



Ontario  
Criminal Injuries  
Compensation Board  
1985/86

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Ontario Criminal Injuries  
Compensation Board

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THE  
SEVENTEENTH REPORT  
of the  
ONTARIO  
CRIMINAL INJURIES COMPENSATION BOARD  
administering  
THE COMPENSATION FOR VICTIMS OF CRIME ACT, 1971  
for  
the fiscal year  
April 1, 1985 to March 31, 1986

NCJRS

JUL 28 1987

ACQUISITIONS

## THE BOARD

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\* \* \* \* \*

V. P. GIUFFRE  
J. H. SHEARD

Registrar  
Chief of Investigations

\* \* \* \* \*

*Copies of this report may be obtained from:*

**Criminal Injuries Compensation Board**  
17th floor, 439 University Avenue  
Toronto, Ontario M5G 1Y8  
Telephone: (416) 965-4755



Office of  
The Chairman

Criminal Injuries  
Compensation  
Board

416/965-4755

439 University Ave.  
17th Floor  
Toronto, Ontario  
M5G 1Y8

The Honourable Ian Scott,  
Attorney General for Ontario,  
Parliament Buildings,  
Queen's Park,  
Toronto, Ontario

Honourable Sir:

Since joining the Board May 1, 1985, and undertaking the review of operations necessary for a new chairman, three main areas requiring special attention have been identified.

These are: revision of the Board's enabling legislation, reduction of the backlog of cases, and certain administrative improvements. With the strong support and co-operation of the Ministry which has been so evident, I am confident these matters are capable of resolution.

Sir, I have the honour to submit the Seventeenth Report of the Criminal Injuries Compensation Board, which covers the period April 1, 1985 to March 31, 1986.

Sincerely,

*Margaret Scrivener*

Margaret Scrivener (Mrs.)  
Chairman

# Program Description

## The Legislation

The legislation under which the Board functions is The Compensation for Victims of Crime Act, which came into force on September 1, 1971 superseding The Law Enforcement Compensation Act, 1967.

The Board is required by the Act to find the commission of a crime of violence (in the principal class of applications coming before it). A basic qualification for the consideration of an award is that there must be adequate and reliable evidence in this regard. In addition, the Board is required to consider all relevant circumstances including the behaviour of the victim at the time of the incident and the co-operation given by the victim to the law enforcement agencies.

Section 6 of the statute prescribes a one-year limitation period for filing an application for compensation, but the Board may extend the time as it considers warranted. During the year, 232 requests for extension of the limitation period were approved compared to 175 in the previous year.

## Compensation

The Compensation for Victims of Crime Act presently provides that compensation for victims of crimes of violence may be paid up to the following maximums:

In the case of lump sum payments, up to \$15,000 and in the case of periodic payments, up to \$500 per month, and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum, which is \$7,500.

These maximums were enacted in 1971. Having regard for the inflationary factor in the last 15 years, very serious consideration needs to be given to a substantial increase in these maximums.

## Subrogation

The Board is subrogated to all the rights of any person to whom the payment is made under this Act, to recover damages from the offender by civil proceedings in respect to injury or death. The sum of \$68,729 was recovered during the fiscal year, compared to \$62,991 in the previous year.

## Hearings

The Board, composed of a full-time Chairman, one full-time Vice-Chairman, two part-time Vice-Chairmen and thirteen part-time members, usually sits in panels of two.

Although a large number of Hearings were held in Toronto, during the fiscal year Hearings also took place in Thunder Bay, Sudbury, Fort Albany, Sault Ste. Marie, Windsor, London and Ottawa. This is done routinely to facilitate applicants, and to generate a better understanding of the work of the Board across the province. In addition, this practice results in reduced costs to the Board.

## Documentary Evidence Hearings

Some applications are relatively minor and simple of adjudication. Therefore, with the consent of the applicants, they are dealt with on documentary evidence alone. A total of 81 were heard in this manner during the fiscal year.

This approach minimizes the need to inconvenience the applicant and/or solicitor and witnesses insofar as travelling to the location of Hearings, the attendant loss of work time and expenses involved.

## Child Abuse

During this fiscal year the Board received 54 applications in respect of child abuse, heard 16 cases and awarded \$96,731.

## Administration and Productivity

The administrative staff of the Board is composed of the Registrar, Chief of Investigations, three investigators and a secretarial, stenographic and clerical staff of eight.

In this fiscal year, the Board heard 1233 applications and 1220 awards were ordered. The larger number of awards ordered over the applications heard is accounted for by the number of awards made on applications heard in the previous fiscal year.

The total value of awards increased from \$3,285,883 in 1984/85 to \$4,000,275 in 1985/86. Of this amount, \$617,499 was in the form of periodic payments.

The number of applications received increased from 1697 in 1984/85 to 1799 in this fiscal year. Since it is anticipated that the application

rate will continue to escalate, the Board's Toronto office was renovated to provide a second Hearing Room and improved Waiting Room and other facilities for public use.

#### Public Awareness

Large posters and explanatory pamphlets in five languages are supplied to hospital emergency wards and staff lounges, Court Houses and other public buildings, supermarkets, etc.

Police forces throughout the province have been supplied with hundreds of thousands of wallet-sized cards (at right) to be given to victims of crimes of violence advising them how to apply to the Board.

The daily Hearing agenda and a selection of typical Board Orders are provided to the news media, and others upon request.

#### Cost Sharing

Awards made under The Compensation for Victims of Crime Act are cost shared between the Federal Government and the Government of Ontario. The contribution by the Federal Government amounts to the lesser of 50% of the awards (net of any recoveries), or ten cents per capita of the population of the Province. For the fiscal year 1984/85, this share amounts to \$894,690. The Federal Government does not share administrative costs.



Ontario

#### ONTARIO CRIMINAL INJURIES COMPENSATION BOARD

Injured innocent victims of violent crimes may be eligible for compensation from the above Board. Reporting to, and co-operating with, the Police, is an important consideration. If you feel you may qualify, contact the Board immediately at (416) 965-4755, or write to 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8.

(9/8/83)



Ontario

#### COMMISSION D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS DE L'ONTARIO

La Commission susmentionnée peut accorder une indemnisation aux victimes innocentes d'actes criminels violents qui ont été blessées. Il est primordial de contacter la police et de collaborer avec elle. Si vous pensez avoir droit à une indemnisation, veuillez contacter immédiatement la Commission, en téléphonant au (416) 965-4755, ou en écrivant à l'adresse suivante: 439, avenue University, 17<sup>e</sup> étage, Toronto, Ontario M5G 1Y8.

(9/8/83)

## Applications By Area

Acton	1	Bolton	1	Carol Richard Lake	1
Ajax	2	Bowmanville	1	Carrying Place	1
Albion Falls	1	Bracebridge	2	Chapleau	1
Almonte	1	Bradford	1	Chatham	6
Amherstburg	1	Bramalea	7	Chelmsford	2
Ancaster	1	Brampton	30	Clenell Township	1
Arnprior	3	Brantford	24	Cobourg	5
Atikokan	1	Brantford Township	1	Cochrane	1
Attawapiskat	1	Brockville	2	Colchester	1
Ayr	1	Bruce Mines	1	Collingwood	2
Barrie	11	Burlington	7	Concord	1
Bath	4	Burritt Rapids	1	Cornwall	5
Beamsville	2	Caledon East	2	Dalhousie	1
Beaverton	2	Calstock	1	Deep River	2
Belle River	3	Cambridge	16	Douglas	2
Belleville	9	Campbellford	1	Dresden	1
Bexley Township	1	Campbellville	1	Dryden	2
Big Trout Lake	1	Canborough	1	Dundas	2
Binbrook	1	Capreol	1	Dunnville	4
Blenheim	1	Cardinal	2	Echo Bay	1
Blind River	1	Carleton Place	2	Elgin County	1

## Applications By Area (cont'd)

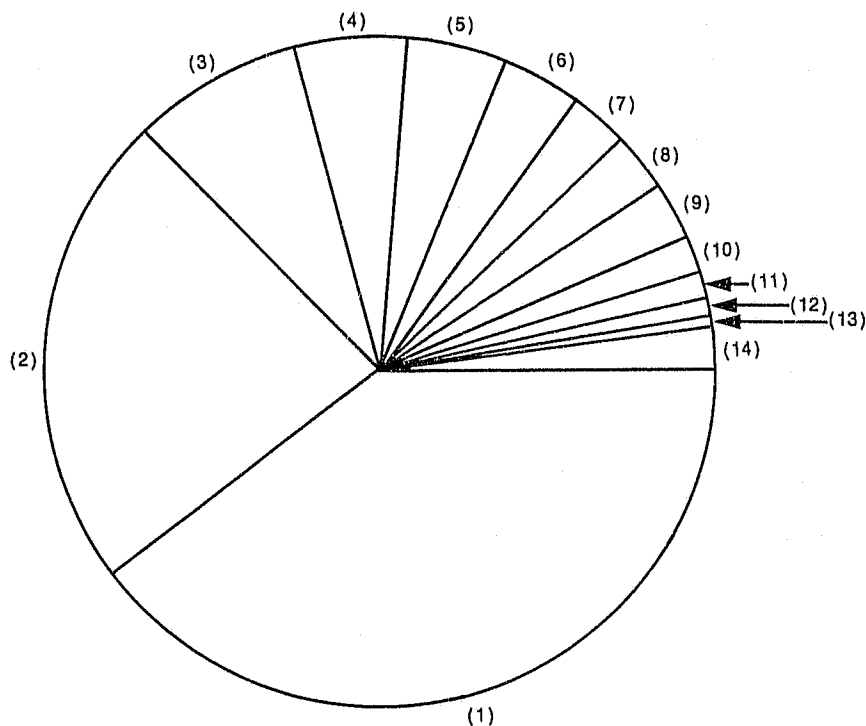
Elliot Lake	4	Midland	1	St. Thomas	10
Elmira	1	Millbrook	3	Sarnia	11
Elmvale	4	Milton	2	Saugeen Reserve	1
Elora	1	Mississauga	39	Sault Ste. Marie	16
Englehart	1	Moosonee	1	Selbright	1
Erin	1	Morrisburg	1	Shelburne	1
Espanola	1	Morson	1	Simcoe	3
Fenelon Falls	2	Mount Forest	1	Sioux Lookout	2
Fergus	3	Mount Hope	1	Smith Falls	3
Flamborough	1	Mount Pleasant	1	Smithville	1
Flesherton	1	McKellar Township	1	Sombra	1
Fort Albany	1	Nanticoke	2	Southwold	1
Fort Erie	5	Napanee	5	Spencerville	1
Fort Francis	1	Nepean	6	Stirling	2
Gananoque	1	New Liskeard	1	Stittsville	1
Gloucester	5	New Osnaburgh	4	Stoney Creek	5
Goderich	1	Newcastle	1	Stratford	2
Grafton	2	Newmarket	4	Strathroy	2
Gravenhurst	2	Newtonville	1	Sturgeon Falls	1
Grimsby	2	Niagara	2	Sudbury	20
Guelph	11	Niagara Falls	25	Summerstown	1
Hagersville	1	Niagara-on-the-Lake	5	Sutton	1
Hamilton	86	Nipigon	1	Sydenham	1
Hampton	1	Nobel	1	Tecumseh	1
Hanmer	1	North Bay	9	Tehkummah	1
Hannon	1	Norval	1	Thedford	1
Haviland Bay	1	Oak Ridges	1	Thessalon	1
Hawkesbury	3	Oakville	3	Thorold	4
Hillsburgh	2	Oakwood	1	Thunder Bay	25
Howick	1	Ohswegen	1	Tilbury	1
Ignace	1	Orangeville	2	Tillsonburg	4
Ingersoll	2	Orillia	10	Timmins	4
Jarvis	1	Orleans	1	Township of Delhi	1
Kaladar	1	Oshawa	18	Twp. of Fredericksburg	1
Kanata	2	Ottawa	115	Toronto	677
Kearney	1	Owen Sound	1	Trenton	3
Kemptville	1	Palgrave	1	Trout Creek	1
Kenora	3	Parkhill	1	Turkey Point	1
Keswick	1	Parry Sound	2	Tweed	3
Killahoe	1	Pembroke	2	Uxbridge	3
Kinburn	1	Perth	3	Vanier	1
Kincardine	2	Petawawa	2	Vespra Township	1
King City	1	Peterborough	8	Wainfleet	3
Kingston	19	Petrolia	1	Wallaceburg	2
Kingston Township	1	Phelpson	1	Walpole Island	2
Kingsville	1	Pickering	5	Wanapite	3
Kitchener	22	Picton	1	Warminster	1
Lacseul Reserve	1	Porcupine	1	Waterdown	1
Lakefield	2	Port Colborne	5	Waterford	1
Lambeth	2	Port Credit	1	Waterloo	12
LaSalle	1	Port Elgin	1	Welland	6
Leamington	3	Port Hope	5	West Gwillimbury Twp.	1
Little Current	2	Port Perry	1	Whitby	6
London	66	Prescott	1	Whitefish Falls	1
Maidstone	1	Pslinch Township	1	Wiarton	2
Malton	1	Rainy River	2	Wikwemikong	1
Maple	1	Restoule	1	Wilo	4
Marathon	1	Richmond Hill	3	Windsor	78
Markham	3	St. Albert	1	Woodbridge	5
Mattawa	1	St. Catharines	29	Woodstock	3
Middlesex	1	St. Lambert	1	<b>TOTAL</b>	<b>1,799</b>

## Types of Crime as Listed on Applications

Assault Causing Bodily Harm .....	717
Common Assault .....	375
Sexual Assault .....	149
Wounding .....	100
Murder .....	90
Assault Police .....	72
Attempted Murder .....	53
Resist Arrest .....	51
Robbery (with Assault) .....	51
Robbery with Violence .....	36
Aggravated Assault .....	34
Assault with a Weapon .....	21
Criminal Negligence .....	12
Manslaughter .....	7
Careless Use of Firearms .....	6
Arson .....	5
Mischief .....	5
Dog Bite .....	3
Common Nuisance Causing Harm .....	3
Intimidation by Violence .....	3
Assault with a Vehicle .....	2
Explosion (Bomb) .....	2
Attempted Rape .....	1
Weapons Dangerous .....	1
<b>TOTAL</b>	<b>1,799</b>

**NB:** "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 54 cases commonly referred to as "Child Abuse".





1) Assault causing bodily harm	39.9%	8) Resist arrest	2.8%
2) Common Assault	22.7%	9) Robbery with assault	2.8%
3) Sexual Assault	8.3%	10) Robbery with violence	2.0%
4) Wounding	5.6%	11) Assault with Deadly Weapon	1.3%
5) Murder	5.0%	12) Criminal Negligence	.7%
6) Assault Police	4.0%	13) Manslaughter	.4%
7) Attempted Murder	2.9%	14) Other	1.6%

**NOTE:** "Child Abuse." The above statistics listed under the terminology of the Criminal Code include 54 cases commonly referred to as "Child Abuse".

COMPARATIVE SUMMARY  
of  
APPLICATIONS AND DISPOSITION

BY FISCAL YEARS  
APRIL 1, 1982 to MARCH 31, 1986

# **COMPARATIVE SUMMARY — FISCAL YEARS** **APPLICATIONS AND DISPOSITION**

	April 1, 1982 to March 31, 1983	April 1, 1983 to March 31, 1984	April 1, 1984 to March 31, 1985	April 1, 1985 to March 31, 1986
Eligible applications received	1329	1488	1697	1799
Applications under investigation	2005	2162	2453	2573
Applications heard (1)	928	925	1041	1233
Applications heard on documentary evidence	96	74	132	81
Applications heard but denied	93	59	67	48
Review of awards	3	6	6	3
Decisions completed and awards ordered (2)	950	970	1086	1220
Files closed	174	431	415	455
Interim awards	11	3	5	7
Supplementary awards	84	83	76	81
Periodic awards	17	18	15	12
Lump sum payments	\$2,328,957.11	\$2,677,791.38	\$2,693,372.73	\$3,382,775.91
Periodic payments	\$ 554,741.10	\$ 571,924.18	\$ 592,510.81	\$ 617,499.36
Total of awards ordered	\$2,883,698.21	\$3,249,715.56	\$3,285,883.54	\$4,000,275.27
Average award (3)	\$ 2,451.54	\$ 2,870.61	\$ 2,480.08	\$ 2,772.76

**NOTE:**

- (1) Includes Heard on Documentary Evidence, Heard but Award Denied and Heard but Further Evidence Required, but does not include files closed.
- (2) Includes Interim, Supplementary and Periodic Awards.
- (3) Periodic Payments not included when arriving at Average Award.

