing case summaries and assessments, as well as arranging payment of awards to successful applicants. Investigation work involves collation and confirmation of information received from the Police, medical authorities, witnesses, employers and other related parties.

APPLICATIONS AND CASELOAD

New Applications

9. During the year, 391 new applications for criminal injuries compensation were received. This represents a decrease of 51 applications (11.5%) over the preceding year, and the number of criminal injury cases reported to the Police also decreased by 4.2% for the same period. A breakdown of the applications received during the year according to the nature of crime is given below:

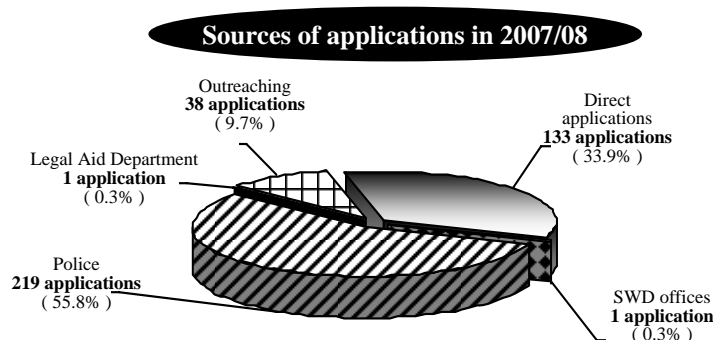


10. Of these, six (1.5%) were family violence cases compared with 10 (2.3%) in the preceding year.

11. There was one application for law enforcement injuries compensation. A chart showing the application trend of the Scheme since 1973 is at Appendix IV.

Sources of Applications

12. Most of the applications were referred by the Police. Where the circumstances so warranted, the Secretariat's caseworkers would also approach potential applicants to introduce the Scheme. The following chart gives a breakdown of the sources of new applications received during the year:



Application Rate

13. According to the Commissioner of Police, the number of reported criminal injury cases in 2007/08 was 8 941, representing a decrease of 4.2% over the preceding year. The rate of applications for compensation was 4.4%, compared with 4.7% in 2006/07 as analyzed below:

Application rate in 2007/08

Crimes	Applications	%	Cases reported to police	Application rate %
Assault/wounding	337 (355)	86.2 (80.3)	8 378 (8 715)	4.0 (4.1)
Robbery/theft/ burglary	33 (58)	8.4 (13.1)	325 (375)	10.2 (15.5)
Homicide/murder/ manslaughter	9 (18)	2.3 (4.1)	35 (35)	25.7 (51.4)
Rape/sexual assault	4 (3)	1.0 (0.7)	67 (68)	6.0 (4.4)
Arson	0 (1)	0 (0.2)	**136 (142)	5.9 (5.6)
Falling object	7 (1)	1.8 (0.2)		
Others	1 (6)	0.3 (1.4)		
Total	391 (442)	100 (100)	8 941 (9 335)	4.4 (4.7)

