



**THE LAW REFORM COMMISSION  
OF WESTERN AUSTRALIA**

**Project No 46**

**Criminal Injuries Compensation**

**WORKING PAPER**

**JUNE 1975**

## INTRODUCTION

The Law Reform Commission has been asked to conduct a review of the *Criminal Injuries (Compensation) Act 1970*.

The Commission having completed its first consideration of the matter now issues this working paper. The paper does not necessarily represent the final views of the Commission.

Comments and criticisms on individual issues raised in the working paper, on the paper as a whole or on any other aspect coming within the terms of reference, are invited. The Commission requests that they be submitted by 15 August 1975.

Copies of the paper are being sent to the -

Chief Justice and Judges of the Supreme Court  
Citizens Advice Bureau  
Commissioner of Police  
Community Welfare Department  
Crimes Compensation Tribunal of Victoria  
Department of Corrections  
Federal Minister for Repatriation and Compensation  
Institute of Legal Executives  
Judges of the District Court  
Law School of the University of W.A.  
Law Society of W.A.  
Magistrates' Institute  
Solicitor General  
State Treasurer  
Under Secretary for Law  
Law Reform Commissions and Committees with which this Commission is in  
correspondence.

The Commission may add to this list.

A notice has been placed in *The West Australian* inviting anyone interested to obtain a copy of the paper and to submit comments.

The research material on which the paper is based is at the offices of the Commission and will be made available there on request.

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## **TERMS OF REFERENCE**

1. "To conduct a review of the *Criminal Injuries (Compensation) Act 1970*."
2. The original terms of reference were confined to reporting on a proposal that the Act be amended for the purpose of increasing the maximum amounts of compensation payable thereunder, and of ensuring that the amounts are adjusted from time to time in line with the fall in the value of money. The Commission considered that it could not satisfactorily deal with these questions except as part of a general review of the Act, and accordingly sought and obtained a reference in terms of paragraph 1.

## **LAW AND PRACTICE IN WESTERN AUSTRALIA**

### *Synopsis of the Act*

3. The *Criminal Injuries (Compensation) Act* provides a means whereby a person who suffers injury (defined in s.3 as meaning bodily harm and as including pregnancy, mental shock and nervous shock) as a result of the commission of a criminal offence can obtain compensation for the injury. The text of the Act is reproduced as Appendix I to this paper. Its most important provisions are as follows -

- (a) Where a person is convicted of an offence the trial court may, on the application of a person who suffered injury in consequence of the commission of the offence, order that the offender pay the applicant a sum not exceeding \$2,000 in the case of an indictable offence, or \$300 in the case of a simple offence "by way of compensation for injury suffered" by him (s.4(1)).
- (b) The court is required to have regard to any behaviour of the injured person that contributed to his injury and to other relevant circumstances, including his relationship to the offender (s.4(2)).
- (c) An order under s.4(1) is enforceable as a fine (s.4(4)).

- (d) Where a person has been awarded more than \$100 compensation, he may apply to the Under Secretary for Law for payment out of the Consolidated Revenue Fund (s.5).
- (e) The Under Secretary for Law is required to send to the State Treasurer a statement specifying -
  - (i) the amount of the award; and
  - (ii) any amounts which, in the Under Secretary's opinion, the applicant has received, or would have received if he had exhausted all his legal remedies (s.7(1)).
- (f) The Treasurer may, if he considers that the circumstances of the case justify it, pay the applicant the difference between (i) and (ii) in (e) above (s.7 (3)).
- (g) Where the Treasurer makes a payment to a person, the Under Secretary for Law takes over that person's rights against the offender to the extent of the payment (s.9).
- (h) Where a person is acquitted of an offence, the trial court may give the injured person a certificate stating the amount it would have awarded had the accused been convicted, provided the amount would have been not less than \$100 (s.6(1)). No certificate can be given unless the court is satisfied that the applicant in fact suffered injury by reason of an offence committed by some other person (s.6(3)).

(Action on any certificate given under s.6 is in accordance with (d) to (g) above).

#### *Ex gratia scheme*

4. The Act does not cover the case where there is no criminal trial, for example, where the offender has not been caught or where charges have not been proceeded with. In 1970, in the course of the debate on the Bill, the then Government undertook to provide a scheme for ex gratia payments in such situations (187 W.A. Parl. Deb. 805). Subsequently, on 7 November 1973 the then Attorney General issued a press release stating that ex gratia

payments would be considered (see *The West Australian* of that date). The present Government has continued this scheme, although as far as the Commission is aware it has made no public announcement. The Under Secretary for Law has informed the Commission that only one person has been paid under this scheme so far (\$300 for an assault).

#### *Other legislation*

5. In addition to the *Criminal Injuries (Compensation) Act*, power to award compensation is given to the Supreme and District Courts under s.674 of the *Criminal Code* (compensation for "loss of time" suffered by victim) and to Courts of Petty Sessions under s.145 of the *Justices Act* (victim may be awarded fine inflicted for assault). Under s.5 of the *Criminal Injuries (Compensation) Act* a person awarded an amount under either of these sections may apply for payment from the Consolidated Revenue Fund.

6. The *Police Assistance Compensation Act 1964* provides for the Crown to pay compensation to any person injured while assisting a police officer in the execution of his duty, and to dependants of that person (s.5(1)). Compensation is payable in accordance with the *Workers' Compensation Act 1912* as if the injured person were a worker employed by the Crown earning not less than the basic wage, and as if he suffered the injury by accident arising out of or in the course of employment (s.5(2)). Compensation is also payable, up to a prescribed amount, for damage to the injured person's property (s.5(3)). If any dispute arises the matter is determined by the Workers' Compensation Board (s.6).

Presumably if the circumstances were applicable, an injured person could obtain an award under the *Police Assistance Compensation Act* as well as an order under the *Criminal Injuries (Compensation) Act*, but the amount of the award under the former Act would presumably be deducted from any payment from the Consolidated Revenue Fund under the *Criminal Injuries (Compensation) Act* (see s.7).

#### *Operation of the Criminal Injuries (Compensation) Act*

7. As at 6 May 1975, twenty-one applications had been made to trial courts for orders under the Act. Eighteen of these were successful and three unsuccessful. In each of the eighteen cases where orders were made, payment was sought out of Consolidated Revenue;

and in eleven cases such payment was in fact made. Of the other seven applications, three are still under consideration and four have been refused. The total amount of compensation awarded by courts under the Act is \$13,770. Of that amount, \$11,620 has been paid from Consolidated Revenue, and the three claims still under consideration are for a total of \$1,200. Claims totalling \$950 were refused.