**CONSOLIDATED SUMMARY OF AWARDS**  
**APRIL 1, 1985, TO MARCH 31, 1986**

<u>Months</u>	<u>Number of Awards</u>	<u>Medical Expenses</u>	<u>Loss of Earnings</u>	<u>Pecuniary loss to Relatives of the Deceased Victim</u>	<u>Pain and Suffering</u>	<u>Funeral Expenses</u>	<u>Other Pecuniary Loss</u>	<u>Legal Fees</u>	<u>Total Awards</u>
		\$	\$	\$	\$	\$	\$	\$	\$
April	64	5,086	23,534	2,400	125,607	6,851	7,779	10,097	181,354
May	70	10,642	42,309		154,675	1,800	9,336	8,625	227,387
June	97	10,946	32,078		168,950	3,478	12,518	10,800	238,770
July	129	24,926	78,201	3,740	304,050	4,400	25,622	19,200	460,139
August	107	8,942	45,904		245,100	13,224	13,392	12,738	339,300
September	85	12,716	11,321	1,200	113,350	3,945	9,058	8,500	160,090
October	96	15,997	33,427	17,300	208,663	1,778	17,478	16,499	311,142
November	99	20,111	13,184		202,650	2,200	11,230	11,055	260,430
December	89	5,989	35,529		165,650	9,142	14,185	11,850	242,345
January	77	28,000	34,425		169,375	2,200	9,471	7,247	250,718
February	128	17,589	34,664		220,301	3,974	15,128	15,525	307,181
March	179	17,487	30,731	991	292,700	19,022	22,983	20,005	403,919
Total	1220	178,431	415,307	25,631	2,371,071	72,014	168,180	152,141	3,382,776
		5.28%	12.28%	.76%	70.10%	2.12%	4.98%	4.48%	
Total Monthly Periodic Payments									617,499
Total Awards:									4,000,275

## EXAMPLES OF DECISIONS

April 1, 1985 to March 31, 1986

### *THE BOARD ORDER — AN EXPLANATORY NOTE*

The awarding of compensation to victims of crime is accomplished through the issuance of a Board Order, or decision, which is the Criminal Injuries Compensation Board's key legal instrument for action.

Under The Compensation for Victims of Crime Act, 1971, which the Board administers, Section 7 enumerates the heads of damages for which compensation may be awarded. The majority of Board Orders fall into this category.

Section 14 of the Act stipulates that in cases of actual financial need, and where there is a probability that compensation will ultimately be awarded, the Board may order interim payments to the applicant.

Section 22 of the Act provides for an order for costs, usually those entailed in making, or providing support to, an application.

Section 25 of the Act, however, is one of the more humane provisions in the Board's statute. Notwithstanding that the Board has already dealt with an application and its decision has been reflected in an Order, where subsequently

- (a) new evidence has become available, or
- (b) change of circumstances has occurred, or
- (c) the Board considers any other matter relevant, on the application of any of the parties to the proceedings, the Board may vary the terms of the original order on such terms as it thinks fit. Thus, an application, once heard, frequently remains open to review under the circumstances envisaged in this provision.

Section 4 provides for the periodic publication of the Board's decisions, and the reasons therefore, providing a useful guide for applicants and solicitors.

As well as being provided to parties to the proceedings, copies of Board Orders are furnished to the media, students and to a number of institutions. An exception to the latter would be where, for reasons stipulated in the Act, a Hearing is held in camera or publication is restricted.

## Examples of Decisions

### FILE 922-011983

The applicant, a 34-year-old Essex truck driver, was attending at a local tavern where his wife was working, when he involved himself in a pool game with three other males, one of whom was the offender. During the game, a heated argument ensued between the offender and another player. The applicant interceded, suggesting they direct their energies toward the game. The offender then turned on the applicant and punched him numerous times on the face before and after he collapsed on the floor.

Hospital records indicate the applicant suffered extensive lacerations to both lips requiring 17 sutures to close, a blow out fracture of the left eye socket bone, extensive bruising and lacerations around the face, head, and body. The applicant's injuries were treated conservatively and no permanent disability is anticipated.

The offender was convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(a) travel for treatment \$45.00; 7(1)(d) pain and suffering \$1,800.00; 7(1)(f) travel expense to attend hearing \$15.00, for a total award of \$1,860.00.

### FILE 922-015113

With the consent of the applicant, the Board heard and considered this application solely on the documentary evidence which had been filed with it.

The applicant, a 33-year-old police constable, was assisting another officer in the arrest of the alleged offender when the latter kicked the applicant in the groin.

The applicant suffered a bruised groin and swollen testicles. He was off work for one week. His wage loss was covered by The Workers' Compensation Board.

The alleged offender was charged with causing a disturbance and assault to resist arrest. At the time of the hearing, the trial was still pending.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$600.00, for a total award of \$600.00.

### FILE 922-015050

The applicant, aged 87, was out walking with a friend when she was assaulted by a purse snatcher. She was grabbed and thrown to the ground.

She was taken to hospital and underwent surgery for a fractured hip. Her post-operative convalescence was complicated by confusion due to anaesthesia and surgery. The applicant's therapy consisted of graduated ambulation and at the time of discharge, six weeks later, she walked with a cane. It was noted that with this type of injury, the applicant has a 15% chance of running into further problems. The applicant also suffered psychological trauma, and is fearful of going out in public.

The alleged offender is unknown.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Sections 7(1)(a) special chair and bathtub rail \$140.00; 7(1)(d) pain and suffering \$3,500.00; solicitor's fee \$250.00 and disbursements \$205.00, for a total award of \$4,095.00.

### FILE 922-014287

The applicant, a 28-year-old Toronto car painter, was siphoning gasoline from a van. The offender, a co-worker, approached him twice holding a cigarette lighter in his hand, asking if he wanted a light. The applicant told the offender to get away, as he was working with gasoline. A third time, the offender reached around from behind the van and flicked the lighter. There was an explosion and the applicant's clothes caught on fire. Apparently, it was a bad joke.

The applicant spent four months in hospital with burns to 40 percent of his body. He required massive intravenous fluid replacement and close monitoring of his vital signs. He sustained a devastating injury that might

have caused death in someone older and less fit. Once stabilized, he had daily burn baths which were extremely painful. He underwent surgery four times to remove dead tissue and for grafting of skin removed from his abdomen. He undertook physiotherapy, which he continues to the present time.

The applicant was subsequently fitted for compression garments which he wears 24 hours a day. He must also wear a splint on his left arm and leg when sleeping to prevent contraction of the scars. Burns scars encompass most of the left arm and dorsum of the hand and fingers, the left leg from groin to mid-calf, the right thigh to the knee, the back and buttock region. His abdomen shows scars from the skin grafting. He has trouble standing for any length of time and has a significant decrease in the strength of his left arm. He has had to learn to write with his right hand.

The applicant is not able to return to a job. His wages and medical expenses are being paid by The Workers' Compensation Board.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Section 7(1)(d) pain and suffering \$15,000, maximum lump sum award; and to solicitor for costs under Section 22, for fee \$350.00, and medical reports \$200.00, for a total amount of \$15,550.00.

#### **FILE 922-010301**

The applicant, a 24-year-old caterer, was in a confrontation with the offender who pushed him, causing him to slip and fall to the ground helpless. The offender continued punching the applicant on the face.

The applicant sustained bruising and swelling to his face, lacerations to both upper and lower lips, and a fractured upper central incisor. It was approximately four weeks before his facial injuries resolved. The fractured tooth had to be extracted and was replaced with a permanent bridge.

The offender was convicted of assault causing bodily harm, and sentenced to 10 days plus two years probation.

A civil action is pending against the offender, and the Board advised applicant's counsel of its right of subrogation should the applicant obtain a monetary judgment against the offender.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental

work \$1,260.00; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) travel expense to attend hearing \$28.00; solicitor's fee \$400.00 and disbursements \$115.00, for a total award of \$2,803.00.

#### **FILE 922-014984**

The applicant's 11-year-old son and 9-year-old daughter were murdered.

The claim is for funeral expenses, (re son) out-of-pocket expenses, loss of income, pain and suffering, and for child tax benefit which had been disallowed by Revenue Canada.

The Board allowed the claim for the son's funeral expense. The applicant did not have appropriate documentation for the Board to consider re loss of income. The applicant was advised of Section 25 of the Act. With regard to the child tax benefit, the applicant has recourse through appeal to Revenue Canada.

The applicant's claim for pain and suffering was disallowed because he was not able to prove nervous shock to the degree required within the provisions of the Act (i.e., a total disability to function due to nervous shock).

The juvenile offender was charged with murder under the Young Offenders' Act, and found not guilty by reason of insanity.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) maximum funeral expense and telephone calls \$2,400.00; 7(1)(f) net loss of income and travel expense to attend hearing \$125.00; solicitor's fee \$400.00 and disbursements \$40.00, for a total award of \$2,965.00.

#### **FILE 922-013899**

The applicant, aged 62, unemployed and living in Toronto, claims he was assaulted. Several witnesses, including the offender, testified before the Board, and gave varying accounts of what happened. There was evidence that stemming from a grudge the applicant had against the offender, he assaulted the offender first by punching him when the offender greeted him and a friend on the street. It is clear that the offender punched the applicant in retaliation.

The applicant was taken to a nearby medical clinic where four sutures were applied to a laceration over the right eye. The applicant complained of continued discomfort over the right eye, perhaps due to a damaged nerve.

Both the applicant and the offender swore out Private Informations. Each was placed on a recognizance to keep the peace for 12 months, or \$1,000.00 without deposit.

The Board declined to make an award, and invoked Section 17(1) of the Act. It found that on the balance of probabilities, the applicant demonstrated a willingness to pursue a course of confrontation which eventually led to his injuries.

#### **FILE 922-012495**

The applicant, an 82-year-old process server living in Keswick, attended at a Legion dinner with his wife, and they encountered some senior Legion officials. The applicant greeted each in turn, including the offender, whom he had known previously. The offender began uttering threats. He had been unhappy with the applicant's activities within the Legion.

The applicant ignored the threats and went to the washroom where he was suddenly struck from behind, receiving a violent blow to the head. He turned around only to receive another blow to the jaw. He recognized the offender before falling to the floor unconscious, possibly striking his head on a heating radiator.

The applicant was treated for cuts and lacerations to the forehead and left side of the lips, a major laceration at the rear of the skull, and a substantial blood clot located in the ear. The clot was removed, but the applicant suffered permanent hearing damage. The applicant's dentures were shattered, and four teeth were loosened and had to be removed.

The offender was convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance and travel for dental treatment \$247.00; 7(1)(b) loss of income \$1,000.00; 7(1)(d) pain and suffering \$3,000.00; 7(1)(f) travel expense to attend hearing \$41.50, for a total award of \$4,288.50.

#### **FILE 922-013307**

(Same occurrence as #200-5737, 922-013306 and 922-013308)

The application was brought by the applicant on behalf of his daughter aged 5½, and was filed after the one year limitation period to which the Board granted an extension.

The applicant was assaulted in his home by an intruder wielding a pair of scissors. In the ensuing struggle between the applicant, his wife and the offender, his daughter and her sister were pushed and tossed about.

Eight months after the incident, the victim saw a psychiatrist because her parents had become worried at her increasing withdrawal and introversion following the assault. She was diagnosed as having suffered an acute post-traumatic stress disorder and underwent five months of "play" therapy sessions.

Nearly six years later, the victim returned for counselling and therapy following a school-related psychological assessment, which determined that she required remedial help for developmental reading and arithmetic disorders.

Although the Board accepted the possibility that the assault was somewhat of a contributing factor to the victim's academic problems five years later, there was no evidence in its view to conclude that the victim's difficulties directly stemmed from the incident.

The offender was convicted of assault causing bodily harm, and given a suspended sentence and three years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering (nervous and mental shock) \$1,000.00, payable to the applicant to be used for the benefit of the victim, for a total award of \$1,000.00.

#### **FILE 922-010828**

The applicant, a 19-year-old student was at a house party where drugs and alcohol were being consumed. The guests became rowdy, and the applicant was asked to help escort a female guest from the premises. The female fell down some stairs, bumping into the offender, causing him also to fall on the stairs.

The applicant went outside for air, and as he was leaning against the wall, the offender approached him and suddenly stabbed him several times with a knife, and then fled.

The applicant was taken to hospital for treatment of stab wounds to the left side of his neck, and to his abdomen. He underwent abdominal surgery, a removal of part of his colon, a repair of a stab wound to the small intestine, and repair of a laceration to his left jugular vein. The applicant remained in hospital for ten days, and was readmitted a month



later complaining of abdominal pain. He was treated for a bowel obstruction. The applicant suffered occasional pain for about a year and a half, and lost forty pounds which he has not regained. He has a slight scar on his neck and a long scar on his abdomen.

The offender was convicted of wounding.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,800.00; 7(1)(f) travel expense to attend hearing \$64.00; solicitor's fee \$250.00 and disbursements \$29.00, for a total award of \$3,143.00.

#### **FILE 922-013632**

The applicant, aged 26 and unemployed, went to a dinner given by the offender with whom she had lived about six months previously. After dinner, they went for a drive.

The offender parked the car, and when the applicant declined to go for a walk, he dragged her from the car, and threw her to the ground, straddled her chest and began choking her until she became unconscious. Police believe that while the applicant was unconscious, the offender smashed her on the face and head with bricks. The applicant regained consciousness to find herself in a pile of rubble, with a refrigerator door over her.

The applicant remained in hospital for five days, and was treated for multiple facial lacerations and a fracture of her left zygoma (cheekbone) which later turned out to be an old fracture which could not be elevated. She later had plastic surgery. Skin grafts were taken from her groin, and used to reconstruct the soft tissue of her left cheek.

The skin grafts have not been a complete success. The applicant is left with some visible contour irregularity of the left cheek. The effect of the multiple small lacerations overlying this area give it a somewhat unsightly appearance. There is no prospect for improvement, and further surgery is not anticipated. The applicant also suffered from depression, nightmares and anxiety following the assault.

The offender was convicted of assault causing bodily harm and sentenced to two years less a day, plus one year probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$5,500.00; solicitor's fee \$450.00

and disbursements \$1,040.00, for a total award of \$6,990.00.

#### **FILE 922-013979**

The applicant, a 39-year-old tow truck operator from Alban was awakened by a knock on the door of his residence. He was requested by an unknown male to assist in retrieving his vehicle which had broken down on a side road. The applicant obliged.

Once they reached the side road, the applicant was suddenly struck across the face with a heavy box wrench, while inside the car, and was knocked unconscious. The applicant had no recollection from this point on. Police speculated that some of his injuries may have occurred after he had been pulled from the vehicle. The incident may have been linked to a grudge borne against him by his neighbour who was a known associate of the alleged offender.

The applicant was treated for multiple lacerations to his scalp, temple, lip, right eyebrow, nose and forehead region. The lacerations were sutured. He also suffered a compound fracture of the nose, a fracture to the left cheekbone, a fracture of the ninth left rib, with internal collection of air around the rib, abdominal trauma with partial separation of the spleen, contusions to both knees with fluid build-up in the right knee joint, and six fractured teeth. A stove-pipe cast was applied to the right leg for a period of two weeks.

Ten months after the incident, the applicant was experiencing frequent headaches, and was suffering from extensive facial scarring, as well as a deformity of the nose due to an uncorrected deviated nasal septum, and six unrepaired fractured teeth. He will probably experience some long-term disability. The applicant was advised of Section 25 of the Act regarding future dental work, or nasal surgery, as well as loss of income.

The offender has not been apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being aggravated assault, and ordered compensation under Sections 7(1)(a) ambulance \$22.00; 7(1)(d) pain and suffering \$6,000.00; 7(1)(f) travel expense to attend hearing \$26.00, and to dentist \$70.00. Documentation was subsequently received supporting loss of income. The Board varied the order, and awarded further compensation under 7(1)(b) loss of income (21 week

period) \$1,500.00, for a total award of \$7,618.00.

#### **FILE 922-013118**

The applicant was aged 58 and employed as a labourer in Oakville. There are conflicting accounts of the occurrence. The applicant alleged that he was accosted by a man with a knife and that the man threatened to kill him. Then he claimed a struggle ensued and in the process he was stabbed in the back. According to the applicant, he forced the man to drop the knife, which he claimed he gave to a young man who happened by. The young man, the applicant and the alleged offender then proceeded to a store where police were called.

On the other hand, the alleged offender, and an independent witness, testified that it was the applicant who had the knife, and that he was the initial aggressor.

The applicant was in intensive care at hospital because of a stab wound that had penetrated his left chest. He remained in hospital for a week, and was kept under observation, given blood and put on an I.V. His doctor advised he appeared visibly frightened and shaken, and complained of having suffered left chest pain for several months. The applicant was unable to work for about five months following the incident.

Due to the conflicting nature of the various statements, no charges were laid by police. The Board was troubled by the conflicting evidence and the applicant's lack of credibility as a witness. After due consideration to Section 17(1) of the Act, the Board decided to give the benefit of the doubt to the applicant.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and ordered compensation under Sections 7(1)(a) drugs \$109.16; 7(1)(b) net loss of income over five months \$2,171.00; 7(1)(d) pain and suffering \$900.00; 7(1)(f) travel expense to attend hearing \$6.00; solicitor's fee \$300.00 and disbursements \$123.50. The applicant subsequently made a claim under Section 25 of the Act for a Variation of Order, and further compensation was ordered for interpreter services rendered at the hearing \$180.00, making a total award of \$3,790.66.

