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# **CRIMINAL VICTIM COMPENSATION:**

## **A PROFILE OF CLAIMS, CLAIMANTS AND AWARDS**

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## PREFACE

The introduction of compensation for victims of violent crime was a landmark reform in the administration of justice in New South Wales. The criminal law may regard the State as the 'victim' in acts of criminal violence and see its prime responsibility as the punishment and prevention of such acts. Many would argue that this does not exhaust its responsibility to those individuals who suffer injury as a result of an act of violence. Monetary compensation may not be the only means by which the State can provide assistance to victims of violent crime. It is, however, a tangible and practical measure of its concern.

If the State has an obligation to provide assistance by way of compensation to victims of violent crime it also has an obligation to ensure that the compensation arrangements it administers are efficient and effective. Of necessity, Governments are limited in the amount of public money that they can set aside to assist victims of crime. Awards which go to the undeserving or those with access to other remedies, in the long run only disadvantage genuine and deserving claimants. If the administration of victim compensation is allowed to be brought into disrepute, it may also become harder for Governments to maintain public support for the principle behind it.

Real concerns have recently been expressed about whether the current scheme of victim compensation in NSW is achieving its objectives. In response to those concerns, the NSW Attorney General, the Hon. J.P. Hannaford MLC, authorised a review of the scheme, to be conducted by the Deputy Chief Magistrate, Mr Cec Brahe, a former Chairman of the Victims Compensation Tribunal. To assist Mr Brahe in his work and at the request of the Attorney General, the NSW Bureau of Crime Statistics and Research undertook to analyse the pattern of victim compensation claims, claimants and awards. This report provides the results of our analysis.

Dr Don Weatherburn  
**Director**

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The study could not have been completed within the short time frame available without the active assistance of Mr Cec Brahe, the Deputy Chief Magistrate responsible for carrying out the review of the Victims Compensation Act as well as officers of the Victims Compensation Tribunal. Thanks are due, in particular, to Keith Ferguson, Therese Briggs and Pauline Barry for their help in identifying the issues and interpreting the results. Thanks are also due to Mavis for her enduring hospitality.

## PRINCIPAL FINDINGS

For the sample of claims for compensation to the Victims Compensation Tribunal studied, it was found that:

- Approximately 24 per cent of the claimants were employed and working at the time they became victims of an act of violence.
- More than half of the primary victims employed as police officers (90.3%), taxi drivers (85.7%), bank staff (78.3%), security staff (72.7%), prison officers (71.4%), and entertainment venue employees (61.7%) were working at the time they became victims of an act of violence.
- Assault (with a weapon or otherwise) was the most common type of offence in the act of violence for which victims applied for compensation, occurring in 72.9 per cent of the claims.
- The most common type of injury sustained by victims was bruising with nearly 56 per cent of the victims sustaining bruises. Lacerations (44.3%) followed by psychological injuries (39.1%) were the next most common types of injuries sustained by victims.
- A very small proportion of victims awarded compensation (3.0%) were judged by the Tribunal to have contributed to the injuries they sustained.
- About one-third (30.1%) of the acts of violence occurred in a dwelling and a further 20.8 per cent occurred in licensed premises.
- The majority of claims (85.9%) were lodged with the Tribunal within two years after the act of violence, the period specified by the Victims Compensation Act. The median period from the act of violence to the date the claim was registered with the Tribunal was longest for claims involving child indecent assault (31.5 months).
- About 92 per cent of the claims considered by the Tribunal were awarded compensation.
- On average, victims were awarded \$8,612 in compensation. Over three-quarters of the victims awarded compensation were awarded \$12,000 or less. This included compensation for injury, expenses and the loss of personal effects.
- Victims who claimed as close relatives of a deceased victim were awarded the largest mean award (\$11,830), followed by secondary victims (\$10,736), law enforcement victims (\$10,064) and then primary victims (\$8,437).
- Across occupation groups, primary victims employed as security staff at the time of the act of violence received the largest mean award (\$12,765). In total, however, students were awarded the largest proportion of compensation, accounting for 18.7 per cent of all the money awarded to primary victims.