Appendix II sets out in tabulated form particulars of claims made under the Act.

## **THE LAW ELSEWHERE**

### *Australia*

8. Four other Australian States - New South Wales, Victoria, Queensland and South Australia - have legislation providing for payment of compensation for criminal injuries (see the *Criminal Injuries Compensation Act 1967 and the Crimes Act 1900* (N.S.W.); the *Criminal Injuries Compensation Act 1972* (Vic.); the *Criminal Code Amendment Act 1968* (Qld.) and the *Criminal Injuries Compensation Act 1969* (S.A.)).

The legislation in New South Wales, Queensland and South Australia is broadly of the same pattern as in Western Australia, except that in South Australia and Queensland the legislation also authorises ex gratia payments where the person who caused the injury is not brought to trial (cf. paragraph 4 above).

In Victoria, as in the United Kingdom and New Zealand (see paragraphs 9 and 10 below), applications for compensation are dealt with by a tribunal specially established for the purpose. Awards of the tribunal are directly payable out of Government Revenue.

### *United Kingdom*

9. In the United Kingdom a non-statutory scheme for compensation for criminal injuries has been in existence since 1964. Application may be made under this scheme to a Criminal Injuries Compensation Board. If awarded, compensation is payable from Government Revenue. The offender himself cannot be ordered to reimburse the State for money paid to a victim by way of compensation. The Home Office is at present reviewing the scheme, and has

issued a "Consultative Document" which discusses possible ways to improve the, scheme, with a view to putting it on a statutory basis (see *Review of the Criminal Injuries Compensation Scheme C.I.C.S. (1974)*).

#### *New Zealand*

10. New Zealand enacted legislation in 1963 for the setting up of a Criminal Injuries Compensation Tribunal to which application could be made for an award of compensation (see the *Criminal Injuries Compensation Act 1963*). Criminal injuries are now compensable under the *Accidents Compensation Act 1972*, which provides for State compensation for all accidental personal injuries, however caused.

#### *Summary of legislation elsewhere*

11. Appendix III sets out in tabulated form the salient features of the legislation referred to above.

## **DISCUSSION AND PROVISIONAL VIEWS**

### **Purpose of the legislation**

12. As has been pointed out in paragraph 3 above, the formal basis for compensation in Western Australia is that the primary liability rests upon the offender himself. There is provision for recourse to the Consolidated Revenue Fund to the extent that the offender himself has not paid. It is a matter for the discretion of the Treasurer whether or not any payment is made from the Fund. The State, through the Under Secretary for Law, has a right of subrogation against the offender.

13. This statutory arrangement provoked discussion, in the early Australian cases dealing with similar legislation, as to whether the compensation was to be properly regarded as a form of civil remedy or as a form of further punishment upon the offender.

In two early Queensland cases, the punishment view was adopted (see *Re Daley* [1970] Q.W.N.33; *R. v. Wright* [1971] Qd. R. 153). However, in the New South Wales case of *R. v.*

*Bowen* (1969) 90 W.N. (Pt. 1) (N.S.W.) 82, Reynolds J. expressed the view that the provision for an award was one of a "very summary nature," for "doing some measure of justice to the victim of a crime without the delay, expense and formality of a civil action." This view appears eventually to have prevailed in Queensland (*R. v. Allsop* [1972] Q.W.N.34).

14. The view that the primary purpose of the award is not punitive has also been adopted in this State by Jackson C.J. in *Re Hondros* [1973] W.A.R.I. The Chief Justice said -

"The main purpose of the Act appears to me to be to provide a modest sum of money, generally to be paid by the Treasury, to the innocent victim who suffers injuries as a result of a criminal offence" (p. 4).

15. The Commission agrees with this approach. Accordingly, it considers that the formal nature of the compensation remedy should match the substantial reality of the operation of the scheme. This is that, if compensation is to be actually received by the victim, it will as a rule be paid from Consolidated Revenue. Thus in the eleven cases in which the Treasury has paid a total of \$11,620 to victims, the Crown in exercise of its rights of subrogation under s.9 of the Act (see paragraph 3(g) above) has recovered a mere \$43 from offenders. It is not known whether, in those four cases where the Treasury refused payment of claims totalling \$950 (see cases numbered 15 to 18 in Appendix II), any compensation was actually received by any of the victims.

In New South Wales, where the victim compensation scheme has been operating for a longer period in relation to a greater number of victims, experience has been similar to that of Western Australia. Thus since the scheme started in 1967, out of \$252,000 paid in compensation by the Treasury, less than \$12,000 has been recovered by the Treasury from the offenders in exercise of rights of subrogation.

16. The Commission considers that the Act should be recast so as to render the Consolidated Revenue primarily liable to pay any compensation ordered to be paid under the Act. This arrangement will bring the form of the remedy into line with current practice and experience - namely as a form of civil remedy intended to provide monetary compensation from the State for a victim who has suffered personal injury.

## Assessment of compensation

### *Heads of loss*

17. There is a difference of judicial opinion as to whether "compensation for injury" in s.4(1) of the Act includes compensation for pecuniary loss, such as loss of earnings and medical expenses, or is confined to compensation for pain and suffering, loss of enjoyment of life and loss of expectation of life.

18. On the one hand, in *Hill v. Shaw* (unreported Jackson C.J., 8 December 1972), the Chief Justice said that in assessing compensation under the Act it would have been relevant to have taken into consideration, had there been evidence of it, "the question of medical, hospital and similar expenses." Kelly A.J. in *R. v. Johnson. ex parte MaLeod* [1973] Qd. R. 208, in commenting on similar wording in the Queensland legislation, also indicated that regard could be had to the pecuniary loss caused by the injury, as well as its physical and mental consequences.

On the other hand, in *Maher v. Thomson* (unreported decision of Lavan J, 13 June 1974), the Judge considered that pecuniary loss was not a factor to be taken into account in assessing compensation. A similar view was taken by Judge Pidgeon in *Re Bellini* (District Court, No.1726 of 1972) and in *McCabe v. Gill & Hunter* (District Court, No.2 of 1974): see also, *R. v. Wright* [1971] Qd. R.153. In *Edwards v. Taylor and Hall* (unreported decision of Wallace J, 5 May 1975) the Judge held that the victim could not be compensated for the cost (\$750) of repairing a specially designed dental plate which was damaged when he was hit on the mouth.