#### **FILE 922-010927**

The applicant, aged 20 and a part-time carnival worker from Sudbury, became involved in an evening-long dispute at a hotel with two

men who had thrown beer bottles at the applicant and his female friend.

The applicant asked the offenders to desist. One of the offenders punched the applicant in the face. In self defence, the applicant punched both offenders and fled. He visited with a friend, and later returned to the hotel and again encountered the offenders who assaulted him with broken beer bottles. He was slashed about the face, neck, head, hands and right eye. He was also bitten on the back of the neck and kicked in the mouth.

The applicant sustained a star-shaped laceration to the centre of his forehead extending up into the hairline, a number of ragged lacerations around the right eye, a laceration to the left side of the neck, and extensive lacerations and tendon damage to the back of both hands. He underwent a long operation to debride and suture his lacerations and repair the slashed tendons. The applicant was in hospital for three days. His hands were in splints for three weeks. Further surgery was required on the right hand to remove scar tissue that was binding the tendons together and limiting the movement of the hand and fingers. Because of his injuries, the applicant was unable to work at his carnival job for a total of seven months.

The offender was charged and convicted of wounding.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$5,270.00; 7(1)(d) pain and suffering \$3,000.00; and solicitor's fee \$300.00, for a total award of \$8,570.00.

#### **FILE 922-013379**

The applicant, a 24-year-old police officer, was responding to a reported disturbance in St. Catharines. The offender in this case refused to leave the premises where he was causing trouble. He was placed under arrest and a struggle ensued and in the process of subduing him, the applicant received a fractured finger.

The applicant's arm was put in a cast from his right hand to his elbow for six weeks. The knuckle was shattered and still causes him pain daily. He has lost the ability to grip with his fifth finger and this poses problems when the applicant has to draw his gun.

The offender was convicted of causing a disturbance and resisting arrest.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) hospital records, doctors reports and certificate of conviction \$86.20; solicitor's fee \$250.00 and disbursements \$56.00, for a total award of \$2,392.20.

**FILE 922-011386**

**Heard in Camera**

The applicant, a 44-year-old school teacher, was punched by a male offender while trying to stop a female offender from abducting one of her students from her classroom. She was knocked against some desks and fell to the floor.

The applicant sustained a dislocated and fractured ankle, and a broken fibula (shin bone). Her ankle was splinted and then an open reduction was performed later that day. The applicant remained in hospital for six days. In spite of a year of daily physiotherapy sessions, the ankle continued to cause walking problems because of swelling and pain, and difficulty in fulfilling both her domestic and professional duties.

Nineteen months later, the prognosis was a permanent disability of movement in the applicant's ankle, which will probably persist and worsen. The applicant was unable to return to work for eighteen months, and is very dependent upon her husband, to aid with day-to-day responsibilities. In light of future possible medical considerations, the applicant was advised of Section 25 of the Act.

At the time of the hearing, a warrant was still outstanding against the offender.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Section 7(1)(d) pain and suffering \$5,000.00, for a total award of \$5,000.00

**FILE 922-012721**

**INTERIM ORDER**

**(Held in Camera)**

As a result of her husband's death by stabbing, the applicant made a claim for expenses incurred and loss of income she and her infant children had sustained.

A hearing was scheduled, but adjourned sine die in view of an Appeal by the offender against his conviction and sentence.

The Board then received a request from the applicant for consideration of an award for Interim Compensation. A Hearing was scheduled and the parties duly notified. The offender gave notice that he wished to exercise his right of addressing the Board. His solicitor attended on his behalf.

The Board did not wish to prejudice the offender's right of Appeal and declared that the proceedings be held in camera, and publication prohibited.

With the consent of the applicant, her solicitor, and the solicitor for the offender, the Board proceeded to consider awarding interim compensation in accordance with Section 14 of the Act.

The Board found that the applicant will be in actual financial need, and ordered interim payments in respect of maintenance and medical expenses. In the event that compensation is not awarded, the amount so paid (under Section 14) is not recoverable from the applicant. The amount ordered is \$500.00 per month commencing March 1, 1986.

**FILE 922-013109**

The applicant, a 53-year-old store security guard in Kitchener, confronted a shop-lifter and asked him to return to the store. The shop-lifter refused. The applicant then told him he was under arrest. A struggle ensued which resulted in both men falling to the ground, the shop-lifter falling on top of the applicant's leg and hip.

The applicant suffered three fractures to the hip and pelvic area. These fractures were undisplaced and were treated conservatively. Despite the fact that x-rays revealed that the fractures have healed completely, the applicant is in constant pain, walks with a limp, and now uses a cane. He had to use crutches for the first year. He is subject to periodic weakness in his leg and his surgeon reported that the applicant "has never really gotten better."

The applicant has been placed on half-time with regard to his working hours and he received a 10% disability pension from The Workers' Compensation Board. The Workers' Compensation Board also covered part of his lost wages.

The offender was convicted of assault causing bodily harm.

The Board noted the devastating effect that this injury had on the applicant's previously

healthy, active lifestyle. It found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(b) loss of income \$1,178.00; 7(1)(d) pain and suffering \$8,000.00; 7(1)(f) loss of income to attend hearing and travel expenses \$129.50; solicitor's fee \$450.00 and disbursements \$480.50, for a total award of \$10,238.00.

#### **FILE 922-012969**

The applicant aged 29 and an industrial painter living in Kingston, was in a tavern with his friend. His friend wanted to see a man with whom he had a longstanding problem, and with whom he wanted to "even the score".

The applicant offered to drive his friend to the man's house. Coincidentally, at that man's house was the offender with whom the applicant had had a disagreement. This man had received information that the applicant was on his way over, and feared the worst. When the applicant and his friend arrived at the house, the offender appeared at the head of the stairs leading to the upper hallway and fired a shot from a handgun he was carrying, the bullet striking the applicant.

The bullet went through the applicant's chest and entered the spinal canal where it began to break up. He was found to have total paraplegia with absence of all reflexes below the neck. In addition he had a severe chest injury, with 3½ litres of blood in his chest, which was an immediate threat to his life. He has been left a permanent paraplegic and is paralyzed from the neck down. The applicant has ongoing expenses for drugs and personal care needs not covered under OHIP in an amount of \$270.00 per month.

The offender was convicted of assault causing bodily harm, and sentenced to two years less one day.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation (a combination lump sum and periodic award) under Sections 7(1)(a) ongoing drugs and personal continuing periodic payment of \$270.00 per month from date of occurrence; 7(1)(b) loss of income, continuing periodic payment of \$150.00 per month from date of occurrence; 7(1)(d) pain and suffering, lump sum payment \$7,500.00 — to be paid to the applicant's brother for purchase of suitable vehicle to enable applicant to travel from his home to his place of work; 7(1)(f) loss of income to applicant's common-law wife

\$250.00, travel expense for applicant to attend hearing \$111.72, and to solicitor under Section 22 (Costs) fee \$250.00 and disbursements \$605.00.

#### **FILE 922-012745**

The applicant, a 56-year-old farmer, was vacationing at a trailer camp. He was awakened by the sound of a car on the gravel roadway. He saw a man go into his shed and open his refrigerator.

Fearing theft, the applicant went out to confront the man. The man was able to get into his car. The applicant grabbed and hung on to the man's neck. The man gunned his car with the door still open. The applicant was kneeling on the door step, grappling with the man. Another man in the passenger seat of the car reached over and punched the applicant on the forehead and left ear. The man driving the car aimed for the open car door to hit a steel telephone box on the side of the roadway. The car hit the telephone box, and the applicant was crushed against the car frame and fell to the road. The offenders drove off.

The applicant was treated for a severe contusion of the left lower leg. He also had abrasions of the first three right toes, a contusion and minor abrasions over the right lateral buttock and a five inches by six inch abraded area over the right flank. He also complained of right shoulder pain and had a swollen ear and contusions to the right temple. The leg was packed in ice while he was in hospital.

The applicant remained in hospital for three days. When released, he had to use crutches for a month and a tensor bandage for three months. The leg was tender and weak for a long while, and was still somewhat swollen and painful at the time of the hearing. The applicant still has a hardened area under the skin of the lower left leg. His other bruises and abrasions resolved in about one month.

The applicant made no claim for loss of income.

The offender was convicted of break and enter and theft and sentenced to thirty days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) travel expense to attend hearing \$40.00, for a total award of \$2,540.00.

**FILE 922-013613**

An extension of the limitation period was granted for this application.

The applicant, a 28-year-old child care worker at a detention centre in London, attempted to restrain a juvenile inmate who had just been ejected from a classroom by a teacher. Another staff member arrived and assisted the applicant in calming the juvenile, but all three persons fell to the floor with the applicant at the bottom of the heap.

The applicant was admitted to hospital with a grossly swollen left knee, impairing the applicant's mobility and with considerable tenderness about the knee joint medially. He was placed on crutches and physiotherapy was commenced three months later. Four months after that, he underwent surgery to repair the torn exterior cruciate ligament which he had re-injured subsequent to this incident.

The applicant will be restricted with respect to participation in sports events, something in which he took great pleasure. Total temporary disability benefits were paid to the applicant by The Workers' Compensation Board.

The Board took note of the fact that the alleged offender did not intend to injure the applicant. It was unable to conclude that the applicant was a victim of crime within the meaning of Section 5(a) of the Act and, accordingly, declined to make an award for compensation. The Board, however, did make an order under Section 22 for fee and costs to the solicitor in the amount of \$510.00.

**FILE 200-9620**

The applicant, a 20-year-old Toronto office clerk, was out jogging shortly after midnight. He got into an encounter with a dog, then the dog's owner, and two of the dog owner's colleagues. He was struck on the left side of his face, knocked down and kicked several times.

The applicant was treated for a laceration to the right earlobe. Four sutures were applied. He also suffered undisplaced fractures of the left foot, the distal second and third metatarsal bones. A cast was applied. The applicant claimed in addition to what was mentioned in the medical reports, a laceration over his right eye and massive bruising and swelling over the body, from the knees to the shoulders.

The applicant is left with a minor disturbance in the balance of the left foot, which may result in the formation of callouses over the forefoot

area, but which will cause no significant limitation. Over a period of 18 months occasional foot discomfort was experienced, and the applicant's sports activities, skiing and team baseball, were substantially curtailed. He is no longer able to play in the more competitive baseball leagues.

All three offenders were convicted of assault causing bodily harm.

In a civil suit against the offenders, the applicant was able to recover \$7,000.00 for pain and suffering, and \$1,000.00 restitution. These amounts are substantially in excess of what the Board might award under pain and suffering and loss of income. Therefore, the Board declined to make an award to the applicant, but did allow costs to the solicitor under Section 22 of the Act, for fee \$300.00 and disbursements \$10.00, for a total amount of \$310.00.

**FILE 200-8193**

Publication prohibited; heard in camera

The applicant was not aware of the Board until 1980. She was granted an extension of the limitation period in which to file an application, the following year.

On August 25, 1973, the applicant, a 50-year-old sewing machine operator, was struck on the head with a hammer, punched on the face under the right eye, and sexually assaulted under threat of death. The offender was a friend's son, and the applicant had allowed him into her home to use the bathroom.

The applicant suffered a depressed fracture of the skull, concussion and bruising and swelling below the right eye. She received eight sutures for a skull laceration. The dizzy spells and unsteadiness from which the applicant had already been suffering, were exacerbated by the head injury. She also suffered frequent numbness on the left side of her face and left arm.

For the past five years, the applicant has not been able to work due to dizziness, instability, headaches, tension, anxiety and uncontrolled angina. Her family doctor noted nine years after the assault that her personality has been affected. She was frightened, insecure and at times panicky. This affected her performance at work, and her relationship with friends and her husband. The applicant was off work for five weeks after the incident, and her income loss for that period was covered by private insurance benefits.

The offender was convicted of attempted rape and sentenced to ten years in prison.

The Board found that the application qualified under Section 5(a) of the Act, but reserved its decision on an award for pain and suffering pending receipt of hospital records and an up-to-date medical report. It did award compensation under Section 7(1)(f) travel expenses to attend hearing and doctors reports \$397.00; and to solicitor for disbursements \$48.00, for a total amount of \$445.00.

#### **FILE 922-011936**

The applicant, aged 45 and employed, was conducting a garage sale together with the offender with whom she had an arrangement to split the proceeds.

In the afternoon, the offender appeared and demanded all the proceeds of the sale. The applicant refused and reminded him of the prior agreement to split the proceeds. The offender became irate, pushed the applicant against a wall, and punched her in the face.

The applicant was taken to hospital where it was found she had a fractured jaw. She underwent a closed reduction to repair the fracture, but complications arose and two additional surgical procedures were required, causing great discomfort. She has been left with a difficulty in chewing food.

The offender was convicted of assault causing bodily harm.

The applicant did not claim for loss of income.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(d) pain and suffering \$1,200.00 for a total award of \$1,221.00.

#### **FILE 922-013981**

The applicant, a 26-year-old unemployed man, was drinking at a hotel when he encountered a separated woman he had been seeing. He and the woman had an argument, and the applicant verbally abused the woman in front of her husband who was also present. The husband punched the applicant, breaking his jaw.

The applicant sustained a fracture through the angle of the left side of the mandible (lower jaw). He underwent a closed reduction and intradental arch wiring, and left hospital five days later. Two months afterwards the wires were removed. The applicant also had a damaged tooth, which was later removed.

The alleged offender was charged with assault causing bodily harm, and was found not guilty and acquitted.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental expenses, blender and waterpick \$97.00; 7(1)(d) pain and suffering \$1,500.00; solicitor's fee \$300.00 and disbursements \$174.84, for a total award of \$2,071.84.

#### **FILE 922-012131**

The applicant, aged 27 and unemployed, was sitting in a Windsor tattoo parlour when he was suddenly assaulted by two males with a baseball bat and a piece of 2x4. He was knocked unconscious.

The applicant had suffered a compound fracture of the skull and underwent a craniotomy (brain operation) to repair the fracture and remove a blood clot. He was in hospital for six weeks. He underwent two further operations to repair the serious skull deficit, each of which kept him in hospital for ten days. A plastic plate was inserted in his skull. He was admitted to rehabilitation hospital for three months and a rest home for approximately 1½ years.

Although he suffered brain damage and left-sided paralysis, the applicant has made a remarkable recovery. He has been left with decreased sensation to the left side and some problems with balance. He is on daily medication to control headache pain, must now wear glasses, and cannot drive a car. The applicant has not worked since the occurrence and is presently on a disability pension.

There is evidence that the applicant's brother had some prior dealings with the offenders, who were out to get him. The applicant seems to have been involved simply because he was with his brother.

The offenders pleaded guilty to assault causing bodily harm, and were sentenced to nine months in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$8,000.00, to be paid in two installments of \$4,000.00 each, one in 1986 and the other a year later in 1987; solicitor's fee \$350.00 and disbursements \$149.00, for a total award of \$8,449.00.

**FILE 922-013419**

The applicant, a 28 year old Sudbury cab driver became the victim of an assault when a man got into his cab, grabbed him by the hair, held a knife to his throat and demanded all his money. He was threatened with death if he did not co-operate.

The terrified applicant was attempting to find the money in his pocket, when the man cut him on the cheek and neck, and then suddenly hit him on the back of the head. That is the last thing the applicant remembers before waking up in hospital.

The applicant remained in hospital for seven days and was treated for severe headaches. He continued to take medication for several months. He had also suffered abrasions to the right side of his face. The applicant has a phobia about driving taxis at night, and has worked the day shift since the occurrence. He was off work for eight days.

The alleged offender has not been apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(a) ambulance \$22.00; 7(1)(b) net loss of income \$236.00; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) loss of income to attend hearing \$35.00, and in a subsequent Variation of the Original Order, eye glasses \$178.00 and to legal clinic for disbursements \$103.08, for a total award of \$3,074.08.

**FILE 922-014487**

The applicant is the mother of the victim.

The victim, aged 12, was shot while bailing hay at a farm. A bullet from a .22 calibre rifle entered the victim's chest on the left side and split into four pieces which lodged near his lung and breastbone. The victim collapsed and lost consciousness.

Upon arrival at hospital, the victim had no pulse, no blood pressure and was considered to be near death. Speedy measures by a doctor at the hospital revived the victim and stabilized his vital signs. He was then flown to a hospital in Toronto, where he remained for one week for observation and treatment of a bruised left lung.

The victim recovered uneventfully and without lasting effect, except for a period of nightmares lasting three months. He attended two sessions of psychological treatment by a

private counsellor. When leaving hospital he was told not to participate in contact sports for a duration of three weeks to a month.

The offender was convicted of criminal negligence causing bodily harm and sentenced to six months in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) medical expenses \$80.00; 7(1)(f) travel expense to attend hearing \$76.00, and to solicitor for fee \$350.00 and disbursements \$188.60, to the Accountant of the Supreme Court of Ontario to be held in trust until the victim reaches the age of majority \$4,150.00 for pain and suffering, for a total award of \$4,844.60.