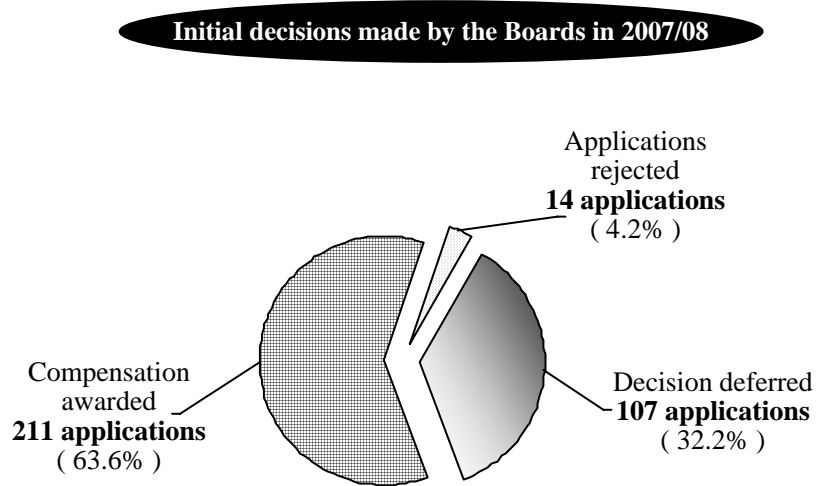
Note

Figures in brackets are those of the preceding year

** 'Arson' and 'Falling object' are classified as 'Others' by Police

Initial Decisions Made by the Boards

14. In 2007/08, the CLEIC Boards made initial decisions on 332 applications as follows:



Applications Rejected

15. The reasons for rejecting 14 applications are analyzed below:

Applications rejected in 2007/08

	Cases		%	
	2007/08	(2006/07)	2007/08	(2006/07)
Victim's character, conduct and way of life were considered to be contributory factors to the incident	8	(5)	57.1	(50.0)
Injury not arising from a crime of violence	6	(2)	42.9	(20.0)
Uncooperative attitude of the applicant	-	(2)	-	(20.0)
Sick leave period below minimum requirement	-	(1)	-	(10.0)
Total	14	(10)	100	(100)

(Figures in brackets are those of the preceding year)

Applications Withdrawn

16. The table below gives a breakdown of the 90 applications that were withdrawn:

Applications withdrawn in 2007/08

	Applications		%	
Unwilling to be investigated	18	(20)	20.0	(25.3)
Sick leave period below minimum requirement	19	(14)	21.1	(17.7)
Employees' Compensation exceeds Scheme entitlement	36	(35)	40.0	(44.3)
Awareness of ineligibility	10	(8)	11.1	(10.1)
Reasons not given	2	(-)	2.2	(-)
Others	5	(2)	5.6	(2.6)
Total	90	(79)	100	(100)

(Figures in brackets are those of the preceding year)

Caseload

17. Statistics below show the flow of cases handled during the year:

Caseload flow in 2007/08

<i>Cases brought forward</i>	+	<i>Cases newly received (Note)</i>	=	<i>Total caseload</i>	-	<i>Cases closed</i>	=	<i>Active caseload as at 31 March 2008</i>
525		652		1 177		697		480

Note

Including 260 enquiries received.

PAYMENTS

Basis of Compensation

18. The level of compensation for criminal injuries is assessed on the basis of the payment schedule for death or personal injury under the Emergency Relief Fund (ERF), which is subject to periodic revision. The payment rates were last revised on 1 April 2007 (see Appendix V). The level of compensation for law enforcement injuries is assessed on the basis of the payment schedule of the ERF or common law damages, whichever is the greater.

19. The CLEIC Boards have the discretion to:

- (a) increase the compensation payable on the basis of the ERF scale by up to 100% if
 - (i) in the event giving rise to the claim, the victim suffered injury or death in taking positive steps to prevent crime or help in the arrest of an offender or suspect; or
 - (ii) subsequent to the event giving rise to the claim, the victim made exemplary efforts, in the face of personal embarrassment, inconvenience or danger, to assist the police in the arrest or prosecution of an offender or suspect; or
 - (iii) in the event of a police-criminal shoot-out giving rise to the claim, the victim was injured or killed by bullets fired by a person other than the police and his conditions warrant compassionate consideration (if the victim's condition also falls under the provisions stipulated in (i) above, the total compensation payable may be increased by up to a maximum of 200%);

or

- (b) increase the disability grant, injury grant and interim maintenance grant by up to 100% to a victim of rape;