## PRINCIPAL FINDINGS continued

- Across offence categories, primary victims who claimed for acts of violence involving adult sexual assault received the largest mean award (\$21,298). Claims from primary victims which involved child sexual assault received the next largest mean award (\$15,618). In total, primary victims claiming for assault (with a weapon or otherwise) were awarded the largest proportion of compensation, accounting for nearly 55 per cent of all the money awarded to primary victims.
- Only 3.5 per cent of claimants lodged an appeal to the District Court. Most of these victims were awarded compensation prior to their appeal, and the mean award they received prior to appealing was comparable to the mean award for those claimants who were awarded compensation and did not lodge an appeal.
- Of the total amount awarded in compensation by the Tribunal, 64.8 per cent was awarded to claims where the offender had been convicted or the alleged offender arrested (case not finalised).

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# 1. INTRODUCTION

## 1.1 BACKGROUND

The cost of violent crime for the victim often includes physical and/or psychological injury, loss of property and cash, as well as loss of earnings through participation in the prosecution process. Historically, the only compensation for victims of crime lay in the punishment, or sentencing, of offenders by the State. No direct support to the victim was routinely offered by the State (New South Wales Task Force on Services for Victims of Crime 1986). Growing community concern about this state of affairs led the New South Wales Parliament in 1967 to enact the *Criminal Injuries Compensation Act 1967*. This saw the introduction of a State Government-funded Criminal Injuries Compensation Scheme. This Scheme was divided into two parts: the Statutory Scheme and the 'Ex Gratia' Scheme. Under the Statutory Scheme, compensation was awarded to victims by the Criminal Courts when an offender or alleged offender was dealt with by the Courts. The Ex Gratia Scheme was designed to supplement the Statutory Scheme by providing compensation to those victims who were not entitled to any compensation by the Courts. Such victims, for example, may not have been eligible for an award by the Courts because the crime against them may not have been solved. Under the Ex Gratia Scheme the Attorney General determined an award for victims of violent crime.

In 1986 the NSW Government established a Task Force to examine services for victims of crime. The Task Force report identified several deficiencies in the Criminal Injuries Compensation Scheme (New South Wales Task Force on Services for Victims of Crime 1986). Among the main deficiencies, the provisions in the Scheme were considered to be too complex to be easily understood and victims were said to have to wait too long before being entitled to compensation. In addition, the maximum amount of compensation payable under the Scheme (\$20,000) and the basis for any compensation were both considered to be inadequate, and the adversarial court proceedings held to determine compensation awards were said to exacerbate trauma in victims. To remedy these and other deficiencies, the Task Force recommended that a Tribunal based scheme should replace the Criminal Injuries Compensation Scheme.

Following the recommendations of the Task Force, the *Victims Compensation Act 1987* replaced the Criminal Injuries Compensation Act. It was proclaimed in February 1988. According to the Second Reading Speech accompanying its introduction in State Parliament, the new Act was designed to expedite the resolution of applications for compensation. It shifted the compensation hearing from an adversarial to a civil footing and established a Tribunal to hear applications for compensation 'with as little formality and legal technicality as possible' (New South Wales Legislative Assembly 1987, p. 16272). Provisions were included to ensure that all persons deserving of compensation were entitled to compensation, and that those in most need were compensated first. In making its determinations, the Tribunal was empowered to take into consideration whether the victim was entitled to 'other moneys such as insurance and workers' compensation' (New South Wales Legislative Assembly 1987, p. 16271). In addition to this, the new Act raised the maximum award payable to victims to \$50,000 and made the payment of legal costs separate from award entitlements.

In recent times there have been suggestions that the Victims Compensation Act may not be fulfilling its original aims. A specific concern of the Government was the possibility that some persons were taking advantage of the system by claiming for compensation to which they were not entitled. In August 1992 the Attorney General decided to undertake a comprehensive review of the implementation and the administration of the Victims Compensation Act. An Issues Paper released by the Attorney General set out the terms of reference for this review and raised a number of issues pertaining to the Act and its operations (Victims Compensation Tribunal 1992).

In the terms of reference, the review was to pay particular attention to:

- i) persons entitled to compensation;
- ii) the nature and determination of compensation;
- iii) the review of determinations;
- iv) the payment of legal costs;
- v) the recovery of moneys from convicted offenders;
- vi) the statistics and management information maintained by the Tribunal.

The matters raised in the Issues Paper to be addressed by the review included the question of:

- whether claimants who have access to workers compensation, and whether claimants who are employed in situations where there is a likelihood of violence occurring, should have a right to claim under the Victims Compensation Act;
- whether the Victims Compensation Act should be amended to permit the character of the claimant to be taken into account when making a determination for compensation; and
- whether the practice of recovering money from offenders should be abandoned.