**FILE 922-014404**

The applicant, a 29 year old gas bar attendant was at his place of work and when he saw the offender harassing two young girls trying to obtain air for their bicycle, he went to the girls' aid.

A verbal argument ensued and the offender punched the applicant five times on the face, knocking him to the ground unconscious. The offender continued the assault, banging the applicant's head on the concrete, and kicking him repeatedly in the face, throat and ribs.

The applicant was hospitalized for five days and treated for a mild cerebral injury, contusions to the face, head, and neck, a displaced nasal fracture, a fracture of the right cheek, swollen eyes with blurred vision in the left eye, and bruising to the ribs and groin area. The applicant suffers from nasal pain, daily nose bleeds, and an element of psychogenic disruption due to trauma.

The offender was convicted of aggravated assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) OHIP differential, drugs, ambulance and optical aids \$209.10; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctor's reports \$75.00, to doctor \$175.00, for a total award of \$4,459.10.

**FILE 922-010466**

The applicant, aged 62 and retired, was walking in Caledonia with his brother when they were set upon by three male assailants beaten about the head and face and then robbed. A pedestrian found the applicant and his brother lying on the sidewalk unconscious.

The applicant remained semi-comatose for several days after having sustained a severe concussion of the brain with probable brain contusion. He also sustained a laceration behind the left eye, requiring sutures and a fractured nasal bridge requiring closed reduction. Two months later, a small blood clot was discovered over the right frontal lobe of the brain, however it was not considered large enough to warrant surgical removal.

After five months of hospitalization, test results showed that the applicant had suffered a clear loss of brain substance causing a considerable impairment of intellectual capability and mental capacity, resulting in poor memory, lack of concentration, disorientation and confusion. He also sustained loss of vision in his left eye, leaving it virtually blind. Due to the frontal lobe contusion, the applicant had suffered permanent unsteadiness on his feet. The applicant now has a permanent mental disability, and his activities are of a very limited nature.

The offenders were charged with assault causing bodily harm and robbery.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$15,000.00 (the maximum allowed), and under Section 22 to applicant for expenses \$108.00; solicitor's fee \$300.00 and for disbursements \$329.25, for a total amount of \$15,737.25.

#### **FILE 922-014382**

The applicant, a 36-year-old Burtch engineer on duty in a correctional facility was about to unlock the door to the power room when he was struck from behind by an inmate wielding a hammer. He fell to the ground and was attempting to regain his feet when another inmate began assaulting him with his fist and feet, and then with the hammer. The inmates wanted the keys to the institution. The applicant surrendered himself and his keys, and was locked in a supply room. The inmates fled in the applicant's car.

The applicant had sustained three lacerations to the back and top of the head, for which he received sutures, abrasions to the face and upper lip, and several bruises to the left thumb and right wrist. He was off work two weeks. He has substantially recovered but is now anxious about the dangers of his job.

The offenders were convicted of robbery.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$1,500.00; 7(1)(f) travel expense to attend hearing \$16.00, for a total award of \$1,516.00.

#### **FILE 200-7870**

##### **VARIATION OF ORDER — SECTION 25**

The applicant is the father of the victim.

The victim, aged 20, was assaulted by her fiancé who suddenly went berserk in their apartment in Toronto.

The victim lapsed into a coma and was transferred to hospital. She sustained a large clot on the left side of her head between the skull and the brain. She survived surgery, and was flown to England where she now resides with her parents. She remains in a vegetative state, unable to move any of her limbs and requires 24-hour a day care. Her mother gives her the attention she requires.

The Board in its original order awarded a maximum lump sum award, plus costs. The Board now proposes to change the award from a lump sum maximum award to a combination lump sum and periodic maximum award. Therefore, the Board now orders under Sections 7(1)(a) maximum periodic award \$500.00 per month, subject to annual review; 7(1)(d) pain and suffering \$7,500.00; 7(1)(f) legal fee \$300.00.

#### **FILE 922-013410**

The applicant, a 45-year-old worm picker arrived for a shift at a golf club in Burlington, and was awaiting her employer who had a contract with the club. She was changing into her work clothes, when the club owner approached her pointing a firearm at her. He told her and a nearby group of worm pickers to get off the premises. Impeded by her problem with the English language, the applicant tried to explain she was awaiting her employer, but the club owner fired a shot at the left rear wheel of her vehicle, damaging the hubcap. The applicant was severely shaken by this event.

A psychiatric report indicates the applicant suffered "chronic anxiety neurosis of post-traumatic origin associated with reactive depression." The applicant continues to see her psychiatrist monthly and is being treated with medication.



The offender was charged with pointing a firearm and was convicted of possession of a dangerous weapon.

The Board found the applicant failed to prove she was the victim of debilitating nervous shock as understood under the Act. However, it did accept that she suffered some degree of anxiety and reactive depression as a result of the incident. The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1) (a) prescription drugs \$34.52; 7(1) (d) pain and suffering \$1,000.00; 7(1) (f) travel expense to attend hearing \$35.00, to translation service \$80.00, for a total award of \$1,149.52.

#### **FILE 200-9604**

This is a variation of an award in which the Board found the applicant's daughter to be a victim of crime, namely murder, and awarded the applicant funeral expenses.

In the original order, the Board concluded that it "was not satisfied that there was sufficient evidence to establish that the applicant had sustained the kind of mental disorder that would qualify for the injury "nervous shock" and entitle her to an award for pain and suffering. Precedent dictates that a third party, to be a victim of crime must prove that he/she has suffered an emotional disorder which can clearly be distinguished from the grief or sorrow which would be considered "normal" under tragic circumstances.

Three years after the original order, the Board noted that the applicant presented a very "flattened personality." It also heard extensive medical evidence which indicated that the applicant was suffering a "mental disorder" and/or "psychiatric illness" which was clearly linked to the death of her daughter. The Board concluded that the applicant's condition had deteriorated since the date of the original hearing in that she did not experience a "normal" long-term emotional recovery from the grief caused by the death of her daughter.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Section 7(1) (d) pain and suffering \$4,800.00, solicitor's fee \$300.00 and disbursements \$644.95, to three medical doctors who attended the hearing for fee \$150.00 each, for a total award of \$6,194.95.

#### **FILE 922-012590**

The applicant a 21-year-old labourer was attending at a local hotel in Collingwood. At one point in the evening, the applicant observed the offender picking up his jacket by mistake from the barstool. He pointed out the error to the offender and resumed his seat at the bar.

A few minutes later, without any warning, the offender approached the applicant, slashed him once across the face with a knife and stabbed him several times in the chest and right shoulder.

The applicant was taken to hospital where the relatively minor wound to the left cheek was treated and bandaged. His condition was stabilized and he was transferred to Toronto. Doctors determined that one stab wound had gone through the diaphragm and produced a splenic laceration. The spleen had to be removed. He was also treated for a perforated colon and remained in hospital for a month. He returned three months later for follow-up surgery which required a three-week stay.

The applicant was able to return to work seven and a half months after the assault, but is left with considerable scarring to his face, shoulder and chest. He still experiences bouts of depression as a result of the incident.

The offender was convicted of aggravated assault.

The Board found that the application qualified under Section 5(a) of the act and ordered compensation under Sections 7(1) (a) ambulance \$21.00; 7(1) (b) net loss of income \$3,850.00; 7(1) (d) pain and suffering \$6,000.00; 7(1) (f) travel expense to attend hearing \$78.50; solicitor's fee \$300.00 and disbursements \$89.00, for a total award of \$10,338.50.

#### **FILE 922-013293**

The applicant, a 57-year-old real estate agent, was attempting to move into a house she had purchased from the offender that day. As she was carrying a box into the house, the offender confronted her and told her she could not take possession of the house until later that afternoon. An argument ensued, and the offender then shook the applicant by the shoulders and flung her into a plaster wall.

At hospital, the applicant was found to have sustained a compression fracture of the spine which triggered severe pain in the same area where she suffers a chronic degenerative disc

disease. She was put on medication. Her doctor mentioned the possibility of her developing a painful case of arthritis at the fracture site. She was off work four months and has been limited in her activities since.

The offender was convicted of common assault.

The Board found that the application qualified under Section 5(a) of the Act and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(b) loss of income \$8,500.00; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctors reports \$140.00, for a total award of \$12,661.00.

#### **FILE 922-010322**

The applicant is a children's aid society on behalf of the victim, a minor.

The victim, a two-year-old infant, was immersed from the waist down in scalding water by her mother. A neighbour called an ambulance, and the victim was transported to hospital.

The victim had sustained second degree burns from the waist to her knees and third degree burns to her feet. An operation was immediately performed to release intense swelling of the legs. Both legs required skin grafting. Later hypertrophic scars were appearing across some of the victim's joint creases and she had lost the tips of some of her toes. The victim was only capable of flexing her knees to 90 degrees because of the scars and her right ankle was restricted in its flexibility.

Nearly three years after the incident, the victim underwent reconstructive surgery to preserve the functioning capabilities of her feet. She will require further surgery if she experiences contractures during rapid growth spurts. Moreover, it is likely that the victim's scars and deformity will be permanent. In addition, the victim underwent two and a half years of play therapy with a psychologist to come to terms with what happened to her. The victim's foster parents plan to adopt her.

The offender, the victim's natural mother, was convicted of assault and received a suspended sentence and three years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation for pain and suffering of \$15,000.00 (a maximum lump sum payment) payable to the Accountant of the Supreme Court of Ontario under Section 36(6) of The Trustee Act to be held for the victim until she

reaches the age of 18, subject to annual review, and for photographs \$45.00, for a total award of \$15,045.00.

#### **FILE 922-015057**

The applicant aged 27 was working as a delivery man for a fast food restaurant in Niagara Falls. When he got out of his parked car to make a delivery, a man crouching at the rear of the car leaped at him. In the ensuing struggle the applicant was stabbed in the abdomen.

The applicant was severely injured, and had to be resuscitated. He underwent an emergency abdominal operation (laparotomy) with repair to the stab wounds including the removal of his left kidney and his spleen, and repairs to his pancreas. A second operation was required to resect a portion of his colon and to release adhesions. While in hospital he developed pneumonia. When released from hospital he was extremely weak and required daily nursing visits. He was again admitted to hospital for one week when he developed a stress ulcer and abdominal bleeding. He is left with a large abdominal hernia and a defect which will require another hospital admission and surgery. He lost 30 pounds.

The applicant has not been physically able to work since the occurrence. He has received some benefits for loss of income, and was advised that should he not be covered in this regard he may contact the Board for consideration of a claim for loss of income under Section 25 of the Act. The applicant should also make a further claim for pain and suffering after further surgery.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being robbery, and ordered compensation under Section 7(1)(d) pain and suffering \$7,500.00; 7(1)(f) travel expense to attend hearing \$22.20, for a total award of \$7,522.20.

#### **FILE 922-013807**

(Heard in Camera and Publication Prohibited)

The applicant is The Official Guardian for the victim, a minor.

The victim was physically and sexually abused over a three-year period by her father. The victim ran away from home and was subsequently picked up by the police and was made a Crown Ward.

Psychiatric assessments indicate the victim was seriously lacking in confidence, experiencing guilt, and harbouring a terrific amount

of anger towards her father. She was also deemed to be mistrustful of adults and experiencing a great deal of inner conflict. As well, having moved from her country of origin, she was experiencing difficulty with cultural change. She is now doing well academically, accepting routines, getting along well with adults and her peer group, and is receiving ongoing counselling.

The offender was found guilty of incest and gross indecency, and was sentenced to 18 months in jail, plus three years and 18 months concurrent.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation for pain and suffering in the amount of \$6,000.00, under Section 36(6) of The Trustee Act, payable to the Accountant of the Supreme Court of Ontario, to be held to the victim's credit until her age of majority, subject to annual review.

#### **FILE 922-012385**

The applicant a 32-year-old unemployed Toronto park maintenance worker, was at home with his wife entertaining his brother and his brother's girlfriend when he heard a knock on his front door. A man standing outside demanded the applicant's wallet and attempted to force himself inside. The applicant punched the offender in the face, who reeled back and drew a gun. The offender then started shooting. The first or second shot hit the applicant's wife and when the applicant went to help her, he too was shot.

Upon arrival at hospital, it was noted that the applicant had sustained a gunshot wound with entry through the right chest and exit out the upper back, fracturing the right third rib and passing through the upper lobe of the right lung. A chest tube was inserted for drainage purposes and the bleeding stopped soon after. Within a few days an infection developed in the lung and quickly spread to the left one. The left lung barely maintained its ability to function and as a "life-saving measure" the applicant had to have his severely infected right lung removed. A second infection developed a month later and two ribs in the right chest area had to be removed.

The applicant was discharged from hospital two and a half months after his original injury. He made a steady recovery and was eventually able to perform everyday activities. He is still severely hampered in his ability to perform vigorous physical activities.

The applicant's wife readily admitted that she and her husband had been selling marijuana from their home for several months.

Evidence collected by police also suggested that the two offenders knew that the applicant dealt drugs and that he had a significant number of bills in his wallet. The applicant had previous convictions for possession of narcotics for the purpose of trafficking.

With consideration to Section 17 (1) of the Act, the Board found that by involving himself in selling drugs on a regular basis, an activity considered to have inherent risks, the applicant directly contributed to his injuries. The application was denied, but the Board ordered payment of costs under Section 22 of the Act to the applicant's solicitor for fee \$300.00, hospital records \$34.75, doctor's report \$75.00, for a total amount of \$409.75.

#### **FILE 922-014806**

The applicant, a 20-year-old college student, was sexually assaulted by a man she had met at her roommate's party. The incident occurred in the offender's apartment, where she was kept captive throughout the night.

The applicant suffered bruises on the right shin and left arm, an abrasion on the back, and continued soreness in the vulvar region. Far more severe was the post-rape depression that the applicant suffered, which has not resolved itself over two years after the incident. The applicant underwent psychotherapy to cope with this depression.

The offender was convicted of sexual assault causing bodily harm, and was sentenced to two years less a day imprisonment.

The Board found that the application qualified under Section 5 (a) of the Act, and ordered compensation under Sections 7(1)(a) drugs \$8.95; 7(1)(d) pain and suffering \$5,000.00; 7(1)(f) travel expense to attend hearing \$17.50; solicitor's fee \$200.00 and disbursements \$148.00, for a total award of \$5,374.45.

#### **FILE 922-013596**

The applicant, 34-years-old resident in Ottawa and unemployed, picked up two hitchhikers. He told them that his destination was only half way to where they wanted to go. The hitchhikers accepted his offer, but when the applicant reached his destination, they refused to get out of the car.

One of the hitchhikers then produced a sawed-off rifle and forced the applicant to drive them the remainder of the distance to

their destination. Upon arrival, he demanded the applicant's money. The applicant refused, saying they would have to shoot him first. The hitchhiker then shot him. The two hitchhikers relieved the applicant of \$2,400.00 and fled.

The applicant was taken to hospital where a wound to his right flank was cleaned, packed, and bandaged. The bullet had only grazed the liver, and there was no substantial damage to the abdomen area. The applicant returned once for follow-up treatment.

Police report that parts of the applicant's statement provided to them were contradictory to evidence they had obtained. The applicant refused to aid a police investigation. The alleged offender was not apprehended.

With consideration to its obligation under Section 17(2) of the Act, the Board concluded that the applicant refused reasonable co-operation with police. Accordingly, the application was denied.

#### **FILE 922-013580**

The applicant, aged 29 and unemployed, was at a club with her sister. Her sister went to the washroom and did not return. The applicant went to investigate and confronted the offender sexually assaulting her sister. The applicant's appearance on the scene gave her sister the opportunity to flee and get help. The offender demanded sexual acts from the applicant who refused. He punched her on the side of the face, slammed her against a wall and grazed her face with his hand. He then fled.

The applicant was treated in hospital for a swollen upper left lip with a small laceration, a loose front upper tooth, and a painful left jaw. The applicant attended a dental clinic and her dangling front tooth was removed. Several teeth required extraction, and teeth were added to her partial denture. The applicant complained that her jaw made clicking noises and was sensitive for two months following the assault. It still bothers her in cold weather. As well, she suffers anxiety and fear, and no longer goes out after dark. She continues to take prescribed medication to calm herself.

The offender was arrested and charged with sexual assault..

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental expenses \$25.00; 7(1)(d) pain and suffering \$2,000.00; solicitor's fee \$250.00 and dis-

bursements \$160.00, for a total award of \$2,535.00.

#### **FILE 922-011792**

The applicant, aged 35, was punched in the mouth after being put in a cell in a Sudbury jail with the offender. Jail guards took the applicant to hospital.

A laceration to the applicant's lip required two stitches. Also, the applicant had one upper front tooth knocked out and another one cracked which later had to be removed. The applicant was advised of Section 25 of the Act with respect to replacing the tooth.

The applicant sued the Ministry of Correction Services and had received \$600.00 for pain and suffering prior to the Hearing. The Board took this into account when assessing the award.

The board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Sections 7(1)(d) pain and suffering \$400.00; 7(1)(f) travel expense to attend hearing \$46.70; solicitor's fee \$250.00 and disbursements \$122.20, for a total award of \$819.90.