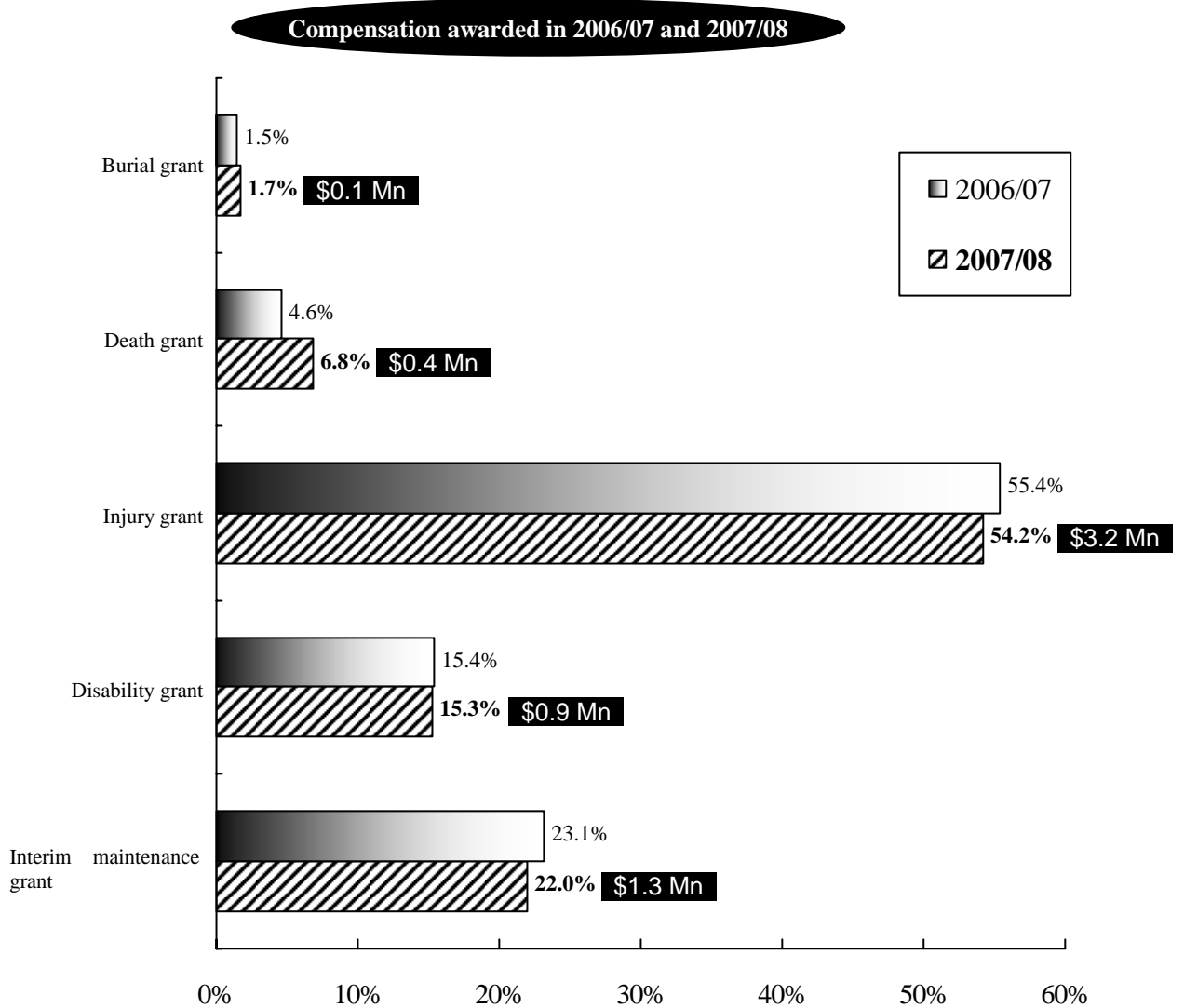
or

- (c) reduce the compensation payable, or reject an application altogether, if the conduct, character and way of life of the victim were considered to be contributory factors to the incident.

20. The Criminal Injuries Compensation Board will take into account not only the physical injuries of victims of sexual offences when assessing their degree of disability, but also their mental impairment as assessed by the medical authorities. Other victims can also be similarly assessed if this is found to be necessary.