These issues and the terms of reference for the review of criminal injuries compensation announced by the Attorney General raise a number of empirical questions. These include questions associated with the profile of the persons currently seeking compensation, their pattern of criminal victimisation, the speed with which they seek compensation, and the characteristic outcomes of their compensation claims. Reliable information on these matters is not readily available. Indeed, the lack of data on these matters is one of the areas of victims compensation identified by the Attorney General as in need of reform.

To assist in the review process, the Bureau was requested to conduct an empirical examination of the profile of claims dealt with by the Victims Compensation Tribunal. This report details the findings of the study. The remainder of Section 1 describes the present operations of the Victims Compensation Tribunal, and provides details regarding the aim of the Bureau's study of claims for compensation to the Tribunal. Section 2 describes the method used to collect the data examined. The results of the study are presented in Section 3, and the summary and conclusions appear in Section 4.

## 1.2 THE VICTIMS COMPENSATION TRIBUNAL

The Victims Compensation Tribunal is responsible for determining whether a claimant will be awarded compensation and the amount of the compensation. Only magistrates are eligible to be appointed as members of the Tribunal.

### 1.2.1 *Victims eligible for compensation*

Any person who has been a victim of an act of violence may apply to the Tribunal for compensation. Section 3 of the Victims Compensation Act defines an act of violence as 'an act or series of related acts . . . whether committed by one or more persons that has apparently occurred in the course of the commission of an offence and that has resulted in injury or death to one or more persons'.

Section 10 of the Act defines four types of victims of violence who are eligible to apply for compensation: primary victims, secondary victims, close relatives of a deceased victim, and law enforcement victims.

A **primary victim** is defined as 'a person who has sustained injury as a direct result of' an act of violence. The primary victim does not include a person who has died as the result of an act of violence.

In relation to an act of violence, a **secondary victim** means 'a person who has sustained injury as a direct result of witnessing, or otherwise becoming aware of, injury sustained by a primary victim, or injury or death sustained by a deceased victim, of that act'.

A **close relative** of a deceased victim makes a claim for compensation in relation to a person who died as the direct result of an act of violence. Under section 10 of the Victims Compensation Act, a close relative is defined as a person who at the time the act of violence occurred:

- a) was the deceased victim's spouse or was a person who was living with the deceased as the deceased victim's spouse;
- b) was a parent, guardian, step-parent or grandparent of the deceased victim; or
- c) was a child, step-child or grandchild of the deceased victim or was some other child of whom the deceased was a guardian.

A **law enforcement victim** is defined as 'a person who has sustained injury (but not death) in the course of law enforcement'. This victim must sustain injury:

- a) while trying to prevent another person from committing an offence;
- b) while trying to help or rescue another person against whom an offence is being committed or has been committed; or
- c) while trying to arrest another person who is committing, or who has committed, an offence.

### 1.2.2 *Lodgement of claims for compensation*

Under section 17, for victims to be considered for compensation they must lodge their application for compensation with the Tribunal within two years 'after the relevant act of violence or injury sustained in the course of law enforcement occurred'. The Tribunal,

however, has discretion to grant a claimant leave to apply out of time, that is, to allow a claimant to lodge an application after a period of two years.

### *1.2.3 Consideration of claims for compensation*

Under section 18 of the Victims Compensation Act, the Tribunal may conduct a public hearing for the purpose of considering an application.<sup>1</sup> When deciding whether to conduct a hearing, the Tribunal must consider whether the claimant prefers to have a hearing or not. The Tribunal, however, is not bound by the claimant's preference. Section 30 provides that any hearing conducted by the Tribunal is required to be carried out with 'as little formality and legal technicality and form as the circumstances of the case permit'. A claimant is entitled to be represented in the hearing by a legal practitioner.

### *1.2.4 Determination of claims for compensation*

When determining whether to award or dismiss a claim for compensation, as well as the amount to compensate, the Tribunal must consider several factors. Under section 20 of the Victims Compensation Act, the Tribunal is obliged to have regard to:

- a) any behaviour, condition, attitude or disposition of the victim that directly or indirectly contributed to the injury or death sustained by the victim;
- b) whether the act of violence was reported to a member of the police force within a reasonable time;
- c) whether the victim participated in the commission of the act of violence, encouraged another person to commit the act of violence or otherwise gave assistance to any person by whom the act of violence was committed;
- d) whether the victim has failed to provide reasonable assistance to any person or body duly engaged in the investigation of the act of violence or in the arrest or prosecution of any person by whom the act of violence was committed or alleged to have been committed; and
- e) such other matters as the Tribunal considers relevant.