#### **FILE 922-013085**

The applicant a 48-year-old Toronto parking lot attendant, was on duty when two men drove in the lot, parked and paid the flat rate of \$2.00. Ten minutes later, the two men returned and asked for a refund of their \$2.00. The applicant refused, and came out of his booth to explain, when one of the men hit him three times on the head.

The applicant was taken to hospital complaining of headaches. He was advised to use ice and pain killers, and was released. There was no sign of injury. He saw his family doctor five times over the next two months complaining of headaches. No treatment was prescribed. The applicant had problems at work because of the headaches and was fired. He experiences severe headaches about twice a month. The doctor's diagnosis is post-traumatic headaches.

Neither of the alleged offenders were charged.

The board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$750.00, for a total award of \$750.00.

**FILE 922-013755**

(Publication prohibited and heard in Camera)

The applicant, aged 19, a student and part-time clerk, was attending a show in Windsor with her brother at a hotel. The applicant left her table to use the washroom. The offender followed her into the washroom, threatened her with a knife, sexually assaulted her and robbed her.

The applicant was treated at hospital for contusions to both arms, left thumb, minor lacerations of the left fourth finger, and on the upper right back. She suffered severe trauma and required psychological counselling and attendance at a sexual assault clinic. The applicant still experiences nightmares and is very apprehensive.

The offender was convicted of robbery and sexual assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$138.33; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) travel expense to attend hearing \$65.25; solicitor's fee \$300.00 and disbursements \$182.00, for a total award of \$4,684.58.

**FILE 922-013774**

The applicant, a 25-year-old Toronto security guard, was in his apartment when his common-law wife's daughter rang the doorbell. He opened the door and the daughter and her boyfriend stepped in. They accused the applicant of striking his wife, and the daughter's boyfriend said he would kill the applicant if he did it again. He then punched the applicant several times, and fled.

The applicant sustained a fractured left cheekbone, facial bruises, and a cut over the left eyebrow. The cheekbone was surgically elevated and the cut over the left eyebrow was sutured. The applicant also experienced tenderness on the left side of his face for about five months. A scar was left over the eyebrow.

The alleged offender is still at large.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance and treatment \$43.20; 7(1)(b) net loss of income \$385.19; 7(1)(d) pain and suffering \$1,500.00 for a total award of \$1,928.39.

**FILE 922-013815**

The applicant is the mother of the victim.

In March of 1983 the victim, aged 10, was kidnapped and sexually assaulted.

The victim kept the incident to herself for six months before she told her family what had happened. Police were then notified. Over this period of time, the victim had nightmares, behavioural problems at home and at school, and did not want to go anywhere by herself.

The victim and her mother attended separate therapy sessions sponsored by the Children's Aid Society to deal with the emotional trauma. The victim still sees a social worker from the Society. The victim remains concerned about the offender's release, and may require future supportive therapy for the permanent emotional and psychological scars left upon her by the assault.

The offender was convicted of kidnapping and sexual assault, and is serving a six year sentence.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(f) travel expense to attend hearing \$25.00, and in accordance with Section 36(6) of the Trustee Act for pain and suffering, a lump sum award \$8,000.00, payable to the Accountant of the Supreme Court Ontario to the credit of the victim until her age of majority; solicitor's fee \$400.00 and disbursements \$233.60, for a total award of \$8,658.60.

**FILE 922-014101**

The applicant is the father of the deceased victim, aged four, who died in a house fire at Elmvale caused by arson.

The application is for funeral expenses and the applicant's wage loss, as well as his wife's wage loss.

The offender pleaded guilty to three counts of second degree murder, and was sentenced to life imprisonment without parole for 15 years.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) funeral expense \$1,800.00; 7(1)(b) applicant's loss of income \$1,632.00; 7(1)(f) loss of income and travel expense to attend hearing \$211.30, and to solicitor for fee \$200.00, and to applicant's wife for loss of income \$576.00, for a total award of \$4,419.30.

**FILE 922-014134**

The applicant, a 30-year-old receptionist-typist, was walking home along a Toronto street

and was injured by flying glass from a window broken by an escaping bank robber.

The applicant suffered a 1½ cm. laceration to the left cheek, and a deep star-shaped 2 cm. laceration to the upper left lip. The cheek laceration required 5 sutures, and the lip laceration required 10 sutures. The applicant was also treated for a bruised and tender left eye area. She suffered from anxiety, sleeplessness and migraine headaches for several weeks. The applicant has been left with some residual scarring on the upper lip.

The offender is unknown.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being robbery, and ordered compensation under Sections 7(1)(d) pain and suffering \$1,200.00; 7(1)(f) doctor's report \$200.00; solicitor's fee \$200.00 and for disbursements \$55.00, for a total award of \$1,655.00.

#### **FILE 922-014163**

The applicant, a 48-year-old disability pensioner from Oshawa, went to the assistance of a man who was being stabbed in a hotel. Unfortunately, he himself was then stabbed several times. Police were called by one of the hotel staff, and the applicant was taken to hospital.

The applicant was treated for three stab wounds to his chest requiring 5 sutures each, and a severe stab wound to his right arm. The applicant refused to be admitted to hospital for further treatment. It appears that the wound to his arm has caused him the most lasting problems, as his ability to extend his right wrist and fingers has been significantly reduced by the injury. The applicant claimed that this has hampered his ability to take on odd jobs for extra income above his disability pension.

The offender was convicted of assault and sentenced to three months in jail.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Section 7(1)(d) pain and suffering \$1,200.00, for a total award of \$1,200.00.

#### **FILE 922-014099**

The applicant is the son of the victim, a 64-year-old man suffering from senile dementia.

A man broke into the victim's home, struck him several times about the head and stole his

wallet, which contained about \$500.00. The victim was later discovered by his son and wife, but refused to go to hospital.

A doctor was summoned to make a house call. The victim had sustained two black eyes and a laceration over the right orbital area. These were treated conservatively. Five weeks later, the victim was found to be limping severely and was unable to move his right extremities. Two days after that, after the victim had been admitted to hospital for testing, a CAT scan revealed two subdural haematomae.

Upon arrival at another hospital, the victim underwent a brain operation to relieve pressure under the skull. The victim had an uneventful recovery. He was discharged two weeks after the operation and followed up for approximately one month. The applicant claimed that the victim's senile dementia had intensified since the assault, and that the victim's energy level had diminished, and that he now appears more withdrawn.

The offender was not apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Section 7(1)(a) ambulance \$22.00; 7(1)(f) power of attorney and doctor's report \$105.00, and to the victim for pain and suffering \$2,000.00, for a total award of \$2,127.00.

#### **FILE 922-012613**

The applicant, a 41-year-old refrigeration service technician from Kingston, was returning from a service call in his truck, when he noticed a woman being harassed by a man. He stopped to assist her, and once out of his truck, he was suddenly punched by someone he did not see. His next recollection is of trying to get up, and seeing a police car pull up beside him. No one else was around, and no arrests were made in this connection.

The applicant had suffered an extensive plate fracture of the floor of the right eye socket, but no surgery was undertaken. He also suffered a laceration to his lip, which was sutured. Medical monitoring was carried out by his doctor for diplopia on the right lateral gaze, and a disordered sense of smell in the right side of his nose. The problems eventually resolved themselves.

The applicant's dentures were broken. The applicant was advised of Section 25 of the Act, and upon notification that new dentures have

been made to the applicant's satisfaction, the Board will consider payment of the cost.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Section 7(1)(b) net loss of income \$162.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing and loss of income \$114.00, for a total award of \$2,276.00.

**FILE 922-014773**

(Heard in Camera)

The applicant, a 55-year-old housewife, went to spend the night at her daughter's home, because the latter had been having problems with her estranged common-law husband.

Shortly before 10:30 p.m. the common-law husband broke into the house. He had drenched himself with gasoline and sprayed the applicant and her daughter's baby with it as well. He flashed his lighter and his clothes burst into flames. He tried to grab the baby from the fleeing daughter, but the applicant intervened. The offender grabbed the applicant to him and her clothes caught fire. He then pushed her back so that she fell against a coffee table. The daughter managed to get away with her baby, and the offender fled. The applicant was able to roll on a carpet to put out the flames to her clothes.

The applicant sustained second degree burns to the right side of her abdomen at the waist, which were treated with cream and daily dressing, which healed in approximately four weeks. She is left with some scarring which becomes irritated when exposed to any heat. She also suffered considerable emotional trauma with anxiety, sleeplessness and nightmares.

At the time of the hearing, the trial of the alleged offender was still pending.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Section 7(1)(d) pain and suffering \$2,000.00; solicitor's fee \$250.00 and disbursements \$113.95, for a total award of \$2,399.75.

**FILE 922-012565**

The applicant, a 29-year-old Toronto cabinet maker, was at a restaurant. After refusing to fight with several intoxicated and obnoxious men, he and his party attempted to leave the restaurant.

The offender, one of the obnoxious men, threw a glass sugar dispenser at the applicant, which struck him on the face. The applicant fell to the ground unconscious, during which time the offender's son kicked the applicant several times on the head. The restaurant owner intervened and the assailants fled.

The applicant was treated for a comminuted nasal fracture and a slightly depressed fracture of the right zygomatic (cheekbone) arch. Over a period of two years, he underwent several operations to repair his nose, a septorhinoplasty with cartilage grafting, a realignment of nasal bones, total nasal reconstruction, cosmetic surgery and improvement of airway. The applicant continues to have breathing problems and is left with visible scarring and a depressed cheekbone.

The offender was convicted of assault and sentenced to 60 days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) medical expenses not covered by OHIP \$1,306.78; 7(1)(b) net loss of income (30 days) \$1,146.30; 7(1)(d) pain and suffering \$2,500.00, for a total award of \$4,953.08.

**FILE 922-014504**

(Heard in Camera)

The applicant is the mother of the victim.

The victim, aged 11, and his friend went to a swimming hole on their bicycles. When they arrived at the swimming hole they saw a man shooting frogs with a pellet gun. The man befriended the boys, and subsequently sexually assaulted them.

The man was charged with sexual assault and sentenced to 18 months in jail, plus two years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation to solicitor for fee \$250.00 and disbursements \$25.00, and for pain and suffering \$1,000.00 to be paid to the Accountant of the Supreme Court of Ontario to be held in trust until the victim attains age 18, for a total award of \$1,275.00.

**FILE 922-013766**

The applicant, a 45-year-old Chatham cab driver, after arriving at his passenger's destination, turned on the interior light to read the meter. The passenger reached into his pocket, pulled out a knife and slit the applicant's throat

and chin. The applicant dove out of the cab and ran across the street for help.

He was treated at hospital for a laceration to his chin. It was approximately 4 inches long, slightly curved and deep, requiring thorough cleansing under general anaesthetic. The laceration to his throat was approximately 1½ inches long, just over his larynx, and this was quite deep too. He required 23 sutures in all. He remained in hospital for one day. The lacerations constitute a cosmetic disability as well as creating difficulty in shaving. He also suffered post traumatic anxiety. Future cosmetic surgery will be performed on the scar area.

The offender was not apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and compensation was ordered under Sections 7(1)(a) for ambulance \$22.00; 7(1)(d) pain and suffering \$2,200.00; 7(1)(f) hospital records \$30.00; solicitor's disbursements \$87.80. A Variation of the Order under Section 25, was subsequently considered and the Board ordered under Section 7(1)(a) a further \$169.50 for Travel expenses, making a total award to date of \$2,509.30.

#### **FILE 922-013633**

The applicant, a 26-year-old St. Catharines tow motor operator, was being harassed at a stag party by a friend of the offender. This man called the applicant's brother a derogatory name and bumped into the applicant several times. When the applicant tried to settle him down, the offender jabbed the applicant in the ribs and then struck him on the right side of the face, knocking him to the floor.

The applicant had suffered a right subconjunctival haemorrhage and a blow-out eye socket (orbital) fracture. The fracture was repaired with a silastic implant. The applicant also suffered from double vision (diplopia). Although this condition has improved it continues to be a problem. He was off work for one month.

The offender was charged with assault causing bodily harm and sentenced to jail for 30 days.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) hospital expenses not covered by OHIP \$177.00; 7(1)(b) net loss of income \$586.62; 7(1)(d)

pain and suffering \$2,200.00; solicitor's fee \$300.00 and disbursements \$450.15, for a total award of \$3,713.77.

#### **FILE 922-011614**

The applicant, aged 32, was working at his key and engraving business in an Ottawa mall. He heard the sound of glass shattering, then saw the alleged offender run out of a jewelry store in the mall. The alleged offender ran by the applicant's kiosk and the applicant gave chase. When they arrived at some glass doors, the alleged offender turned and slammed the door on the applicant. The applicant raised his right arm to protect himself and was cut on the inside of his forearm.

The applicant was treated for a six-inch oval laceration on the inside of his right forearm. The vein was lacerated but there was no nerve, tendon, or muscle damage. The laceration was sutured and bandaged. The applicant returned to hospital three times in the next nine days, experiencing considerable pain due to healing complications. He was unable to use the arm for two months. It was completely healed five months later, but a scar remained. He was off work for two months.

The alleged offender was not apprehended.

The Board found that the application qualified under Section 5(b) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$15.00; 7(1)(b) net loss of income \$200.00; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) travel expense to attend hearing \$35.00, for a total award of \$1,250.00.

#### **FILE 922-011952**

The applicant, a 27-year-old Aurora receptionist, was attacked outside her home by her hatchet-wielding estranged husband.

The applicant suffered two scalp lacerations, both 2½ inches in length, a laceration on her neck about 2½ inches long, another laceration on her neck, and a laceration on her right upper eyelid about 2½ inches in length. There was a small bone chip in her scalp, and a chip fracture of the outer table of her head, as well as a possible chip fracture of the right bone around the eye. The lacerations were repaired and she remained in hospital for six days.

The applicant developed problems with eyelashes rubbing against her eye, and significant scar formation involving the right brow and the inner area of the right lower eyelid. Surgical attempts were made to remove the lashes,



which proved unsuccessful. There is no permanent injury to the applicant's head, nor any disability, but she is left with a noticeable cosmetic deficit around her right eye.

The offender was sentenced to seven years for attempted murder, and two years concurrent on other charges.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$510.70; 7(1)(d) pain and suffering \$2,800.00; 7(1)(f) travel expense to attend hearing \$21.50, for a total award of \$3,332.20.

#### **FILE 922-013358**

The applicant, a 26-year-old Welland sales coordinator, was playing hockey in a college league when he was struck on the right side of his face from behind with a hockey stick by an opposing player.

The applicant was taken to hospital and treated for a severe laceration above the right eye requiring 26 layered stitches. He recovered with no complications.

The offender pleaded guilty to assault causing bodily harm, and was given a conditional discharge plus seven months probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$900.00; solicitor's fee \$300.00 and disbursements \$144.85, for a total award of \$1,344.85.

#### **FILE 922-014790**

(Heard in Camera)

The applicant, an 85-year-old woman, was the victim of a sexual assault in her apartment. She suffered various types of sexual abuse and sustained bruising to her body and two cracked ribs.

The applicant was given antibiotics at hospital and released. She stayed with her daughter for two months during which time she required some professional nursing care and the help of her family. She was in extreme pain for a month and then gradually recovered. The applicant was compelled to move to a new apartment. Her social activities have been curtailed and she continues to suffer from nightmares and apprehension.

The offender was convicted and sentenced to seven years imprisonment.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dentures relined, drugs, lift chair, nursing care \$507.57; 7(1)(d) pain and suffering \$6,000.00; and to solicitor for disbursements \$126.00, for a total award of \$6,633.57.

#### **FILE 922-013365**

The applicant, an 18-year-old part-time Oshawa sales clerk, was into an argument with her former boyfriend at his home. He stabbed her three times with a butcher knife. The boyfriend's sister intervened and called an ambulance.

Surgery was required to repair damage done by a stab wound through the abdomen to the aorta, and a stab wound through the right breast to the diaphragm and liver. These wounds required an aortic graft and several sutures. A stab wound through her right calf was packed and dressed. The knife also penetrated her second lumbar vertebrae quite deeply.

The applicant required a binding up of ligamentous structures, which in turn, caused a chronic backache, which has significantly affected the applicant's lifestyle forcing her to give up recreational and sports activities, and impairing her ability to sleep at night. Medication has not helped, and corrective surgery is out of the question.

The offender was convicted of attempted murder and sentenced to six years in jail, with a recommendation for psychiatric treatment.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(a) waterbed for injured back \$488.00; 7(1)(b) net loss of income \$750.00; 7(1)(d) pain and suffering \$7,500.00; solicitor's fee \$175.00 and disbursements \$129.10, for a total award of \$9,042.10.

#### **FILE 922-013572**

The applicant a 37-year-old ice cream vendor from Markham was working on the street when a man stole a box of ice cream and ran off with it. The applicant pursued him and attempted to hold him for police. Two other men appeared and kicked the applicant on his head repeatedly rendering him unconscious. When the applicant regained consciousness he was on a church lawn, and was kicked again. He was able to get help but again lapsed into unconsciousness.