19. The Commission considers that the Act should be clarified by specifying expressly the heads of loss for which compensation may be awarded. If the Commission's view is accepted that the primary nature of the award is as a form of civil remedy, there is much to be said for adopting the heads of loss for which compensation may be awarded in tort actions, thus including both pecuniary and non-pecuniary loss.

20. It could, however, be argued that a scheme based on common law tort compensation does not necessarily provide for the most appropriate use of public money. It would seem that,

having regard to the source from which compensation would normally be paid, exemplary or punitive damages should be excluded. A more difficult question is whether there should be compensation for indignity or outrage suffered by the victim (cf. *Hill v. Shaw* (supra) and *R.J.R. v. Bandy and another* (unreported decision of Burt J, 31 May 1974) where it was held that injury to feelings, as distinct from nervous shock, was not compensable under the Act).

It could, of course, also be argued that the heads of loss for criminal injuries compensation should include items not provided for in tort, and that it would be appropriate, for example, to include an item in fatal cases for "bereavement", to be paid to certain close relatives, as suggested by the committee reviewing the United Kingdom scheme (see paragraph 9 above).

The Commission would welcome suggestions about what the heads of loss should be. The question about heads of loss is, of course, distinct from that of an upper statutory limit.

#### *Maximum amounts*

21. At present, the maximum amount that may be awarded is \$2,000 in the case of an indictable offence and \$300 in the case of a simple offence (s.4). The Act does not lay down expressly whether these amounts are to be regarded as the top of an artificial scale, being reserved for the worst cases, or whether they are to be regarded as cut-off points only.

The courts have, however, adopted the approach that the amounts are cut-off points only and that cases should not be scaled according to their gravity as crimes (see *R. v. Forsythe* [1972] 2 N.S.W.L.R. 951; *G.A.K. v. Francis and Ash* (unreported decision of Wickam J, 27 August 1974)). This approach conforms with the view that the making of an order is not to be regarded as a punishment of the offender but as a form of civil remedy.

22. It has been suggested that the maximum amounts of \$2,000 and \$300 are too low. Appendix III lists the maximum amounts in other jurisdictions. In the United Kingdom no maximum amount is prescribed, except that the rate for loss of earnings is limited to twice the average weekly industrial earnings. In New Zealand, where the criminal injuries compensation scheme has been absorbed into the accident compensation scheme (see paragraph 10 above), there is a maximum of \$160 per week payable for loss of earnings, \$7,000 for impairment of bodily function and \$10,000 for pain and suffering and loss of

enjoyment of life. New South Wales in 1974 raised the maximum amounts from \$2,000 to \$4,000 for felonies and misdemeanours and from \$300 to \$600 for offences tried summarily.

23. The question of what upper limit would be appropriate is complicated by the fact that at present the formal nature of compensation is as an order against the offender. If the offender were the only source from which the compensation could be recovered, from the victim's point of view it would be an empty gesture to increase the limit, since offenders generally seem to be men of straw (see paragraph 15 above). In practice, of course, under the present law the victim can normally look to the State to pay the amount of the award, and the question of an increase should be considered in that light.

24. In this context, there appear to be good grounds for increasing the upper limit of compensation. There have been at least five cases where the court expressly held that adequate compensation for the injury would have amounted to more than the statutory limit (see *G.A.K. v. K.W. Francis and L. Ash* (supra, paragraph 21 above) a case where the injury was rape causing severe emotional disturbance; *W.A. McCabe v. Gill and Hunter* (supra, paragraph 18 above) which was a case of assault causing bodily harm; and the three court of petty sessions cases referred to in paragraph 28 below).

A substantial increase could also be justified merely on the grounds of the fall in the value of money since 1970, when the *Criminal Injuries (Compensation) Act* was passed.

25. The Commission's terms of reference specifically require the Commission to "consider and report on a proposal that the *Criminal Injuries (Compensation) Act* be amended for the purpose of increasing the maximum compensation payable thereunder, and for ensuring that such sum shall from time to time be adjusted to accommodate inflated money values." At this stage the Commission does not feel justified in suggesting what the upper limit should be, but would welcome submissions on this matter. However, it seems clear that there is a strong case for a fairly substantial increase.

26. As to the question of the adjustment of the upper limit to take account of the fall in the value of money, it could be said that if the limit is increased substantially in the first instance, it may be unnecessary to create special machinery for keeping it in line with inflation, the matter being left to the normal process of Parliamentary review. Alternatively, provision

could be made in the legislation for the amount to be increased by regulation following a periodical review by the Treasurer. This review could be carried out pursuant to a general discretion, or in accordance with specific statutory criteria, such as increases in the Consumer Price Index (see s. 46C of the *Superannuation and Family Benefits Act 1938*) or in the average weekly earnings (cf. the definition of “prescribed amount” in s.5 of the *Workers’ Compensation Act 1912*).

#### *Differing statutory limits in different courts*

27. The present approach of prescribing differing maximum amounts, depending on whether the offence causing the injury is an indictable offence or a simple offence, seems of doubtful justification. It is also unclear whether “simple offence” as used in the *Criminal Injuries (Compensation) Act* (where it is undefined) has the meaning it has in s.4 of the *Justices Act*, or as it has in the *Criminal Code*.

Section 4 of the *Justices Act* defines a simple offence as “any offence (indictable or not) punishable, on summary conviction, by fine, imprisonment or otherwise.” Section 3 of the Code divides all offences into three kinds - crimes, misdemeanours and simple offences, and provides that a person guilty of a simple offence may be summarily convicted. The consequence of labelling an offence as a crime or misdemeanour is that it is an indictable offence, that is “an offence a complaint of which is, unless otherwise expressly stated by the Code, triable only by jury” (Code, s.1). It appears to follow that, as those words are used in the Code, an indictable offence triable summarily retains its character as a crime or misdemeanour, as the case may be, and does not become a simple offence.

28. It has been held in three Magistrates' court decisions - *Harris v. Turpin* (Midland Court No.728 of 1973); *Chalmers v. Brady and Haine* (Bunbury Court, No.21 of 1975); and *Mason v. Payne* (Bunbury Court, No. 22 of 1975) - that, for the purposes of the *Criminal Injuries (Compensation) Act*, “simple offence” bears its *Justices Act* meaning. Accordingly, the upper limit for indictable offences tried summarily was held to be \$300, whereas it would have been \$2,000 had the offenders been tried on indictment. In all three cases, the magistrate would have awarded more than statutory limit had he considered that he had power to do so.

The matter has not yet been settled by a decision of the Supreme Court.