Compensation Awarded

21. During the year, awards totaling \$5.9 million were made to 286 new and 202 review criminal injuries cases (which were assessed on the basis of the payment schedule of the ERF). A breakdown of the awards by type of grant and as a percentage of total payments in 2006/07 and 2007/08 is given below:

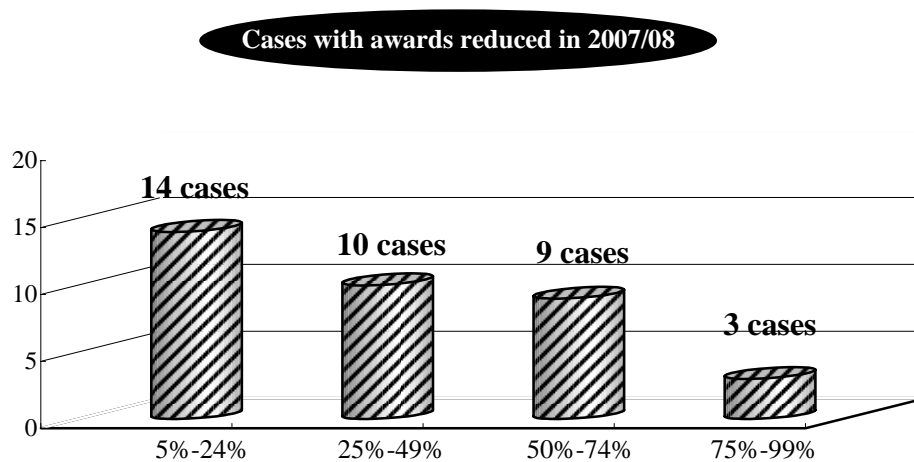


Increased Awards

22. At the discretion of the CLEIC Boards, compensation in one case was increased during the year. The total discretionary grants awarded amounted to \$71,976.

Reduced Awards

23. During the year, the awards for 36 cases were reduced on the grounds that the conduct, character and way of life of the victims were considered to be contributory factors to the incidents leading to their injuries. The range of percentage of reduction of award is shown below:



The Highest Award

24. The highest award of the year was \$151,735 paid to the dependants of the victim of a murder case.

Methods of Payment

25. Compensation normally takes the form of a lump sum payment. However, there are situations where more than one payment may be made (for example, where only a provisional medical assessment is available at the initial decision stage).

26. Payment of compensation is normally credited to an applicant's designated bank account. Under special circumstances, it can be made by crossed cheque or by special delivery of cash to the applicant.

Speed of Payment

27. The Secretariat attaches great importance to the necessity to respond promptly to all applications. However, the time span for processing a case will depend very much on the volume of applications received during the year, the complexity of the case, and also such factors as the availability of evidence, the time needed for medical authorities to assess the degree of the victim's injury and disability, and the readiness of the victim's employer and related parties to respond to enquiries. In addition, it is the policy of the CLEIC Boards normally to wait for the results of police investigations and/or criminal proceedings before making a decision on an application. In general, it takes no more than three months for a successful applicant to receive his award under the Scheme.

28. The Secretariat aims to complete the investigation of an application within 14 working days upon receipt of all relevant supporting documents. The achievement rate for the year was 100%.

REDUCTIONS / REFUNDS

No-double-compensation Principle

29. Under the “no-double-compensation” principle, where an applicant/victim has received damages or other compensation (including Employees’ Compensation) in respect of the same incident, the compensation payable under the Scheme will be reduced by an amount equivalent to such damages/compensation. No payment will be made if the amount of such damages/compensation is equal to or exceeds the assessed award payable under the Scheme. In addition, beneficiaries who subsequently receive damages or other compensation outside the Scheme in respect of the same incident will be required to refund the payments they have received from the Scheme, but, in any case, the amount to be repaid shall not exceed the amount of damages or compensation received outside the Scheme. Any increased award granted to ‘civic-minded’ victims (see para. 19 above) will not, however, be required to be repaid.