At hospital, the applicant was treated and released. He was later treated by his family doctor for bruises and abrasions to his scalp, head, right forehead, nose, right shoulder, left wrist and a painful neck. He suffered from extreme anxiety, loss of appetite, nightmares and loss of concentration and memory. He was able to continue working.

The offenders were convicted of assault causing bodily harm.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$22.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing \$17.00; solicitor's fee \$300.00 and disbursements \$145.00, for a total award of \$2,484.50.

#### **FILE 922-013515**

With the consent of the applicant, the Board heard and considered this application solely on the documentary evidence which had been filed with it.

The applicant, a 47-year-old car salesman from Ottawa had been out for dinner. He was returning to his car, when he was jumped by two men who beat, kicked and robbed him. He was able to return to his motel, and went to hospital the next morning. He was treated for a minimally displaced fracture of his right forearm, an undisplaced fracture of the left wrist, and a recent right knee fracture.

The applicant did not report the incident to police. The Board was not satisfied with the applicant's affidavit setting forth the reasons for not doing so.

The Board found that the applicant failed to prove that he was injured as a result of a crime of violence as envisioned by Section 5 of the Act, and also considered Section 17(2) of the Act, in that the applicant failed to report promptly the offence to a law enforcement agency. The application was denied.

#### **FILE 922-013101**

The applicant, aged 22 and unemployed, from Waterloo, was attending a party at which he had been drinking, eating, and socializing over a period of several hours. A wrestling match had ensued outside between two men he had met briefly at the party.

The applicant went outside, leaned up against a fence, and suggested that the two men refrain from fighting. The fight continued for several minutes when one of the men sud-

denly jumped up from his wrestling match and struck the applicant across the mouth, forcing his neck back across the fence.

The applicant was treated for small lacerations on his lower lip, and sore neck muscles.

3½ teeth were knocked out, and he required new bridgework. He was given painkillers and released. Two days later, his family doctor ordered muscle relaxants, hot packs for his neck, and more pain killers. A month later, his doctor reported no residual neck stiffness. He also attended his dentist for repair work.

Future dental work is deemed necessary, and the applicant was advised that an application for further compensation would be considered under the provisions of Section 25 of the Act.

The offender was convicted of common assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) dental work \$2,067.50; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) loss of income to attend hearing \$100.00; solicitor's fee \$450.00 and disbursements \$211.10, for a total award of \$5,328.60.

#### **FILE 922-013128**

The applicant a 46-year-old taxi-driver from Glenelg dropped off one of two male passengers, and then drove the other to his destination. Upon arrival, the second passenger was \$4.00 short of a \$6.75 fare. The applicant then requested security for the money he was owed and received the offender's birth certificate. The applicant was writing down this information when the offender grabbed the certificate and attacked him. The applicant was knocked to the ground and kicked in the area of his right eye.

The applicant was treated for a laceration of the right upper eye lid and swelling of the right upper eye. Both knees were abraded and bruised. The applicant had no vision out of his right eye. Although the vision in his left eye remained at 20/25, the prognosis was that as a result of the assault, the applicant would have no useful vision in his right eye due to permanent damage of his right optic nerve. The applicant was off work ten weeks.

The charges against the alleged offender were dismissed due to lack of positive identification.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$1,120.00; 7(1)(d) pain and

suffering \$4,000.00; solicitor's fee \$250.00 and disbursements \$244.10, for a total award of \$5,614.10.

#### **FILE 922-013113**

The applicant, a 37-year-old set-up lead hand from Hamilton was attending a stress seminar. He was waiting for an elevator in a University residence, when the offender appeared suddenly and grabbed him, screaming and shouting, and accusing the applicant of stealing his wallet. The offender held the applicant at knifepoint for half an hour, inflicting lacerations to his neck and stabbing him in the groin.

The applicant was treated for a knife wound to the leg. He received two sutures. He was also treated for lacerations to the neck, and was discharged with pain killers. The incident exacerbated a pre-existing blood pressure problem. Although outward physical recovery was complete with one month, attendant problems of agitation and depression continued until the blood pressure problem stabilized a year later. With the release of the offender from jail, the applicant again became very apprehensive.

The offender was convicted of assault and received a three month jail sentence.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) hospital records, travel expense to attend hearing, legal fees and telephone charges \$348.50, for a total award of \$2,348.50.

#### **FILE 922-013498**

The applicant, a 24-year-old Kitchener delivery man and his brother were having a beer in a hotel beverage room when a female came over and took one of the beers. The applicant questioned this action, and was struck from behind and knocked to the floor. He was then kicked several times before losing consciousness.

The applicant sustained bruises to the chest, a black eye, and a fractured jaw. The fractured jaw required wiring for five weeks, plus further adjustments made with elastic traction. The applicant was off work for one week. He will require additional dental work and was advised that an application for further compensation would be considered under the provisions of Section 25 of the Act.

No offender was apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(a) net dental expense \$46.00; 7(1)(b) net loss of income \$272.09; 7(1)(d) pain and suffering \$1,800.00; 7(1)(f) travel expense to attend hearing \$45.78; solicitor's fee \$275.00 and disbursements \$235.78. An additional application was received and considered under Section 25 of the Act, and compensation was ordered under Section 7(1)(f) for reimbursement of cost for dental treatment \$300.00, for a total award to date of \$2,974.65.

#### **FILE 922-012127**

The applicant, a 53-year-old Hamilton man, unemployed and on a disability pension, was pushed in front of an oncoming bus. His injuries were extensive. His right leg was crushed, with most of the skin and muscle torn from the lower thigh, knee and upper shin and calf. His ankle was broken as well.

The applicant was in hospital for six weeks, and received very painful skin grafting over that period of time. Eight months later, he returned to hospital for intensive in-hospital physiotherapy. The applicant continues to have problems with severe pain, and this was further aggravated because he cannot receive pain medication, due to the medication he has to take for his heart. The ankle swells if walked on for any distance, and the applicant has difficulty going upstairs, or doing anything for any length of time which requires extensive use of the right leg and ankle. Scarring to the leg is extreme.

The offender was acquitted of aggravated assault. The issue before the jury was the question of whether or not the push and the applicant's injuries were beyond a reasonable doubt intended. The issue before this Board is only to a balance of probabilities, and thus it found the applicant to be an innocent victim of a crime of violence.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Section 7(1)(d) pain and suffering \$8,000.00; solicitor's fee \$500.00 and disbursements \$548.45, for a total award of \$9,048.45.

#### **FILE 200-6596**

The applicant, aged 28, unemployed and a Windsor resident, was seated in the waiting

room of his doctor's office when two unknown males assaulted and robbed him. They stole his gold chain and a watch.

The applicant was treated by his doctor for a swollen left temporal area laceration of the left upper lip, requiring nine sutures, and neck pain and headaches.

The two offenders pleaded guilty to assault causing bodily harm.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$750.00; and solicitor's fee \$150.00 and disbursements \$85.00, for a total award of \$985.00.

#### **FILE 922-012242**

The applicant, a 22-year-old Emeryville labourer, was at a motorcycle club headquarters with several others, playing pool and drinking. The alleged offender entered the clubhouse and went on a shooting and stabbing rampage, killing and/or wounding almost everyone present.

The applicant sustained a gunshot injury with a comminuted fracture involving the left hip. Two bullets had lodged within his left thigh. He had also received stab wounds in the left back area. He underwent emergency surgery, and a side-plate was then transfixed with screws of varying lengths. After discharge from hospital, the applicant continued to experience extreme pain from the left hip fracture.

About 2½ months later, the applicant underwent surgery to renail and plate the bone grafting. He will be left with some permanent disability due to left leg shortening, and some deformity to the left arm and shoulder, which had been dislocated.

The Board found that the applicant's behaviour did not contribute to his injuries. There was no prosecution as the alleged offender escaped the scene, and was shot by police in a shootout in an unrelated incident eight months later.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,300.00; 7(1)(f) travel expense to attend hearing \$50.00; solicitor's fee \$50.00 and disbursements \$534.00, for a total award of \$2,934.00.

#### **FILE 922-012264**

The applicant, a 37-year-old machine operator from Niagara Falls, was refereeing a soccer game. The offender, a member of one of the teams, committed a serious foul against one of his opponents. The applicant stopped play, and threatened to eject the offender from the game. After a verbal threat against the applicant, the offender then poked the applicant in the eye and punched him on the head and neck.

The applicant was taken to hospital where it was feared that he might lose the vision in his right eye. He had also suffered a cracked vertebra in the neck, and chipped teeth when his teeth crunched against the whistle in the mouth at the impact of the blow. Doctors were able to save the sight of his eye, and administered the required treatment to his neck. His chipped teeth have been crowned, although further dental treatment may be needed in the future.

The applicant was off work for approximately one month, and was ordered to avoid regular sports for about six months. The applicant was advised of Section 25 of the Act with regard to future dental work.

The offender was charged with assault causing bodily harm and sentenced to one day in jail and a fine.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance \$21.00; 7(1)(b) net loss of income \$1,427.41; 7(1)(d) pain and suffering \$3,000.00; 7(1)(f) doctor's report \$175.00; solicitor's fee \$350.00 and disbursements \$189.05, for a total award of \$5,162.46.

#### **FILE 922-012629**

The applicant, a 24-year-old Hamilton police officer was doing a routine check at a bar when he was attacked by the offender, who hit him in the right eye, breaking his glasses. The offender also grabbed the applicant's testicles and delivered a blow to the inside of the applicant's right knee. Fellow officers arrived, arrested the offender and took the applicant to hospital.

The most serious injury suffered by the applicant was to his right knee. This ligamentous injury resulted in an anterior cruciate (cross-shaped) deficient right knee. The applicant has to wear a brace on the knee and may require surgery in the future. He went to see a physiotherapist twice and a chiropractor

once who advised the applicant to wear a knee brace whenever he participated in sports. The applicant was off work for nearly four months, but his loss of income was covered by The Workers' Compensation Board.

The offender was convicted of assaulting a peace officer, and sentenced to 80 days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing \$35.00; and solicitor's fee \$300.00 and disbursements \$316.25, for a total award of \$2,651.25.

#### **FILE 922-014260**

The applicant, a 64-year-old Ottawa cleaner, was walking to his vehicle through a parking lot when he was confronted and struck across the head and face several times with a gun, and robbed.

The applicant sustained deep lacerations to his head which required 40 sutures. He also received a laceration to his upper lip and lost two teeth. He was kept in hospital one day and was discharged with pain-killers. He was absent from work two months with severe headaches and nervous anxiety.

No one has ever been apprehended.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) travel for treatment \$26.00; 7(1)(d) pain and suffering \$2,000.00 for a total award of \$2,026.00.

#### **FILE 922-013552**

(Heard in Camera)

The applicant is the mother of the victim, who was kidnapped and sexually assaulted.

The victim's physical injuries were minor, but she was withdrawn, depressed and angry for about three months. She had nightmares and her schooling deteriorated. The victim and her mother attended separate therapy sessions for about a year after the incident to help deal with the emotional trauma. The family moved to another city and the victim made a fresh start at a new school. The victim continues to attend a therapy activity group and to see a social worker, and may need future supportive therapy.

The offender was convicted of kidnapping and sexual assault and given a six year sentence.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(f) travel expense to hearing \$76.00, and in accordance with Section 36(6) of the Trustee Act \$8,000.00, payable to the Accountant of the Supreme Court of Ontario to the credit of the victim until age 18 when she is to be paid one half of the amount, and the remainder to be paid when she is age 21, and to solicitor for fee \$400.00 and disbursements \$458.16, for a total award of \$8,934.16

#### **FILE 922-013393**

The applicant, a 20-year-old waiter from Windsor, was assaulted in a tavern when he asked a girl at a table next to his to dance. One of the men at the girl's table objected, and he punched the applicant in the mouth, knocking him to the floor.

The applicant sustained a laceration to his upper lip and another laceration to his gum, both of which were sutured. In addition, he required emergency dental surgery in order to stabilize four damaged teeth. The surgery was not a success, and the applicant will require two teeth extracted, a four tooth bridge inserted and possibly root canal work. The applicant lost 10-12 hours of work. He was advised of Section 25 of the Act, and that the Board will pay up to a maximum of \$1,800.00 when the required dental work is completed.

The offender was convicted of assault and fined \$375.00.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) net dental expenses \$252.40; 7(1)(b) loss of income \$165.00; 7(1)(d) pain and suffering \$1,000.00; 7(1)(f) dental reports \$100.00, for a total award of \$1,517.40.

#### **FILE 922-014171**

The Board heard the application based on documentary evidence filed with it.

The applicant, a 26-year-old security officer was kicked in the groin during the course of apprehending the offender, who had just broken a window.

The applicant was examined at hospital for a contusion with swelling to the testicles, which was very painful. The applicant was absent from work for five days. His loss of wages were covered by The Workers' Compensation Board.

The offender was convicted of assault and sentenced to 60 days in jail, and 15 months probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$600.00, for a total award of \$600.00.

#### **FILE 922-010444**

The applicant, a 29-year-old hotel employee from Niagara and an acquaintance were visiting the residence of a friend. There were five or six people drinking, but the applicant claims he did not know anyone else in attendance. The applicant and his acquaintance left the residence a few hours later with one of the other people. While walking down the driveway to their car, someone shot at them, and all three were struck by shotgun pellets.

The applicant was treated in hospital for gunshot wounds to the left arm, left side of the chest, and stomach. The pellets were surgically removed, and numerous stitches were required.

The applicant and his associates refused to assist the police in their investigation, and two of the three signed statements indicating their desire that the matter not be pursued further. The police were forced to close the investigation.

The Board concluded that the applicant displayed a total lack of co-operation with the police and bearing in mind the responsibility placed on it under Section 17(2) of the Act, denied the application.

#### **FILE 922-010057**

The applicant, a 35-year-old systems analyst was assaulted by several youths outside his Toronto home. He was struck on the left arm with a baseball bat.

The applicant received treatment for a comminuted fracture of the left arm which required open reduction and internal fixation, followed by a cast for one month. The applicant experienced pain and discomfort of the arm, until the internal fixation and plate were removed 14 months later. He suffered from depression, insomnia and emotional trauma for a lengthy period of time.

Five offenders were charged with wounding.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a)

amount above OHIP \$76.23; 7(1)(b) net loss of income \$408.15; 7(1)(d) pain and suffering \$6,000.00; solicitor's fee \$400.00 and disbursements \$397.00, for a total award of \$7,281.38.

#### **FILE 922-011003**

The applicant, a 71-year-old Toronto physician, went outside his home to investigate a car that had come to rest on his front lawn.

The driver of the car fled, and the applicant gave chase and was momentarily able to detain the driver. The driver escaped the applicant's grasp as a police cruiser that had been following the vehicle arrived. The applicant gave chase again and, in doing so, ruptured his achilles tendon and fell to the ground.

The applicant underwent surgery to repair the tendon, and was in a cast for approximately seven weeks. It was three to four months before recovery was complete.

The offender was convicted of impaired driving.

The Board found that the application qualified under Section 5(b) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$4,178.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) other pecuniary loss \$29.40; solicitor's fee \$400.00, and disbursements \$31.25, for a total award of \$6,638.65.

#### **FILE 922-012634**

The applicant aged 19, unemployed, was assaulted outside a Windsor tavern. The assault was linked to an argument inside the tavern between the offender, the applicant and his friends. The applicant, on leaving the tavern encountered the offender in the parking lot, and confronted him. The offender suddenly struck the applicant across the head with a lead pipe, knocking him unconscious. He then kicked the applicant in the face.

The applicant sustained a laceration to his left ear and nose, both of which were sutured. Later that same day, the applicant underwent open reduction surgery to repair a fracture to his nose. His nose was packed for two days and placed in a cast for four days. His injuries healed within seven weeks. He still experiences some sinus problems.

The Board found that the applicant's behaviour in deliberately approaching the offender a second time was a contributing factor to his injuries, and therefore ordered a reduced

amount under pain and suffering, invoking Section 17(1) of the Act.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(d) pain and suffering \$800.00; and solicitor's fee \$250.00 and disbursements \$206.00, for a total award of \$1,256.00.

#### **FILE 922-012292**

The applicant, aged 25, was visited at her residence by her estranged husband. After an argument, the husband fired six shots, three of which penetrated the applicant's right shoulder/chest area. The applicant was also struck several times on the head with the gun causing severe lacerations to the skull.

At hospital, the applicant's shoulder wounds were cleansed, packed and bandaged. No major organs were hit by the bullets. Sutures were required for the skull lacerations. She received pain killers and left the hospital. Her doctor reported that there would be temporary shoulder immobility, but no permanent damage. The applicant returned to her doctor several times complaining of severe pain, but the doctor concluded she was over-reacting.

The alleged offender was charged with attempted murder. However, at trial, the applicant changed her story, and the charges were dismissed.

With consideration to its obligation under Section 17(2) of the Act, the Board concluded that the charge of alleged attempted murder was a serious matter, and that the applicant refused reasonable co-operation with a law enforcement agency. Therefore, the application was denied.