29. Anomalies arise whichever of the two interpretations of "simple offence" is the correct one. If the phrase bears its *Justices Act* meaning then in the case of an indictable offence triable summarily the maximum amount of compensation payable will depend on whether the trial takes place in a Court of Petty Sessions, or in the Supreme or District Court. An example of such an offence which has given rise to claims for compensation is that of assault causing bodily harm (*Code*, s.317). In *MaCabe v. Gill and J.C. Hunter* (supra, paragraph 18) the was tried in the District Court and the Judge awarded \$2,000. If the accused had been tried in the Court of Petty Sessions on his election, (see *Code*, s.324A) then on the above interpretation of "simple offence" only \$300 could have been awarded.

30. Offences committed by children, except wilful murder, murder, manslaughter or treason, are generally dealt with by the Children's Court (*Child Welfare Act*, s.20). If the meaning of "simple offence" is as defined in the *Justices Act*, that court would be limited to awarding \$300, no matter how grave the injury.

31. Anomalies also arise if the meaning of "simple offence" is as defined in the *Criminal Code* (see paragraph 27 above). Prosecutors exercise a wide discretion over the charge laid, the victim's injuries being only one factor. For example, in the case of a brawl, instead of laying a charge of assault causing bodily harm which is an indictable offence under s.317 of the Code, the police could decide to lay a charge of disorderly conduct under s.54 of the *Police Act*, which is not an indictable offence. A decision to lay a charge for a non-indictable offence could thus impose an arbitrary limitation on the amount of compensation payable. A similar criticism could also be made of the *Justices Act* interpretation of "simple offence", since the prosecution could decide to lay a charge for an indictable offence triable summarily, for example, assault causing bodily harm, rather than one triable only on indictment, for example, unlawful wounding.

32. New South Wales is the only other jurisdiction studied which has different limits. The upper limit of \$4,000 applies to felonies and misdemeanours and the lower limit of \$600 to offences tried summarily. In South Australia, Victoria, the United Kingdom and New Zealand the limit of compensation is the same whatever the offence and whatever court tries the offender (in the last three jurisdictions the question of compensation is not determined by the

trial court but by a tribunal) .In Queensland the scheme applies only to indictable offences tried on indictment. (See Appendix III).

33. The Commission tentatively suggests that the limit to the amount of compensation payable should depend neither on the nature of the charge nor the court in which the trial takes place.

### **Who may be compensated**

#### *Estate of deceased victim*

34. The question arises whether the personal representative of a deceased victim can claim compensation on behalf of the estate. In as in s.4(1) contemplates that the application shall be made by "a person who has suffered injury in consequence of the commission of the offence", it could be argued that the Act excludes such claims. There are no reported decisions on the point.

Under the general law a personal representative can sue the tortfeasor, both where the wrongful act caused the death of the victim, and where the victim died due to a cause unconnected with the tort (*Law Reform (Miscellaneous Provisions) Act 1941*, s.4). However, claims for the deceased's non-pecuniary losses are excluded (*ibid*). There would therefore be little point in specifically empowering the estate of a deceased person to claim against the offender under the *Criminal Injuries (Compensation) Act* unless that Act provided for compensation for pecuniary losses (see paragraph 19 above).

The Commission has no final view at this stage on the question whether the estate of a deceased person should be able to claim compensation out of public money, and would welcome comment.

#### *Persons other than victim*

35. The question also arises whether persons other than the actual victim can claim compensation under the Act, as for example a bystander who suffers nervous shock at an attack on another person, or a relative of the victim who suffers shock on hearing of the

injury. Section 4(1) of the Act enables an application for an order to be made by "a person who has suffered injury in consequence of the commission of an offence". "Injury" is defined as bodily harm and as including pregnancy, mental shock and nervous shock. The language of s.4(1) appears capable, standing alone, of including persons other than the actual victim. However it was held by Glass J, in *R. v. McCafferty* (No.2) [1974] 1 N.S.W.L.R. 475, that because the court is directed to have regard to any behaviour of the applicant which contributed to the injury suffered by him (cf. *W.A. Act* s.4(2)), the right to claim appears to be limited to the actual victim. Glass J, also stated that the fact that the Judge should inform himself from evidence given at the trial appeared to exclude other persons than the actual victim, since evidence of any injury suffered by them would hardly ever be admissible at the trial.

It remains to be seen whether this decision would be followed in this State. The Commission would welcome comment on whether a person other than the actual victim should be able to claim.

36. Under the *Fatal Accidents Act 1959*, designated relatives of a person who dies as the result of a wrongful act can sue the tortfeasor for the loss of their financial dependency. It seems clear that such relatives cannot claim under the *Criminal Injuries (Compensation) Act*, since only persons who suffer bodily harm, pregnancy, mental or nervous shock can claim (see paragraph 3 above).

Dependants can claim for the loss of their financial dependency under the schemes in Victoria, the United Kingdom and New Zealand; however they are excluded in Queensland and South Australia. They are also excluded in New South Wales, since although in that State pecuniary loss is an independent head of loss in relation to an order against the offender, only the actual victim can claim (see *R. v. McCafferty* (supra, paragraph 35)).

37. The Commission does not express a view on whether dependants should be able to claim and welcomes comment. The answer to the question depends in part on whether pecuniary loss should be compensable under the Act (see paragraph 19 above). If not, the question whether relatives should be able to claim for the loss of their financial dependency would not arise.

*Where offender is not convicted*

38. Although the Act permits the Treasurer to make an award of compensation to a victim where no conviction was obtained, he can only do so in the limited case where the accused was acquitted and the court is satisfied that the victim in fact suffered injury "by reason of an offence committed by some other person" (s.6, and see paragraph 3 above). The Act does not cover cases where no one is brought to trial because the offender is unknown or cannot be found, or cases where the person who caused the injury is unfit to plead. It may also not cover cases where the accused is acquitted on the ground of insanity, since under s.6 the court can grant a certificate only if it is satisfied that an offence has been committed. It could be argued that as the accused lacked mental capacity no "offence" had been committed. The *ex gratia* scheme in operation (see paragraph 4 above) is intended to provide for compensation where charges are not laid and would presumably not cover the last two examples (that is, those where the mental capacity of the alleged offender is in issue).

39. The schemes in Victoria, New Zealand, the United Kingdom, Queensland and South Australia specifically provide that the victim may be awarded compensation notwithstanding the person causing the injury was not brought to trial or lacked mental capacity.