Cases Receiving Employees’ Compensation

30. During the year, a total of \$2,029,461 being sums paid by way of Employees’ Compensation, was deducted in 45 cases.

31. In addition, a total of \$309,609 was refunded by five applicants who subsequently received Employees’ Compensation payments in respect of the same incident.

Cases Receiving Damages or Compensation Other Than Employees’ Compensation

32. During the year, there were 17 cases where the applicant/victim was awarded damages or other compensation (other than Employees’ Compensation) before making a CLEIC application. Accordingly, a total of \$44,000 was deducted from the assessed awards payable under the Scheme.

33. In addition, a total of \$1,000 was refunded by one applicant who subsequently received damages or other compensation (other than Employees’ Compensation) outside the Scheme in respect of the same incident.

APPEALS

Right of Appeal

34. Where an applicant is dissatisfied with the decision of the Criminal Injuries Compensation Board or the Law Enforcement Injuries Compensation Board, he may lodge an appeal in writing within one month after the date of notification of the decision.

Processing of Appeals

35. On receipt of an appeal, the Chairman will appoint three members who have not taken part in the original decision on the case to form an Appeal Board. At the appeal hearing, the appellant will put forward his case in person unless prevented by incapacity or other good cause. Subject to the approval of the Appeal Board, an appellant may bring along another person, who may be a friend or a relative, to assist him in the presentation of his case. In exceptional cases and with the approval of the Appeal Board, an appellant may be legally represented at his own expense. The Appeal Board may permit, where appropriate, attendance of Government Counsel and/or Government officials at such hearings. The Appeal Board's decision is final.

Appeal Cases

36. During the year, a total of 28 appeals, including nine brought forward from the preceding year, were handled. Of these, nine were allowed and 12 were dismissed by the Appeal Boards, while the remaining seven were under processing.

PUBLICITY AND LIAISON

Publicity

37. Application forms and publicity materials such as posters and leaflets are available at SWD offices, police stations, hospitals, District Offices of the Home Affairs Department and at related institutions and locations. The public may also obtain information about the Scheme or download the application form from the homepage of SWD.

38. The Information and Public Relations Unit of SWD assisted in publicizing the Scheme by answering enquiries from the media, issuing press releases on the publication of the Annual Report of the CLEIC Boards (2006/07) in June 2007, as well as providing information to the media on particular cases which may have attracted public interest.

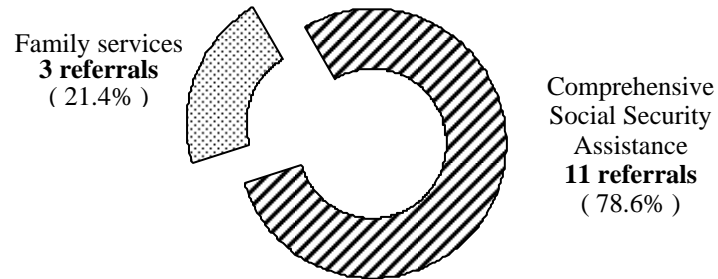
Liaison

39. During the year, regular contacts and close co-ordination were maintained with the Hong Kong Police Force, the Hospital Authority, the Labour Department and other related bodies to ensure the successful and smooth operation of the Scheme. The police community relations officers, social workers of Integrated Family Service Centres and medical social workers also assisted in introducing the Scheme to potential applicants.

Welfare Referrals

40. During the course of investigation, the Secretariat's caseworkers will recommend services provided by relevant agencies to applicants who may have other welfare needs such as family and marriage counseling and medical psychiatric assistance. Written referrals will be made where appropriate. During the year, a total of 14 welfare referrals were made as shown below:-

Welfare referrals in 2007/08



CHAIRMAN'S CONCLUDING REMARKS

41. On behalf of the Boards, I wish to express my appreciation for the continued support and assistance given by the staff of the Social Welfare Department, the Hong Kong Police Force, the Labour Department, the Hospital Authority and the Department of Health. Special thanks are extended to the Board members for contributing their valuable time and experience in the past year. Your concerted efforts have contributed to the smooth administration of the Scheme.