#### **FILE 922-012909**

The applicant, a 35-year-old government employee resident in Toronto was walking with his bike along a sidewalk, when he was accosted by the offender who suddenly jumped out of the bushes. The offender struck the applicant on the face with a brick, and knocked him to the ground. The applicant got up, and realizing the offender was attempting a second assault, fled on foot.

The applicant was treated for a lacerated lip, a bruised cheek, and a laceration to the top of his scalp and forehead, which were sutured. The sutures were removed five days later. He is left with a 1½ inch scar above his right eye, and he experienced considerable trauma.

The offender was convicted of assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,500.00, for a total award of \$1,500.00.

#### **FILE 922-010596**

The applicant, an 18-year-old steel worker, was assaulted at a pool hall by two men he had defeated in a pool game. He was punched and stabbed in the scuffle.

The applicant was treated for a stab wound to the abdomen and lacerations to the right chest and behind the left ear. He underwent an emergency abdominal operation during which three minor perforations of the small bowel were sutured. Four days after being discharged from hospital, he returned by ambulance and was given a prescription for post-operative abdominal pain. The applicant has permanent scars on his chest and abdomen from the wounds and surgery. He remains anxious for his safety as the offenders were never apprehended. The applicant was off work for 13 weeks.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(a) hospital expenses \$20.00; 7(1)(b) net loss of income \$650.00; 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) travel expense to attend hearing \$54.50, for a total award of \$3,224.50.

#### **FILE 200-9876**

The applicant, aged 34 and employed in Toronto as a policy analyst was returning to her apartment building when a partially hooded man attacked her near a side entrance. He grabbed her around the neck and told her not to scream, then threw her to the ground, exerting considerable force on the jaw and neck. The applicant screamed out, the man released her, apologized profusely and stated something to the effect that he had thought she was his girlfriend.

The applicant was treated by a chiropractor for an upper back sprain and a strained hip. She complained of trauma, shock, and headaches and pain on the right side of her head. After reporting jaw stiffness and locking, she was fitted with a dental plate to relieve joint spasm. She continued chiropractic treatment in subsequent years, and underwent a natural

healing treatment, but back and neck pains persist.

The applicant anticipates further dental work in the future. Both the plate and the jaw will need readjustment. She was advised of Section 25 of the Act should she require further treatment as a direct result of this incident.

The offender was not apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Sections 7(1)(a) OHIP differential and dental plate \$202.00; 7(1)(d) pain and suffering \$1,500.00; 7(1)(f) chiropractor's reports \$150.00, for a total award of \$1,852.00.

#### **FILE 922-011476**

The applicant, a 22-year-old attendant at a rest home, was punched in the face several times by a psychiatric resident after she had told him he would have to wait before she brought him a cigarette.

The applicant was treated for a displaced fracture of the alveolar structure (a segment of the upper jawbone above the mouth where the dental roots are located). There was also a severe displacement of the left upper central and lateral incisors. This problem was corrected with the application of an arch bar and interdental fixations. Eight weeks later, the arch bar was removed and the applicant underwent root canal therapy. Discolouration and weakness still persist, which will necessitate the construction of 'crowns' for the two incisors. The applicant also suffered fearfulness, anxiety and stress. Tranquilizers and anti-depressants were prescribed, but she remains fearful of "loud, boisterous men". She was off work for eight months.

The claim for loss of income will not be considered by the Board until the applicant has first applied to The Workers' Compensation Board.

The offender was convicted of assault causing bodily harm, and received a suspended sentence and three years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$2,200.00; solicitor's fee \$200.00 and disbursements \$44.00, for a total award of \$2,444.00.

#### **FILE 922-010749**

The applicant, a 30-year-old housewife living in Sault St. Marie awoke to find her common-law husband loading a shotgun. He ordered her and her two children from the house. As they ran from the house across the lawn, he opened fire with the shotgun, killing the applicant's six year old daughter, seriously wounding her eight year old son (File 922-010750) and wounding the applicant in her back and buttocks.

The alleged offender, who had a history of psychiatric problems, then committed suicide.

The applicant was treated for minor pellet wounds to her back and buttocks. They were dressed and bandaged, but no surgery was required. A few days later, the pellets became increasingly uncomfortable, and an unsuccessful attempt was made to remove them. The pellets no longer cause discomfort, but they have left some scarring on the buttocks. Although the applicant did not seek psychiatric or psychological help, the Board recognized the emotional trauma she suffered as being far more severe than her physical injuries.

The Board found the application qualified under Section 5(a) of the Act, the crime of violence being wounding, and ordered compensation under Sections 7(1)(d) pain and suffering \$5,000.00; 7(1)(f) travel expense to attend hearing \$239.75; and solicitor's fee \$400.00, for a total award of \$5,639.75.

#### **FILE 922-010750**

The applicant is the mother of the victim.

On November 22, 1982, the victim, a boy aged 8, sustained gunshot wounds to his back, neck and head when running from the alleged offender.

The victim sustained irreparable damage to the spinal cord which left him a quadriplegic, except for good use of his right hand. He has undergone spinal fusion to correct paralytic scoliosis of his back (spine curvature). Although confined to a wheelchair, he attends regular classes in Toronto. In addition to home therapy, the victim requires daily medication and bi-monthly visits with a child psychiatrist because of emotional problems.

The alleged offender committed suicide.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Section 22 of the Act (costs) drugs, air fare, hotel, car and truck



rental, gas, necessities and miscellaneous expenses \$3,961.98, solicitor's fee \$600.00 and disbursements \$110.00; a maximum lump sum payment for pain and suffering \$15,000.00, payable to the victim pursuant to Section 36(6) of the Trustee Act when he reaches the age of majority, for a total award of \$19,671.98.

#### **FILE 922-012335**

The applicant, a 35-year-old inmate at Millhaven Institution, walked into the yard at dinnertime and felt several thuds on his back. When he returned to his cell, he realized that his back was bleeding. He laid on his bed and dozed off. He awakened with the realization that there were several men in his cell. He felt a slash to his left chest and to protect himself, raised his left arm over his face. He received a superficial laceration to his left forearm. The men left.

The applicant was admitted to hospital with a 1 cm. stab wound to the left chest which had punctured his lung, a slash wound to the right lower back, and a superficial laceration in the left forearm. The wounds were cleansed and sutured, and the applicant was discharged from hospital nine days later. His doctor reported that he suffers from anxiety, and depression as a result of the attack.

The applicant does not know who stabbed him, but wished the police investigation not to proceed further. Police involvement ended due to his lack of interest. The Board considered its obligation under Section 17(2) of the Act, and concluded that the applicant was not significantly unreasonable in declining to aid the police investigation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,200.00, for a total award of \$1,200.00.

#### **FILE 922-012691**

The applicant is the mother of the deceased victim.

The victim, a 17-year-old labourer, was at a motorcycle club headquarters with several others, drinking and playing pool. The alleged offender entered the clubhouse and went on a shooting and stabbing rampage, killing and/or wounding virtually everyone present. The victim was shot dead.

The claim is for funeral expenses.

There was no prosecution in this matter as the alleged offender escaped the scene, and was shot dead by police in a shootout eight months later.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being murder, and ordered compensation under Sections 7(1)(a) funeral expense \$2,200.00; 7(1)(f) travel expense to attend hearing \$135.00, and to solicitor for fee \$250.00 and disbursements \$91.50, for a total award of \$2,676.50.

#### **FILE 200-9725**

The applicant, a 45-year-old waitress and machinist claimed she was injured. Two days later she appeared at the hospital with a number of injuries which suggested an assault.

The applicant told the Board that she had no memory of events until she came to in her apartment. She found herself sitting in a chair in her apartment fully clothed and injured, but there was no sign of a struggle.

The applicant remained in hospital for two weeks, and a number of unusual injuries were noted, mostly on her left side. These were blunt trauma injuries to her left arm and thigh, and a number of burn type skin injuries to the left side of her face, body and legs. There was some nerve damage to the left arm which required prolonged nerve block treatments, and the applicant has been left with a 25% loss of function disability to her left arm and hand.

After an extensive police investigation, no evidence of an assault was uncovered. On the evening the applicant alleges the assault took place, the applicant was intoxicated. It seems possible that the applicant could have fallen down a sixteen step flight of stairs outside her apartment door, and come to rest against a steam radiator at the foot of the stairs. This would be consistent with the injuries received.

The Board was unable to find that a crime of violence, as described in Section 5 of the Act, had occurred, and therefore the application was denied.

#### **FILE 922-012923**

The applicant, a 28-year-old Haliburton police officer and member of the Tactics and Rescue Unit, was shot while attempting to enter a cottage to apprehend the offender, who had escaped from a mental health centre and who was holed up in the cottage.

The applicant was taken to hospital and treated for two gunshot wounds. He underwent surgery for excision of a wound of entry through the lower abdomen, which exited through the left buttock, and for excision of a scalp wound. One week later, sutures were removed, and it was noted that his scalp wound had healed. The applicant was off work for about a month. His loss of income was covered by The Workers' Compensation Board.

The offender is at an institution for the criminally insane.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Section 7(1)(d) pain and suffering \$2,100.00, for a total award of \$2,100.00.

#### **FILE 922-013089**

The applicant is the mother of the victim. Her son, aged 10, found a device resembling a firecracker on a street near his home. He brought it to his friends, and they ignited it while hiding 15 feet away behind a shed. Apparently, the boy was not completely shielded from the explosion which occurred. A piece of metal casing from what was later discovered to be a home-made bomb lodged in his left shoulder.

The boy was initially in hospital two days for the repair of the laceration to his left shoulder area. He underwent twice-weekly physiotherapy for 17 months for nerve damage in his left arm. He was seen medically every three months for three years. A year-and-a-half after his injury, he underwent surgery on his left hand to bypass nerve damage and to restore complete control to his fingers. He made a good recovery, but his left hand is significantly weaker than his right hand, and he lacks full control of his thumb.

Two juveniles were convicted of possession of explosives without lawful excuse.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) ambulance and travel for treatment \$229.00; 7(1)(f) travel expense to attend hearing \$47.04, to doctor for medical report \$150.00, and to The Accountant of the Supreme Court of Ontario \$5,000.00 for pain and suffering to be held until the victim reaches the age of 18, for a total award of \$5,426.04.

#### **FILE 922-011444**

The applicant, a 20-year-old unemployed male living in Capreol, was aboard a motorcycle proceeding home from a party, and ran head-on into a parked van.

The applicant received multiple injuries. A blood clot on the brain requiring extensive surgery, a broken right wrist, a broken right leg, and mental disability.

The applicant was charged under The Highway Traffic Act with having no licence plate and no 'M' endorsement on his private licence, and with careless driving, as well as having no insurance. The first two charges were withdrawn, and he was found guilty on the last two counts and was fined \$103.00 and \$503.00 respectively.

The Board could find no evidence of any person attempting or committing an act of violence or assault against the applicant as required under Section 5(a) of the Act. Accordingly, the Board denied the application, but did pay costs under Section 22 to solicitor for medical reports, subpoena and fee \$511.70, and in a subsequent order for costs \$81.00 for a medical report, for a total amount of \$592.70.

#### **FILE 922-011455**

The applicant, a 43-year-old store security guard in Kingston, observed a male and female shoplifting while she was on duty and she followed them outside. In apprehending them, a scuffle ensued and the applicant was kneed and punched several times. As well her hair was pulled, and she injured her back.

The applicant was treated for abrasions to her nose, left wrist, and right breast, bruising to her lower abdominal area and groin, and a lower back injury. The bruising to her lower abdominal area and groin became complicated with internal hematomas and direct and indirect hernias. This area was quite painful. She also experienced urgency incontinence and loss of urine due to the hernias. About three months after the incident, the hernias were surgically repaired. She developed a denervation pain syndrome in the groin. Doctors were unable to treat it or the chronic strain to the lumbar sacral region of her back successfully with surgery. The applicant was unable to work, and received a disability pension from The Workers' Compensation Board. Because of the back problems, she found it necessary to have someone accompany her when she drives a car.

The offender was charged with possession of stolen goods and assault, and sentenced to 75 days in jail.

The Board found the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$3,000.00; 7(1)(f) travel expense to attend hearing \$70.00, for a total award of \$3,070.00.

#### **FILE 922-012556**

The applicant is the sister of the deceased victim, the mother of the minor and his sister. The applicant and her husband were awarded custody of the minors.

The minor's mother was murdered by her estranged husband, father of the minor.

The applicant claimed expenses incurred and pecuniary loss as a result of this occurrence, and a monthly award for the support of the minor.

The offender was found not guilty of the charge of murder by reason of insanity.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(a) travel for treatment \$463.00; and solicitor's fee \$175.00, and continuing periodic payments to the applicant in the amount of \$200.00 per month to be used on behalf of the minor until he reaches the age of majority, subject to annual review.

#### **FILE 200-7568**

The applicant, a 23-year-old saw mill worker in Killaloe, had left a local hotel and was walking home along the highway, when a car stopped beside him. The applicant thought the car had stopped to offer him a ride. Instead, three males jumped from the car and assaulted him. He was left bleeding and unconscious on the highway, where he was later found by a friend.

The applicant was hospitalized for three days with extensive bruising and a fractured pelvis. He was on crutches for approximately three months, and was not fully recovered until a month after that. The applicant lost 13 weeks of work, but received benefits for 10 of those weeks. The Board covered the net loss.

The offenders were never apprehended.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault causing bodily harm, and ordered compensation under Sections 7(1)(b) loss of income \$887.50;

7(1)(d) pain and suffering \$2,000.00; 7(1)(f) travel expense to attend hearing \$40.00, for a total award of \$2,927.50.

#### **FILE 922-012501**

The applicant, a 17-year-old student, was on a Toronto street outside the house of a friend where he had attended a party. He was intoxicated and got into a fight with the offender over a mutual girlfriend. The offender punched the applicant on the head once. The applicant fell backwards, striking his head on the roadway, and was unconscious for a brief period, after which he remained dazed.

At hospital, the applicant was first classified as drunk and was discharged. After persistent disorientation, agitation and drowsiness he was taken back to hospital where he remained for 9 days.

A CAT scan was performed, and he was found to have a small extradural haematoma, a right frontal contusion, and a fractured skull. A pressure measuring device was inserted in his head. About a week later, the drowsiness and disorientation had cleared up and the haematoma had re-absorbed spontaneously. He continued to be bothered by double vision, a tendency to imbalance, memory loss, loss of sense of smell, combativeness, a reduction in intellectual capacity, and a tendency to disinhibition. Two years later, he continued to suffer from emotional lability a reduction in intellectual capacity and a lack of motor coordination. He remains short-tempered.

Due to the effect of his injuries, the applicant dropped out of school and gave up plans to go on to university. He now works as an apprentice carpenter. The applicant's mother lost six weeks loss of income.

The offender pleaded guilty to assault and was sentenced to 30 days in jail.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$8,000.00; 7(1)(f) net loss of income to attend hearing \$30.00, and to applicant's mother for loss of income during applicant's convalescence \$1,200.00, for a total award of \$9,230.00.

#### **FILE 922-012610**

The applicant, aged 20 and unemployed, encountered the offender in his Toronto apartment building hallway. The offender accused him of stealing his girlfriend's stereo. A verbal

argument ensued and both men engaged in some punching and shoving.

The dispute between the two soon cooled, and they went outside the building and had a few beers. The offender invited the applicant to his girlfriend's apartment for some more drinking. At the entrance-way of the girlfriend's apartment building, the offender pulled out a knife and stabbed the applicant twice in the chest. The applicant turned to leave and was stabbed three more times. The offender then got into his car and drove it at the applicant, knocking him down. He then backed the car over the applicant once and forward once.

The applicant was taken to hospital and the five stab wounds were sutured. There was no damage to internal organs. He also suffered abrasions and contusions to his face and chest, and soft tissue injuries to the lower left abdomen and upper left thigh, where he had been run over by the car. The applicant also complained of left knee and lower back pain. There was no documentation to support any knee injury, and x-rays of the spine were normal. His stab wounds healed with some scarring.

The offender pleaded guilty to wounding and received 20 months in jail.

After careful consideration to Section 17(1) of the Act, it was the view of the Board that the applicant did not use good judgment in agreeing to go drinking and socializing with a man who had already exhibited violent behaviour. However, the violence and unprovoked attack was out of all proportion to what any reasonable person could foresee.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,000.00; solicitor's fee \$400.00 and disbursements \$123.80, for a total award of \$1,523.80.

#### **FILE 922-011089**

The application was filed after the one year limitation period. The Board granted an extension.

The applicant, a 27-year-old auto body mechanic, was in bed with his girlfriend when his girlfriend's estranged husband (the offender) burst into the bedroom in a rage. The offender threatened to kill the applicant, and smashed a large ceramic horse against the end of the bed. One large piece hit the applicant on the right side of his chest and his left thumb. When the applicant tried to get out

of the bed, the offender hit him with a broken piece of ceramic under the left arm on the armpit. The offender then threatened the applicant with a broken bottle and a butcher knife. The applicant eventually escaped through a window and waited in a school yard for police to arrive. The offender had assaulted his wife previously, and was under a restraining order to stay away from her and the matrimonial home.