In Victoria, New Zealand and the United Kingdom application for compensation is determined by a specially constituted tribunal, and the mental capacity of the person causing the injury is disregarded. In Queensland statutory provision is made for the making of an *ex gratia* payment in such cases. In South Australia statutory provision is made for an *ex gratia* payment where the offender has not been tried; however, as in this State, the case where the accused is acquitted on the grounds of insanity may not have been provided for.

40. From the victim's point of view it makes no difference whether the offender has or has not been brought to trial or was acquitted on the ground of insanity. However, in cases where no person is brought to trial it would be necessary to incorporate safeguards against fraudulent claims. In Queensland and the United Kingdom an attempt has been made to safeguard against such claims by providing that no award can be made where no trial takes place unless the circumstances of the injury were reported to the police without delay.

The Commission would welcome comment on the question whether victims of offences by persons who are not brought to trial should be compensated and if so what safeguards against fraudulent claims should be incorporated into the statutory scheme.

## **Procedure**

### *Evidence upon which order is made*

41. In *Re Hondros* [1973] W.A.R. 1 at p.3 the Chief Justice stated that the making of an order should normally take place forthwith on the conviction of the offender, although sometimes it might be desirable to defer the application until the extent of permanent harm arising from the injury became known. He added that, in considering an application, the Judge must act on his view of the testimony given at the trial, "for the Act does not contemplate that an issue such as this should be re-litigated when an applicant is seeking an award of compensation..".

42. Restriction on the admission of further evidence has the advantage that a decision can generally be made quickly. On the other hand, such a limitation on evidence is almost inevitably bound to result in some orders being refused which on a more complete view of the facts would have been granted, and some made which further evidence could show were unjustified; for example, evidence as to circumstances amounting to contributory conduct or as to the relationship between the victim and the offender (s.4(2)).The problem is highlighted if the offender pleads guilty, since all that will be before the court is a statement of the facts by the prosecution. Such a statement is primarily aimed at providing a basis for sentencing, rather than at providing a detailed statement of the facts of the case, and is not subject to cross examination.

43. The possibility of further evidence showing that an award was not justified is probably a reason why the Treasurer is given a discretion to refuse to make payment out of the Consolidated Revenue Fund (s.7(3)) , since he is not limited to the facts placed before the trial court. However, there is no corresponding procedure whereby a person refused an order in the light of the facts as they appeared at the trial can adduce further evidence in support of his case. This seems a substantial defect in the legislation, particularly since the victim is not a

party to the criminal proceedings and is not legally represented there. His entitlement to compensation should not be dependent on proceedings where the guilt or innocence of the accused is the predominant issue.

44. Possibly a reason for the limitation on evidence is that the order is formally against the offender, the Crown being authorised to make payment should the offender not do so. It was suggested in paragraph 16 above that since, in fact, the Crown normally makes payment in all cases, the Act should be amended so as to make the Crown primarily liable, and to give the Crown the right to claim against the offender for the amount of the award.

*Body which should determine compensation*

45. Whether or not the Act is amended as suggested in the previous paragraph, a question arises as to the appropriate body or tribunal to determine claims for compensation. It would seem desirable to introduce a procedure for enabling the parties to adduce further evidence in support of their case. This could be done by -

- (a) empowering the trial court to receive further evidence on compensation; or
- (b) providing for the question of compensation to be determined by a separate tribunal.

46. There are advantages and disadvantages in both these alternatives. An advantage of retaining the trial court as the body to determine the question of compensation is that it would not have to hear all the evidence de novo. In cases where the offender had pleaded not guilty the judge would have during the trial assessed the veracity of the witnesses and generally weighed the evidence before him. If the compensation proceedings were heard before a separate tribunal all the relevant evidence would have to be given afresh, unless the tribunal confined itself to reading the transcript of the trial evidence. However, if the tribunal were empowered to act informally and inform itself as it thought fit, these possible disadvantages could probably be overcome. It could be argued that it would not be appropriate to require the trial court to determine questions of compensation with the same degree of informality.

47. In considering what body should hear the application for compensation, regard should be had to the Commission's suggestion that the Act might be amended to provide for the cases where the offender is unknown or cannot be found or is unfit to plead. If the trial court remained the tribunal for determining claims for compensation arising in the normal way, claims in cases where there is no trial could be determined on application to the court which, if there had been a trial, would have had jurisdiction. This particular difficulty would not arise if all claims were to be determined by a separate tribunal.

### **Rights of Crown against offender**

48. The present Act provides that where the Treasurer makes a payment to a victim, the Under Secretary for Law takes over that person's rights against the offender to the extent of the payment (s.9). This would give the Crown the right to enforce in its favour the order against the offender initially made in favour of the victim. It was suggested in paragraph 16 above that the award of compensation be made directly out of the Consolidated Revenue Fund. If this were done, the question would arise of what rights the Crown should have to recoup the money. Possibilities are -

- (a) the Crown could be subrogated to the victim's common law rights against the offender: this would enable the Crown to sue, the offender in the civil court;
- (b) the Crown could be given the right to obtain an order against the offender at the time the victim's application for an award of compensation was determined.

The Commission suggests that it would be preferable to adopt alternative (b); this would enable all issues relating to criminal injuries compensation to be dealt with in the same forum and usually at the same time. In cases where a victim was awarded compensation and the offender could not be found or was unknown the Crown's application for an order could be deferred until the offender was apprehended.

49. At present an order of compensation against the offender is enforceable as a fine (see paragraph 3 above). If such a rule were enforced (and the Commission understands that in fact it is not), it would seem unnecessarily harsh, especially if the award is regarded as a form of civil remedy rather than as a form of punishment: (see paragraph 14 above). If the

Commission's suggestion in paragraph 48 above is adopted, any order against the offender will be in favour of the Crown, and should be regarded as a judgment debt. It would then be enforceable in the civil courts by the ordinary civil processes. Only if the offender had the means to pay and refused to do so should he be imprisoned.

## **Other matters**

### *Appeals*

50. Under the present Act the offender may appeal against an order of compensation, but it is unclear whether the victim could appeal if an order were refused in the Supreme Court or District Court (see Code, s.688: *Justices Act 1902* ss.183, 197; *Supreme Court Act 1935*, s.58; *District Court of Western Australia Act 1969*, ss.43,79). If the trial was held in the Court of Petty Sessions the victim could appeal by way of order to review (*Justices Act*, s.197). It seems desirable that the offender should have full rights of appeal, whether the order against him is made in favour of the victim, as at present, or in favour of the Crown, as was suggested in paragraph 48 above. However, it may be thought undesirable, in the interests of reaching finality, to give the victim full appeal rights, either under the present system or under the Commission's proposal for making the award payable directly out of Consolidated Revenue. It may be desirable to give the victim a right of appeal on a question of law only. Similar considerations would seem to apply to the question of what appeal rights should be given to the Crown.