Jat Sew-tong, SC

June 2008

Criminal and Law Enforcement Injuries Compensation Scheme

Eligibility Criteria

Persons who are injured or killed as a result of a crime of violence, or who are accidentally injured or killed by law enforcement officers in the execution of their duties, or their surviving dependants, are eligible for compensation under the Criminal and Law Enforcement Injuries Compensation Scheme, subject to satisfying the Criminal Injuries Compensation Board or the Law Enforcement Injuries Compensation Board that:

- (a) the injury was sustained in Hong Kong on or after 23 May 1973;
- (b) the injury inflicted was sufficiently grave that sick leave of three days or more was recommended except in cases of death and disability or under special circumstances which justify waiving the requirement (for cases occurring on or before 4 March 1981, the minimum sick leave requirement is seven days);
- (c) for criminal injuries compensation cases, the injury was inflicted in:
 - (i) a crime of violence;
 - (ii) an arrest or attempted arrest of an offender or suspected offender;
 - (iii) the prevention or attempted prevention of an offence; or
 - (iv) the giving of help to any police officer or other person who is engaged in arresting or attempting to arrest an offender or suspected offender or preventing or attempting to prevent an offence;
- (d) for law enforcement injuries compensation cases, the injury was inflicted by law enforcement officers using weapons in the execution of their duties in connection with:
 - (i) an arrest or attempted arrest of an offender or suspected offender;
 - (ii) the prevention or attempted prevention of an offence; or
 - (iii) the giving of help to any police officer or other person who is engaged in arresting or attempting to arrest an offender or suspected offender or preventing or attempting to prevent an offence;
- (e) the circumstances of the injury were reported to the police without unreasonable delay, or had been the subject of criminal proceedings;

- (f) for a new application, the claim for compensation has been made within three years of the date of the incident (with effect from 4 March 1981);
- (g) for a re-application where the first claim for compensation had been made within three years of the date of the incident but the case was closed due to self-withdrawal or lost contact, the second or subsequent claim has been made either within three years of the date of the incident or within one year of the date of self-withdrawal or lost contact, whichever is later (with effect from 1 July 1991);
- (h) the applicant should have given the Board all related information and reasonable assistance; and
- (i) the victim is a person having the right to remain in Hong Kong or being permitted to remain in Hong Kong under the Immigration Ordinance, Cap. 115, who is not in contravention of a limit of stay (if any) in force against him at the time of the incident. Where permission to remain is granted subsequently after a person has landed in Hong Kong or that permission is granted to extend a person's stay after he has been overstaying in Hong Kong, payment of compensation may be granted if the incident occurs on or after the effective date of such permission (with effect from 24 May 1997).

Note

Where the victim and the offender were living together at the time of incident as members of the same family, compensation will be only payable under certain conditions.

Traffic offences will be excluded from this Scheme except in cases of a deliberate attempt to run the victim down.

The Criminal and Law Enforcement Injuries Compensation Boards

Terms of Reference

The Boards are serviced by the Social Welfare Department and responsible to the Chief Executive for the administration of the Criminal and Law Enforcement Injuries Compensation Scheme subject to the principles and guidelines laid down in the Administrative Document of the Scheme issued by the Secretary for Labour and Welfare, with the endorsement of the Chief Executive and/or the Secretary for Financial Services and the Treasury/Finance Committee of the Legislative Council as appropriate, with the following specific responsibilities:

- (a) to exercise the functions and powers of the Boards as laid down in the Administrative Document of the Scheme;
- (b) to examine arrangements and procedures for compensating victims of crimes of violence and to advise on the extension or improvement of related matters as the Chief Executive may refer to the Boards or on which the Boards may wish to advise;
- (c) to scrutinise and approve or disapprove and, where necessary, hear applications and appeals for compensation;
- (d) to be entirely responsible for deciding what compensation should be paid to individual victims according to the basis of compensation of the Scheme and also the quantum including such matter as whether the amount should be increased or reduced; and
- (e) the Chairman of the Boards shall submit annually to the Chief Executive a full report on the operation of the Scheme together with its accounts.