In a claim where contributory behaviour by the victim is determined to have occurred, the award is reduced by the percentage the victim was determined to have contributed to his or her injuries. Section 21 identifies other factors which may affect the amount of compensation payable to a victim. These include whether the victim has been paid, or is entitled to be paid, by way of damages awarded in civil proceedings, under any other Act or law, such as workers compensation, or under any insurance or other agreement.

Under section 15 of the Victims Compensation Act, a person who is eligible to receive damages in accordance with the *Motor Accidents Act 1988* in respect of an act of violence, or injury sustained in the course of law enforcement, is not eligible for compensation.

### *1.2.5 Compensation awards*

When the Tribunal awards a claim compensation, section 10 of the Victims Compensation Act allows it to make an award in respect of 'injury', 'expenses' and 'loss of personal effects'. Section 10 of the Act defines these awards and their meaning in relation to the different types of victims.

Compensation for injury includes compensation for pain and suffering, loss of enjoyment of life and, in the case of a person claiming as a close relative of a deceased victim, it also includes compensation for grief.

In the case of primary, secondary and law enforcement victims, compensation for expenses includes compensation for actual and future expenses, actual loss of earnings, and loss of future earnings or capacity to earn. In the case of a person claiming as a close relative of a deceased victim, compensation for expenses includes compensation for actual expenses and for the loss of material benefits in the nature of support or domestic services arising from the death of, or injury sustained by, the deceased victim.

Compensation for loss of personal effects only applies to primary and law enforcement victims. It includes compensation for the loss of, or for damage to, any personal effects that were worn or carried by the victim at the time the act of violence occurred or the injury was sustained.

There are specific limits for each type of award that victims are eligible to receive. Under section 16 of the Act, a victim is eligible for a maximum of \$40,000 for compensation for injury, \$50,000 for compensation for expenses and \$1,000 by way of compensation for loss of personal effects. In total, the maximum award payable is \$50,000 and a victim may receive any combination of awards, providing the total does not exceed \$50,000. The minimum award payable by the Tribunal is \$200.

In section 16, the Victims Compensation Act specifies how the maximum amount payable may be shared among claimants. If a primary and secondary victim claim in respect of the same act of violence, they are together eligible to receive a maximum of \$50,000. Similarly, the maximum amount of compensation that all close relatives of a deceased victim of an act of violence and all secondary victims claiming through the deceased victim of that violent act are together eligible to receive is \$50,000.

Section 24A of the Victims Compensation Act provides that a claimant is entitled to be paid for the costs, such as legal costs, incurred in respect of an application for compensation and any proceedings on the application. A claimant may be awarded costs even if his or her application for compensation is dismissed. Legal costs are awarded according to a scale of costs as may be prescribed by the Tribunal.

### *1.2.6 Appeals to the District Court*

Section 29 of the Victims Compensation Act provides that a claimant may appeal to the District Court from any determination of the Tribunal. Unless otherwise allowed by the District Court, the claimant must institute an appeal within one month of the Tribunal's determination.

### *1.2.7 Recovery of compensation from offenders*

There are provisions in the Victims Compensation Act for the Tribunal to recover compensation moneys from offenders (see Part 5 of the Act). Offenders may be ordered to pay an amount for restitution if they have 'been convicted of an offence arising from substantially the same facts as those constituting an act of violence in respect of which an award of compensation has been made'.

### 1.3 AIM OF THE STUDY

The aim of the Bureau's study was to provide an accurate picture of the current operation of the Victims Compensation Act. Of particular interest, given the Attorney General's terms of reference for the review and some of the issues raised for review, were:

- a) the characteristics of the claimants, that is, the victims who lodged compensation claims with the Tribunal, including: the types of victims, and their gender, age, and occupation; and whether the victim was employed and working at the time of the act of violence;
- b) the characteristics of the claims lodged with the Tribunal, including: the type of offence involved in the act of violence; the venue and postcode location of the act of violence; the time from the act of violence to the date the claim was registered with the Tribunal; the time from the act of violence to the date the act was reported to the police; the injuries sustained by the victims, and whether the victims contributed to the injuries they sustained; and
- c) the characteristics of the compensation awards made by the Tribunal, including: the types of award and amounts awarded; the amounts awarded to the different types of victims, occupation groups, and for the different types of offences involved in the act of violence; the amounts awarded to victims who appealed; and the moneys awarded which may potentially be recovered from offenders.