The Commission would welcome comment on the question of appeals.

### *Costs*

51. Under the present Act it seems clear that, whether or not the trial court has power in making a compensation order also to order that the offender pay the costs of the applicant, the latter has no right to reimbursement of those costs out of the Consolidated Revenue Fund (see s.7 of the Act, which sets out the nature of that may be made from the Fund). In Victoria, New South Australia the applicant may be granted the costs of the application, but there is no provision for costs in New South Wales, Queensland and the United Kingdom.

It could be argued that it would be appropriate to give the adjudicating body the right to award costs in favour of the victim, in addition to any compensation for the injury, in the same way can award costs in a civil case. Costs could be included in the upper limit of compensation, or be in addition to it.

### *Contributing conduct*

52. It has been held (see *Re Hondros* [1973] W.A.R. 1) that s.4(2) of the Act does not authorise reduction of compensation for contributing conduct, but that it provides a complete bar to recovery. This seems unduly restrictive.

The Commission suggests that the Act be amended so that the body determining the compensation should be empowered to reduce an award on the grounds of contributing conduct, and that such conduct should no longer be a bar to recovery.

### *Relatives*

53. Section 4(2) of the Act provides that, in determining whether to make a compensation order, the court is to take into account whether the victim is or was a relative of the offender, or was, at the time of the commission of the offence, living with the offender as his wife or her husband or as a member of the offender's household. In *Re Hart* (District Court No.5 of 1974) the court held that, although the victim's behaviour did not disqualify him from receiving compensation, the fact that the assailant was his father-in-law and that his injuries arose out of a domestic argument in the course of which the offender lost his power of self-control, amounted to a bar to compensation.

54. Other jurisdictions with criminal injuries compensation schemes qualify the right to compensation in cases of family relationship. The United Kingdom and Victorian schemes expressly exclude compensation if the victim was, at the time of the injury, a member of the offender's household. The New Zealand *Criminal Injuries Compensation Act* excluded compensation for pain and suffering, but not pecuniary loss, in such cases; however, criminal injuries are now treated in the same way as other injuries under the *Accident Compensation Act* (see paragraph 10 above) and this limitation appears no longer to apply.

In New South Wales, South Australia and Queensland the position is the same as in this State (see paragraph 53), except that in Queensland the court may reduce the amount of the award, instead of barring recovery altogether.

55. It could be argued that to deny a victim compensation because of his or her relationship to the offender, or because he or she was a member of the offender's household could result in deserving cases being refused compensation. For example, a wife who separated from her husband because of his violent attack upon her could be denied compensation. It may be preferable to deny compensation only where the offender was likely to benefit from an award to a victim. On the other hand, it might be thought that in those cases where the relationship of the offender and the victim should be into account, there will often also have been contributing conduct of the sort referred to in paragraph 52 above, and that the need for a separate category covering relatives of the offender is unnecessary.

The Commission would welcome comment on this aspect.

#### *Multiple offenders, multiple orders*

56. It may be that under the present Act several co-defendants may each be ordered to compensate a victim up to the maximum, provided that the total of the amounts awarded does not exceed the damages that would have been awarded in a civil action. This has been held in a South Australian case (see *Re Poore* (1973) 6 S.A.S.R. 308). The South Australian Act has since been amended to provide that where an offence is committed by two or more persons acting in concert, only one order may be made in relation to that offence (S.A. s.4(1b)).

There is no Western Australian decision on the point. Even if several awards were possible against a number of offenders who were parties to the same offence, it would not follow under the present law that the Treasurer would in fact pay the total amount to the victim.

The Commission would welcome comment on whether the South Australian amendment should be enacted in this State.

### *Publicity*

57. It appears to the Commission that not all victims of offences are aware of the Act, although possibly it is becoming better known. Since the Act came into force there have been about 800 reported serious assaults in this State (see annual reports of the Commissioner of Police for 1971, 72, 73 and 74). Yet only twenty-one have led to claims under the *Criminal Injuries (Compensation) Act*. A victim is not represented at the criminal trial, because he is not a party to the proceedings, nor does he always seek legal advice. Generally, there is at present no machinery whereby he can be made aware of his rights. The newspapers report the making of some awards, but not all.

The Commission suggests that a pamphlet be drafted for distribution setting out in simple terms the features of the legislation. Possibly the police could be entrusted with the task of giving a pamphlet to victims of offences. Such a procedure already operates in the American States of California, Illinois and Washington, which have criminal injury compensation schemes. Alternatively, the pamphlets could be distributed to clerks of courts, legal practitioners, hospitals and so on.

### **National Compensation Scheme**

58. The National Compensation Bill, which was introduced into the Senate in 1974, and which is now before the Constitutional and Legal Affairs Committee of that body, provides for the setting up of a national scheme.

Under Cl.91(1) of the Bill the benefits payable thereunder are to be in substitution for any damages (which is defined as to include compensation) payable in respect of injury or death, whatever the cause of action or basis for liability. Subclause (3) of that clause provides that no action or other proceeding shall lie in respect of any damages.

59. If it is within the constitutional power of the Commonwealth Parliament to enact the Bill, its enactment would mean that a person criminally injured would not be able to apply for a compensation order under the *Criminal Injuries (Compensation) Act* of this State, or any variation of it proposed in this paper.

60. However the Commission does not think that a review of the *Criminal Injuries (Compensation) Act* should be deferred until the fate of the Commonwealth Bill is known.

### QUESTIONS AT ISSUE

61. The Commission welcome views on any of the following questions, or on any other matter relating to the terms of reference -

(a) Should the award of compensation be made against the Consolidated Revenue Fund in the first instance?

(paragraph 16)

(b) If so, what should the right of recourse be against the offender?

(paragraphs 48 and 49)

(c) Should the award be the same as in a tort action? Should it include pecuniary loss?

(paragraphs 19 and 20)

(d) Should the maximum amount(s) be -

(i) raised? and, if so, to what level;

(ii) abolished?

(paragraph 25)

(e) Should a special procedure be introduced for adjusting the maximum amount(s) in line with inflation?

(paragraph 26)

(f) Should there be differing maximum amounts depending on the nature of the offence, the status of the trial court or any other factor?

(paragraph 33)

(g) Should -

(i) the estate of a deceased victim,

(ii) persons other than the victim, in particular, the dependants of a deceased victim,

be able to claim?