The Criminal and Law Enforcement Injuries Compensation Boards

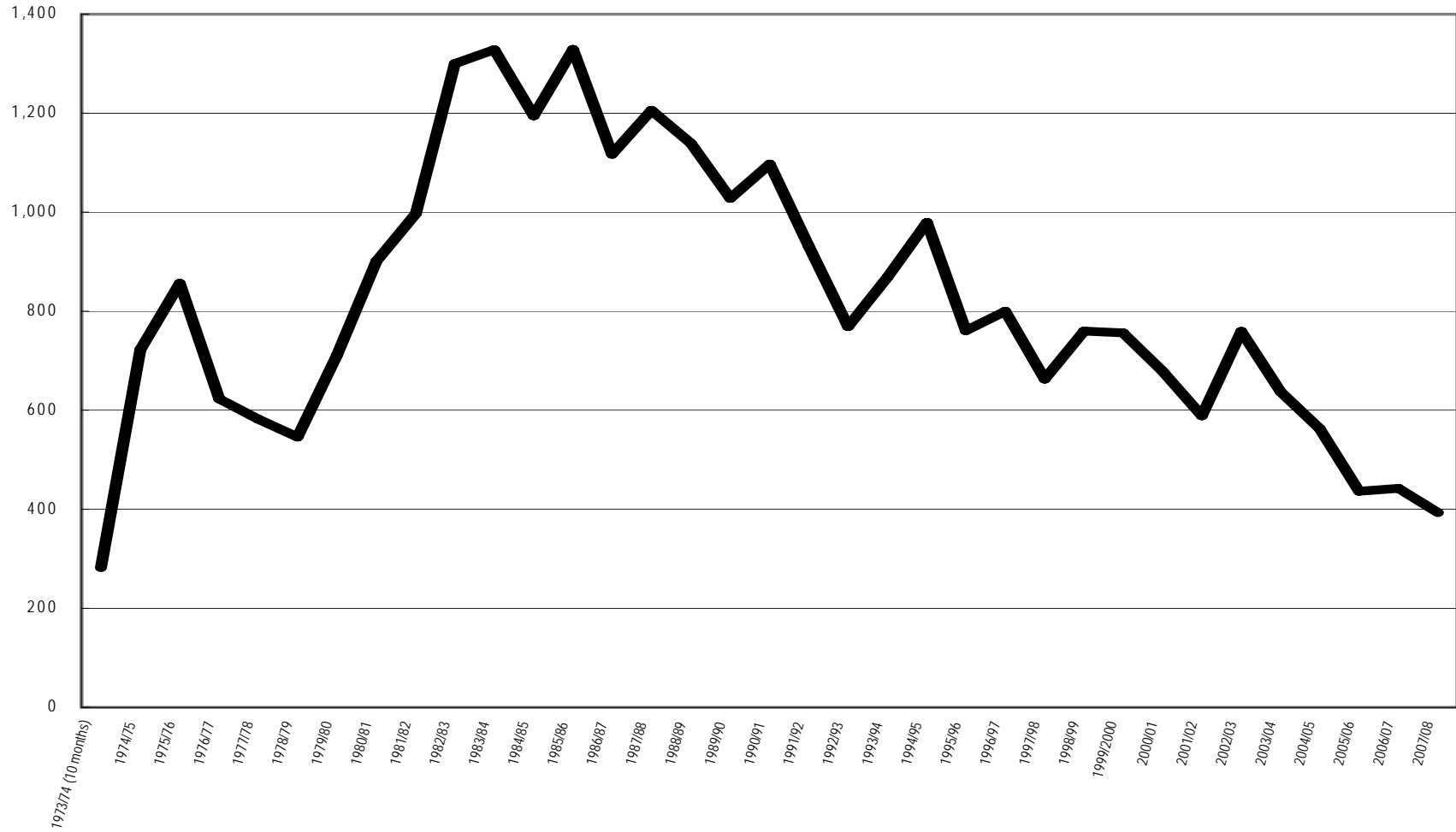
Membership List as at 31 March 2008

Mr Jat Sew-tong, SC (CHAIRMAN)	Ms Lau Yuk-kuen
Mr Au Pak-ching	Ms Law Elizabeth, MH
Mr Chan Chi-hung, SC	Prof Leung Kwok-sui
Mr Chan Kin-keung, Anthony, SC	Ms Liang Sun-yin, Cecilia
Ms Chiang Sui-fook, Lilian	Ms Liu Yuk-ling, Elaine
Ms Ching Che-man, Susanna	Dr Mak Ki-yan, JP
Mr Chow Ka-ming, Anderson, SC	Dr Shen Wan-yiu
Miss Choy Fung-peng, Abril	Mr Shieh Wing-tai, Paul, SC
Dr Ip Fu-keung	Miss Sun Lee-ko
Dr Ip Yan-ming, JP	Ms Tam Wan-chi, Winnie, SC
Miss Kung Ching-yee, Athena	Miss Tsang Lan-see, Nancy, JP
Ms Lam Kwai-lan	Mr Wan Siu-ming, Jason
Ms Lam Moon-hing, Vera	Dr Wong Yee-him, John
Miss Lam Tze-yan	Mr Wong Yuk-lun, Horace, SC
Mr Lam Wan-ho, Godfrey	Mr Yuen Kwok-keung, Rimsky, SC

Secretary: Senior Social Security Officer (Accident Compensation)

Criminal and Law Enforcement Injuries Compensation Scheme

Application Trend since 1973



Payment Schedule of Criminal Injuries Compensation

Type of grant	Level of grant (For incidents occurring on or after 1.4.2007)	Remarks
Burial grant	\$10,610	If the burial expenses were paid whether in full or in part by Government (such as under the Comprehensive Social Security Assistance Scheme) or by one of the charitable funds, the amount of grant shall be reduced by the amount of such payment.