The applicant was treated for a laceration to the left thumb, which required four sutures, a 2½ inch chest laceration, which required ten sutures, a laceration to his left armpit which required fourteen sutures as well as sutures to the deep bleeding vessels of that wound. The wound to the armpit was life-threatening because of its depth and the considerable amount of bleeding. His chest laceration became infected and required further treatment. The applicant was released from hospital after four days, but returned as an outpatient for the next three weeks to have his wounds examined and bandages changed. The applicant was weak and sore for about six weeks. He could not move his thumb for about a month. His thumb still gives him problems with pain after use and is numb and painful in cold weather. The applicant was off work for about six weeks.

The offender was charged with attempted murder, but pleaded guilty to wounding and was sentenced to eighteen months imprisonment.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$2,400.00; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctors' reports and travel expense to attend hearing \$151.80; solicitor's fee \$300.00, and for hospital bills \$68.00, for a total award of \$6,919.80.

#### **FILE 922-012028**

The applicant, an 18-year-old University freshman from Kingston, was walking along the street with some friends when he was accosted and challenged to fight by a stranger who was intoxicated. The applicant refused. The stranger punched the applicant on the nose.

The applicant suffered a fractured, bleeding and swollen nose. Because of the swelling, a reduction was not carried out until six days after the incident. The applicant suffered physical discomfort for about two weeks,

which interfered with his ability to study. The applicant had some apprehension about meeting the offender again. It was two months before he was fully recovered.

The offender was convicted of assault causing bodily harm, and sentenced to 45 days in jail, plus two years probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$1,000; 7(1)(f) travel expense to attend hearing \$17.50, for a total award of \$1,017.50.

#### **FILE 922-011803**

The applicant is the mother of the victim.

The victim, a girl aged 14, was sexually assaulted nine times over the course of the summer months.

As a result, it was necessary for her to undergo a therapeutic abortion. Subsequent to the above procedure, the victim had a series of counselling sessions. She is currently doing well in school holding down a part-time job and adjusting well socially.

The offender was charged with sexual assault, but died prior to sentencing.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being indecent assault on a female, and ordered compensation under Sections 7(1)(a) travel for treatment \$88.00; 7(1)(f) travel expense \$60.00, and to The Accountant of the Supreme Court of Ontario, for pain and suffering \$2,500.00, to be held in trust for the victim until she is 21 years of age; and solicitor's fee \$300.00 and disbursements \$189.50, for a total award of \$3,137.50.

#### **FILE 922-012908**

The applicant, a 38-year-old Toronto gas station attendant, was at work in the gas station office when the offender entered and requested he make change for him. The applicant refused. The offender tripped him, causing him to fall, and began assaulting him. The offender was joined by two of his friends who pinned the applicant's hand down, as the offender repeatedly kicked and punched the applicant about the face and upper body.

The applicant was treated for facial contusions and lacerations, a bruised right hand, a swollen left forehead, a neck spasm, and a swollen nose. Three sutures were applied to the left eyebrow. The applicant's neck muscles were

tender, and movement of his neck was limited to 25% of normal. Over the next seven weeks, the applicant attended his doctor on eight occasions complaining of facial pain, most notably caused by exposure to cold. He also complained of blurred vision, but tests proved negative. He was off work for seven weeks.

The offender was convicted of assault causing bodily harm.

The applicant did not think he was eligible for unemployment benefits and OHIP coverage. The Board discovered that the applicant was indeed eligible for these forms of assistance, and he was encouraged to obtain such benefits. If unsuccessful, he was advised that an application for further compensation would be considered under the provisions of Section 25 of the Act.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$1,200.00; solicitor's fee \$250.00 and disbursements \$240.00, for a total award of \$1,690.00.

#### **FILE 922-011746**

The applicant, a 30-year-old inmate at Milhaven Institution, was sleeping in his cell when he was awakened by an unknown person entering his cell. The offender stabbed the applicant in the abdomen and fled.

The applicant suffered severe blood loss from the wound to his abdomen. He underwent abdominal surgery to repair his small intestine and to stop the bleeding. The following day, bleeding was still present, and surgery was performed to relieve it. He underwent a stormy post-operative course, which was further complicated by the development of an intra-abdominal abscess. Further abdominal surgery and drainage of the abscess was carried out six weeks after the initial injury.

The applicant remained in intensive care for a month, and was transferred to the health care unit seven days later. Although recovery was expected within six months, he was left with a small hernia and has a noticeable scar. He must also be cautious when lifting heavy objects.

The offender is unknown due to the fact that the applicant, a diabetic, is legally blind without glasses, and was not wearing his glasses at the time of the assault.

The Board found that the application qualified under Section 5(a) of the Act, and ordered

compensation under Sections 7(1)(b) loss of income \$250.00; 7(1)(d) pain and suffering \$1,500.00; solicitor's fee \$300.00 and disbursements \$73.00, for a total award of \$2,123.00.

**FILE 922-014209**

(Heard in Camera)

The applicant, in this case a Children's Aid Society, discovered after a series of investigations and visits that the victim, aged 5, was being sexually abused by the offender, a former boyfriend of the victim's older sister and a boarder and part-time babysitter in the home where the victim lived. The offender had burned the victim's thumb, which is now scarred, and had told her he would burn her hand if she told anyone. The victim claimed that the offender had also tried to smother her.

The victim has had nightmares and was fearful the offender would return. She is seeing a psychiatrist.

The offender was charged with sexual assault, was convicted of common assault and sentenced to four months in jail and three months probation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation for pain and suffering, payable to the Accountant of the Supreme Court of Ontario under Section 36(6) of The Trustee Act, to be held until the victim is age 18, subject to annual review \$2,200.00, for a total award of \$2,200.00.

**FILE 922-014596**

(Heard in Camera)

From 1977 to 1984, the victim, and her younger sister were sexually abused by their mother and step-father. The girls were made to have sex with their step-father on a regular basis, and on at least one occasion to perform oral sex on a stranger while their step-father looked on. Photos were taken of the girls engaging in sexual activities.

The girls led isolated lives and had little contact with their peers. Eventually, fears of being forced into street prostitution prompted the victim's sister to report the incident at school, and a call was made to the Children's Aid Society. Both children were immediately removed from the home, and subsequently made Crown Wards for one year with no access to their mother or step-father.

The victim suffered extreme psychological and emotional trauma.

Both she and her sister saw a psychiatrist on a weekly basis. The treatment may continue indefinitely. The girls are now in a foster home, where they will probably remain until they are 21 years of age.

The offenders were convicted.

The Board found that the application qualified under Section 5(a) of the Act, and ordered \$12,500.00 compensation for pain and suffering, in accordance with Section 36(6) of The Trustee Act, payable to the Accountant of the Supreme Court of Ontario, to the victim's credit, to be held until she attains the age of 21, subject to annual review, for a total award of \$12,500.00.

**FILE 922-013923**

(Heard in camera and publication prohibited)

The applicant is the mother of the victim.

Between October 19, 1982, and March 31, 1984, the victim was sexually assaulted by his schoolteacher.

As a result of these acts, and the upset of talking about it with family and in court proceedings, as well as facing fellow students and friends, the victim has gone through a great deal of emotional trauma. Some two years later, he was only beginning to get involved in community sports and activities.

The offender was convicted of gross indecency and sentenced to 18 months with two years probation.

The Board recommended subrogation.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Section 7(1)(d) pain and suffering \$2,000.00, to be paid to the Accountant of the Supreme Court of Ontario, to be held in trust for the victim until age 18. If the victim dies before reaching age of majority, the disposition of the moneys will be the subject of a review by the Board.

**FILE 922-014658**

The applicant, a 21-year-old Toronto labourer, was playing soccer in a park when a stranger came along and joined the opposite team. This was a casual game, but the stranger became very aggressive when he discovered that the applicant was a better player than him. Eventually, he became very angry and punched the applicant on the face. The applicant did not retaliate and was taken to hospital.

The applicant was treated for a fractured jaw requiring open reduction. He was given pain-killers and made a complete recovery four weeks later. He missed one month of work, and is left with a slight malar (cheek) deformity.

The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(b) net loss of income \$2,114.00; 7(1)(d) pain and suffering \$2,000.00; 7(1)(f) loss of income to attend hearing \$75.00, translation service \$40.00, hospital records \$50.00, for a total award of \$4,279.00.

#### **FILE 922-014597**

The applicant, a 69-year-old Toronto housewife, was on a subway escalator, when a woman in front of her fell backwards, knocking her backwards and causing an abrasion to her right arm.

This matter was reported to police who filed it as an accident occurrence.

The Board was of the opinion that the applicant had failed to prove that she was injured as a result of a crime of violence as required under Section 5 of the Act, and therefore denied the application.

#### **FILE 922-013603**

(Heard in Camera)

The applicant, a 61-year-old commissionaire at an Armed Forces Base, while on duty discovered a pile of ceiling tile on the floor. A man appeared from an adjoining room and offered to accompany the applicant to report the incident.

On reaching the guard shack, the man turned on the applicant, wrested a night stick from his possession and knocked him to the ground. He viciously beat the applicant with the night stick about the head, and jumped on the applicant's chest and knees. The applicant was able to struggle over to a glass door which he kicked and broke, and which attracted the attention of a passing truck driver who climbed a fence to rescue him.

The applicant was in hospital for three days, and was treated for a fractured thumb and fourth finger on his left hand, a cerebral concussion, multiple scalp lacerations, a suspected undisplaced fracture of the breastbone and contusions to the head, chest and knee. The fracture of his finger and thumb healed in about six weeks. He has continued to have

bouts of vertigo depending upon how his head is positioned.

Lacerations the applicant suffered required numerous sutures and plastic surgery, and have left some scarring. The fractured sternum caused him prolonged pain on breathing, and still bothers him with certain physical activities. He required physiotherapy for continued pain and limited movement in his left shoulder for almost two years. He continues to suffer from shoulder problems, as well as nervous anxiety, nightmares, sensitivity to loud noise and surprise. He is unable to consider further employment as a security guard.

The offender was not apprehended, and a warrant for his arrest is outstanding.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being attempted murder, and ordered compensation under Sections 7(1)(b) net loss of income \$2,565.00; 7(1)(d) pain and suffering \$4,000.00; 7(1)(f) doctor's report \$525.00; solicitor's fee \$300.00 and disbursements \$75.00, for a total award of \$7,465.00.

#### **FILE 922-013735**

The applicant, a Windsor man aged 25 and unemployed, answered a knock on his apartment door, and was stabbed in the abdomen by a woman. The applicant claimed he had never seen the woman before.

An investigation revealed that the stabbing may have occurred during an argument the applicant had with his girlfriend. The applicant did not report the incident until eleven days after it had occurred, and until after his welfare worker had advised him to do so if he wanted to make a claim with The Criminal Injuries Compensation Board.

None of the applicant's claim or testimony at the hearing, was backed up by physical evidence or witnesses. No one has been charged with respect to the incident.

The Board did not find the applicant to be a credible witness. While there is no doubt the applicant received a knife wound to the abdomen, the circumstances relating to how it happened were not established to the Board's satisfaction.

The Board denied the application under Section 17(2) of the Act, because the applicant did not report the offence promptly to the police.

**FILE 922-014238**

With the consent of the applicant, the Board heard and considered the application solely on the documentary evidence which had been filed with it.

The applicant, a 45-year-old single mother, was the victim of a purse snatcher.

The applicant suffered no significant physical injuries, but for many weeks afterward was apprehensive, generally nervous and afraid to go out after dark. The emotional stress contributed to a nervous breakdown she suffered four months later.

The Board found that the application qualified under Section 5(a) of the Act, the crime of violence being assault, and ordered compensation under Section 7(1)(d) pain and suffering \$500.00, for a total award of \$500.00.

**FILE 922-013420**

At about 4:30 a.m. the applicant aged 20 and unemployed was asleep in his bedroom with his wife at their home in Hamilton. Two male friends who were sleeping in the living room let the offender and the offender's friend into the apartment believing the offender was a friend of the applicant.

The offender, who was known to applicant, went into the bedroom and proceeded to kick the applicant in the face. He then dragged the applicant out of the bed by his hair, and continued to kick him until he was unconscious. When the applicant came to, he found he had been dragged into the other bedroom and put in a walk-in closet, where the offender hit him a number of times with a hammer. The applicant lost consciousness the second time. The offender and his friend left the apartment.

The applicant's entire face was swollen and both eyes were swollen shut. He had multiple contusions on the left side of the neck, right lower chest and both flanks, and on his upper back. He had full thickness lacerations to the upper lip of the mouth, and a laceration that split the upper right eyelid. The lacerations were sutured under local anaesthetic. He also lost four teeth. X-rays revealed a minimal fracture of the nasal bones, and an undisplaced fracture of the left cheekbone. There was also a small puncture wound over the left knee that did not appear to be deep. He spent six days in hospital and was treated with analgesics.

The offender was convicted of aggravated assault, and sentenced to 18 months in jail.

The Board noted that the applicant's behaviour in the purchasing of illegal drugs, and failing to make complete payment for them to the offender, was the direct cause of the applicant's injuries. The applicant had been purchasing drugs for quite sometime and should have known of the risks involved.

The Board denied the application, but allowed costs to solicitor for fee \$300.00 and disbursements \$117.50, for a total of \$417.50.

**FILE 922-014631**

On August 3, 1984, the applicant, a 25-year-old Toronto student, was working as a child care worker at a half-way house. She was assaulted by one of the resident minors after questioning him in regards to the possibility that he might possess a weapon. The minor became abusive and violent. Eventually, the applicant and another child care worker were able to barricade themselves in a room and call police, who took the applicant to hospital and arrested the minor.

The applicant sustained a fractured nose, abrasions to the left elbow and right side of her chin, a cut on her left eyebrow and a bruised left eye. She attended a dental surgeon to make sure that there was no dental damage. Her nose required a cast for seven days.

The offender was charged with assault causing bodily harm, and sentenced to six months secured custody, and 12 months probation. The Board found that the application qualified under Section 5(a) of the Act, and ordered compensation under Sections 7(1)(d) pain and suffering \$2,500.00; 7(1)(f) travel expense to attend hearing \$16.50, for a total award of \$2,516.50.



Former Members  
of the  
Law Enforcement Compensation Board  
(April 1, 1968—August 31, 1971)  
and its successor  
The Criminal Injuries Compensation Board  
(September 1, 1971)

Apr. 25, 1968 — May 11, 1972	Judge Colin E. Bennett	Chairman & Member
Apr. 25, 1968 — Mar. 22, 1972	Robert P. Milligan, Q.C.	Member & Vice-Chairman
Apr. 25, 1968 — Dec. 31, 1973	Fred B. Deacon	Member
*Feb. 5, 1970 — Feb. 15, 1976	Judge A. Roy Willmott	Member
Aug. 20, 1970 — Sept. 9, 1971	Judge Ian M. Macdonnell	Member
*Jan. 1, 1972 — Mar. 31, 1974	Arthur A. Wishart, Q.C.	Chairman and Member
Feb. 9, 1972 — May 31, 1974	Robert C. Rutherford, Q.C.	Member & Vice-Chairman
Apr. 19, 1972 — Nov. 1, 1974	Vincent K. McEwan, Q.C.	Member & Vice-Chairman
Jul. 1, 1973 — Apr. 1, 1978	Shaun MacGrath	Member, Vice-Chairman & Acting Chairman
Feb. 1, 1974 — Sept. 30, 1975	Eric H. Silk, Q.C.	Chairman and Member
Apr. 1, 1974 — Jan. 7, 1975	James W. Wakelin	Member
May 21, 1975 — Jun. 1, 1978	Stuart David Cork, Q.C.	Member & Vice-Chairman
Jan. 21, 1976 — Jan. 20, 1985	Allan Grossman	Chairman
*Feb. 16, 1976 — May 21, 1978	Edward W. Tyrrell, Q.C.	Member
Aug. 3, 1976 — Aug. 2, 1982	Douglas H. Lissaman, Q.C.	Member
Jun. 1, 1978 — May 31, 1985	Robert W. Mitchell, Q.C.	Member
Jun. 1, 1978 — May 31, 1985	Harvey Spiegel, Q.C.	Member
Sept. 1, 1978 — Aug. 3, 1984	Nathan L. Sandler	Member
*Jan. 30, 1980 — Jan. 29, 1986	Uno Viegandt	Member
Feb. 20, 1980 — Jan. 29, 1986	E. Lee Monaco	Member
Apr. 2, 1980 — Jan. 29, 1983	D. Arthur Evans	Member
Apr. 2, 1980 — Jan. 29, 1986	Linda Clippingdale	Member
*Sept. 1, 1984 — Apr. 26, 1985	Dr. Lyle Black	Member

On September 1, 1971, The Law Enforcement Compensation Act was superseded by The Compensation for Victims of Crime Act, and the title of the Board was changed from the Law Enforcement Compensation Board to the Criminal Injuries Compensation Board.

\*(Deceased)