(paragraphs 34 to 37)

(h) Should the statutory scheme cover cases where the offender is not brought to trial or lacks mental capacity?

(paragraph 40)

(i) Should the adjudicating body be able to receive evidence in addition to that given at the trial?

(paragraph 43)

(j) Should the trial court remain as the adjudicating authority, or should that function be given to a tribunal?

(paragraph 46)

(k) What should the rights of appeal be for the -

(a) victim?

(b) offender?

(c) Crown?

(paragraph 50)

(l) Should the costs of an application for an award be payable out of Consolidated Revenue?

(paragraph 51)

(m) Should contributing conduct be a ground for reducing the award, rather than barring recovery altogether?

(paragraph 52)

(n) Should the victim be barred from recovery because of his relationship with the offender?

(paragraph 55)

- (o) Should the limit for compensation for multiple offenders be the same as for a single offender?

(paragraph 56)

- (p) How should greater publicity be given to the Scheme?

(paragraph 57)

## WORKING PAPER APPENDIX I

### CRIMINAL INJURIES (COMPENSATION) ACT 1970 (WESTERN AUSTRALIA)

AN ACT to provide for the payment in certain circumstances of compensation to persons who suffer injury by reason of the commission of offences and for incidental and other purposes.

*[Assented to 17th November, 1970]*

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:-

1. This Act may be cited as the *Criminal Injuries (Compensation) Act, 1970*.
2. This Act shall come into operation on a date to be fixed by proclamation.
3. In this Act, unless the contrary intention appears -

"injury" means bodily harm and includes pregnancy, mental shock and nervous shock;

"offence" means a crime, misdemeanour or simple offence;

"section" means of this Act;

"Under Secretary" means the person holding the office of Under Secretary, Crown Law Department of the State and includes the person for the time being duly acting in the place of the Under Secretary.

4. (1) Where a person is convicted of an offence, the court by which, or the judge before whom, the person was tried may, at any time after his conviction on the application of a person who has suffered injury in consequence of the commission of the offence, order that a sum, not: exceeding two thousand dollars if the offence is an indictable offence, or not exceeding three hundred dollars if the offence is a simple offence, be paid by the person convicted out of his property to such other person, by way of compensation for injury suffered by that other person by reason of the commission of the offence.

(2) In determining whether or not to make an order pursuant to subsection (1) of this section, the court or judge shall have regard to any behaviour of the other person that contributed, directly or indirectly, to the injury suffered by him, and to such other circumstances as it or he considers relevant (including whether that other person is or was a

relative of the person against whom the order is sought, or was, at the time of the commission of the offence" living with such person as his wife or her husband or as a member of the household of such person) and shall also have regard to the provisions of this Act.

(3) This section shall be construed as being in to, and not in derogation of, the provisions of any other Act.

(4) An order of a court or judge under subsection (1) of this section may be enforced in the same manner as an order of that court for the payment of a fine.

5. Where an order for the payment of a sum in excess of one hundred dollars by way of compensation for injury suffered by reason of the commission of an offence has been made pursuant to section 4 or pursuant to a provision of another Act in the course of proceedings for the trial of a person for an offence, the person in whose favour the order has been made may make application in writing to the Under Secretary for payment to him of the sum, or so much thereof as is payable pursuant to this Act, out of the Consolidated Revenue Fund.

6. (1) On the acquittal of a person accused of an offence or the dismissal of a complaint or information against him, the court before which that person was, or would have been tried, may on application by a person claiming to be aggrieved by reason of the commission of the offence, grant a certificate stating the sum to which he would have been entitled pursuant to an order under section 4 if the accused person had been convicted of the offence and an order had been made under that section.

(2) A certificate shall not be granted under subsection (1) of this section if the sum referred to in that subsection would amount to less than one hundred dollars.

(3) The court shall not grant a certificate under this section, unless it is satisfied that the person claiming to be aggrieved has in fact suffered injury by reason of an offence committed by some other person.

(4) A person to whom a certificate has been granted under this section may make application in writing to the Under Secretary for payment to him of the sum specified in the certificate out of the Consolidated Revenue Fund.

7. (1) Subject to section 8, the Under Secretary shall, as soon as practicable after receiving an application under section 5 or subsection (4) of section 6, send to the Treasurer of the State a statement signed by the Under Secretary setting forth the particulars of the application and specifying -

- (a) the sum ordered to be paid to the applicant as referred to in section 5 or the sum specified in the certificate granted to the applicant under subsection (1) of section 6, as the case may be; and
- (b) any amounts that, in the opinion of the Under Secretary, the applicant has received, or would, if he had exhausted all relevant rights of action and other legal remedies available to him, receive, independently of this Act, by reason of the injury to which the application relates.

(2) The Under Secretary shall make such inquiry as may be necessary for the effectual operation of this section.

(3) Where the Treasurer of the State, after receiving the statement of the Under Secretary relating to such an application as is referred to in subsection (1) of this section, considers that in the circumstances of the case the making under this subsection of a payment to the applicant is justified, the Treasurer of the State may pay to the applicant out of the Consolidated Revenue Fund an amount equal to the difference between the appropriate amount referred to in paragraph (a) of subsection (1) of this section, and the amounts referred to in paragraph (b) of that subsection, as specified in that statement.

(4) Any payments under subsection (3) of this section may be made without further appropriation than this Act.

8. The Under Secretary may defer sending to the Treasurer of the State any statement under subsection (1) of section 7, for as long as he considers it necessary to do so, to enable him to specify in the statement the amounts referred to in paragraph (b) of that subsection.

9. (1) Where any payment is made under section 7 in pursuance of an application made under section 5, or a certificate granted under section 6, the Under Secretary has and may

exercise, to the extent of the payment, the rights of the person for whose benefit the payment was made against the person convicted of the offence or the person who committed the offence in respect of which the payment was made, and the rights of the first mentioned person shall be to that extent divested from that person and vested in the Under Secretary.

(2) All money paid to the Under Secretary in full or partial satisfaction of his rights under subsection (1) of this section, shall be paid by him into the Consolidated Revenue Fund.