Death grant		<p>If the beneficiary is an adult who is mentally unsound or found unconscious or is a minor without surviving parent/legal guardian, payments will be made on the advice of the Social Welfare Department.</p>
(a) Loss of sole wage earner where there are dependants	\$97,030 - \$137,480	
(b) Loss of a wage earner where there are dependants and other wage earner(s) remaining in the family	\$48,520 - \$88,970	
(c) Loss of a parent who was not a wage earner where there are children under 15 years of age	\$48,520 - \$88,970	
Disability grant	\$116 - \$116,440	Based on the First Schedule or Section 9(1)(b) of the Employees' Compensation Ordinance, Cap. 282 of the Laws of Hong Kong; abated to 2/3 for persons aged 60 and over.
Injury grant	\$507 - \$42,270	<p>The amount is assessed according to the number of days of sick leave/hospitalization. The maximum is 180 days.</p> <p>Injury grant is payable where the injury period is seven days or more before death.</p> <p>Injury grant should cease from the date on which the victim becomes eligible for the disability grant, or upon the death of the victim.</p>
Interim maintenance grant	\$270 - \$48,540	The amount is assessed according to the number of days of sick leave/hospitalization. The maximum is 180 days. Interim maintenance grant is payable to a wage earner suffering loss of earnings as a result of incapacity to work, or to a non-wage-earning parent with a child under 15 years of age. Payment of interim maintenance grant should cease upon the death of the victim.