## WORKING PAPER APPENDIX II

### SUCCESSFUL APPLICATIONS TO THE COURT

CASE NO.	CHARGE	FACTS	INJURIES	DECISION OF COURT	RESULTS OF APPLICATION FOR PAYMENT OUT OF CONSOLIDATED REVENUE FUND
<b>Where payment made by Treasurer</b>					
1.	Unlawful assault	Offender asked applicant for a loan in hotel. On refusal offender struck applicant who was holding a glass to his face	Laceration of lip, swelling to nose and cheek, depression of cheek bone	Offender convicted in Court of Petty Sessions. Ordered to pay \$250 compensation in Sept 1972	Applied for payment Nov. 1972. Payment approved May 1973
2.	Two counts of rape, stealing with violence and escaping legal custody	Offender, an escaped prisoner, went to applicant's home, threatened her with a knife, raped her and stole money and clothes	Mental and nervous shock	Offender convicted in Supreme Court on each count. Ordered to pay \$750 compensation in Dec. 1972	Applied for payment Jan. 1973. Payment approved Feb. 1973
3.	Assault occasioning bodily harm	Applicant was verbally provoked by four youths and went onto footpath outside his home where he was assaulted with pickets by them	Fractured skull, perforated ear drum, total loss of hearing in one ear, tinnitus and vertigo	All offenders convicted in District Court. Ringleader ordered to pay \$2,000 compensation in Dec. 1972	Applied for payment Jan. 1973. Payment approved Feb 1973
4.	Unlawful assault	Applicant saw offender assaulting offender's wife. Applicant intervened and was attacked	Broken teeth, stomach bruising, lacerated chin, elbow and knees. Required major dental	Offender convicted in Court of Petty Sessions. Ordered to pay \$120 compensation in Feb 1973	Applied for payment May 1973. Payment approved Aug. 1973

5.	Assault and robbery	Applicant, a nightclub employee, was carrying the night's takings and was assaulted and robbed	treatment Lacerations to arms and face resulting in permanent scars	Offender convicted in District Court. Ordered to pay \$600 compensation in Sept. 1973	Applied for payment July 1974. Payment approved Sept. 1974
6.	Assault	Offender aged 14 years assaulted applicant	Stomach bruising, bruising to eye and breast. Cuts to mouth and swelling	Offender convicted in Children's Court. Ordered to pay \$150 compensation in March 1974	Applied for payment May 1974. Payment approved Aug. 1974
7.	Rape	Offender broke into applicant's flat and raped her	Scratches and cut hand, mental and nervous shock	Offender convicted in Supreme Court. Ordered to pay \$1,250 compensation in May 1974	Applied for payment May 1974. Payment approved Sept. 1974
8.	Assault occasioning bodily harm	Applicant, who was with his family at a picnic, remonstrated with the two offenders who were creating a nuisance and was assaulted	Injuries to neck, broken leg, superficial bruising and abrasions, mental and nervous shock	Offenders convicted in District Court. Ordered to pay \$2,000 compensation jointly and severally in June 1974	Applied for payment May 1974. Payment approved Sept. 1974
9.	Rape and attempted rape	Applicant who was 14 years old was abducted and raped several times by two men	Facial bruising, scratches and bruises. Rape resulting in pregnancy which was terminated. Mental and nervous shock	Offenders convicted in Supreme Court. Ordered to pay \$2,000 compensation jointly and severally in Aug. 1974	Applied for payment May 1974. Payment approved Oct 1974
10.	Unlawful assault	Applicant intervened in scuffle between offender and nightclub	Laceration extending from eye to behind	Offender convicted in District Court. Ordered to	Applied for payment Oct. 1974. Payment approved Nov. 1974

11.	Armed robbery – disabling in order to commit an indictable offence.	Applicant, a private security officer, was shot in stomach during robbery of a retail store manager and was struck with bottle	ear. Further laceration below eye. Serious laceration and damage to stomach muscles	pay \$1,000 compensation in Oct. 1974 Two offenders convicted in Supreme Court. Ordered to pay \$1,500 compensation jointly and severally in Dec. 1974	Applied for payment Jan. 1975. Payment approved March 1975
12.	Assault causing actual bodily harm	Unprovoked attack in street by two men	Cuts, bruising, teeth damaged, broken nose	Offenders convicted in Court of Petty Sessions. Ordered to pay \$300 compensation jointly and severally in Jan 1975	Applied for payment in April 1975. Application under consideration
13.	Assault causing actual bodily harm	Unprovoked attack in street	Cuts, bruising, extensive damage to teeth	Offender convicted in Court of Petty Sessions. Ordered to pay \$300 compensation in Jan. 1975	Applied for payment April 1975 Application under consideration
14.	Assault and robbery	Applicant was attacked and robbed	Black eyes, swollen lips and substantial damage to precision dental plate	Offender convicted in Supreme Court. Ordered to pay \$600 compensation in May 1975	Applied for payment May 1975. Application under consideration

#### Where payment refused by Treasurer

15.	Unlawful assault	Applicant was stabbed during street altercation	Stab wounds to shoulder	Charge dismissed in Sept. 1972 by Court of Petty Sessions under s.669 of Code. Certificate granted under s.6 of Act for \$250	Applied for payment Dec. 1972. Application refused Aug. 1973
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16.	Unlawful assault	Applicant struck with brick during street altercation	Lacerated face	Offender convicted in Court of Petty Sessions. Ordered to pay \$100 compensation in Jan. 1973	Applied for payment Feb. 1973. Application refused Sept. 1973
17.	Unlawful assault	Applicant struck with brick during street altercation	Minor abrasions and bruises to face	Offender convicted in Court of Petty Sessions. Ordered to pay \$300 compensation in Jan. 1973	Applied for payment Feb. 1973. Application refused Sept. 1973
18.	Assault occasioning bodily harm	Applicant assaulted as he was returning to his hotel room	Broken bones in foot, split lip and facial abrasions	Offender convicted in Court of Petty Sessions. Ordered to pay \$300 compensation in Mar. 1974	Applied for payment June 1974. Application refused Sept. 1974
19.	Intentionally causing grievous bodily harm	Offender came home unexpectedly and found applicant and offender's wife in circumstances suggesting adultery. Offender stabbed applicant	Stab wounds in chest, leg, arm, diaphragm, liver lacerated, spleen damaged	Application dismissed in Supreme Court in April 1972 on grounds that applicant contributed to his injuries	
20.	Unlawful wounding	Drunken spree in which applicant was stabbed	Lacerations to face, neck, scalp and hand	Application dismissed in Court of Petty Sessions in July 1972 on grounds that applicant contributed to his injuries.	
21.	Unlawful wounding	Domestic altercation. Offender slashed applicant with broken bottle	Cuts to face and arm	Application dismissed in District Court in April 1975 on grounds that applicant was related to offender and injuries arose out of a domestic argument.	