## 2. METHOD

The data for the study were extracted from case files of claims for compensation held at the Victims Compensation Tribunal. With the aim to include at least 1,000 claims in the study, a total of 1,022 files were randomly selected, each file containing one or more claims. One claim was randomly selected from each file to give a final sample of 1,022 claims, that is, 1,022 claimants.

Each claim comprised an application form and other documents lodged in support of the application. From these documents details were recorded regarding the characteristics of the claimants, the claims, and the awards. No personal information regarding the claimants, such as names or addresses, was recorded and all information was treated in strict confidence. A copy of the coding form used to extract the data is provided in the Appendix. The data from this form were punched to computer tape and analysed using statistical software. The claimant, claim and compensation award data were cross-tabulated to examine the various characteristics identified as being relevant to the review of the Victims Compensation Act.

## 3. RESULTS

### 3.1 CHARACTERISTICS OF THE CLAIMANTS

#### 3.1.1 *Type of victim*

Table 1 shows the number of claimants in the four legislative categories of victims. As can be seen, the most common type of victim claiming for compensation from the Tribunal is the primary victim. About 93 per cent of the claimants in the study were primary victims. Just over 3 per cent of the claimants were secondary victims. Persons claiming as close relatives of a deceased victim comprised slightly more than 2 per cent of all claimants who applied for compensation.

Sixteen claimants (or 1.6% of all claimants) claimed as law enforcement victims. None of these victims sustained injuries as a direct result of an act of violence. Typically they were injured whilst in the pursuit of an offender.<sup>2</sup> In the sample studied, the majority of claimants who were eligible to claim as law enforcement victims did not appear to claim in this category of victim but rather claimed as primary victims. Accordingly they were coded as primary victims.

**Table 1: Type of victim**

<i>Type of victim</i>	<i>Number</i>	<i>%</i>
Primary victim	948	92.8
Secondary victim	34	3.3
Close relative of a deceased victim	24	2.3
Law enforcement victim	16	1.6
Total claimants in sample	1,022	100

#### 3.1.2 *Gender*

Almost two-thirds of the primary victims (64.5%) were male.<sup>3</sup> This is similar to the proportion of victims of crime in general who are male (Australian Bureau of Statistics 1992). Similarly, most of the law enforcement victims were male (87.5%). In contrast, the majority of the secondary victims (70.6%) and the victims claiming as close relatives of a deceased victim (66.7%) were female.

#### 3.1.3 *Age*

In this analysis, age refers to the age of the victim at the time the claim for compensation was registered at the Victims Compensation Tribunal.



When all victims who applied to the Tribunal for compensation were considered, the age distribution of the victims was much the same as that seen for victims of crime in general (Australian Bureau of Statistics 1992) with the majority aged less than 45 years. Table 2 shows the age distribution of the different types of victims studied. Most primary victims were aged between 15 and 34 years (58.4%). Only 5.6 per cent of the primary victims were aged less than 15 years and 6.4 per cent were aged over 54 years. Although not shown in Table 2, primary victims ranged in age from 1 year to 85 years, and the average age of primary victims was 31.8 years (with standard deviation  $s = 13.6$  years).<sup>4</sup>

**Table 2: Age of victims**

<i>Age</i>	<i>Primary (n = 893) %</i>	<i>Secondary (n = 28) %</i>	<i>Close relative (n = 21) %</i>	<i>Law enforcement (n = 16) %</i>
1 - 14 years	5.6	21.4	28.6	0.0
15 - 24 years	28.2	21.4	9.5	18.8
25 - 34 years	30.2	17.9	23.8	37.5
35 - 44 years	18.4	32.1	9.5	31.3
45 - 54 years	11.2	7.1	9.5	6.2
55 years and over	6.4	0.0	19.0	6.2
Total	100	100	100	100

Note: Age was unknown for 64 victims who were therefore excluded from the analysis.

Care must be taken when interpreting the results from this age analysis due to the small number of secondary, close relative and law enforcement victims in the study.

Secondary victims were aged from 8 to 49 years and their age on average was 27.4 years ( $s = 12.5$  years). From Table 2 it can be seen that almost one-third of these victims (32.1%) were aged 35 to 44 years. A further 42.8 per cent were aged under 25 years. Many secondary victims were mothers of children who had been sexually or indecently assaulted, or the children or wives of victims who had died as the result of an act of violence.

The age of close relatives ranged from 4 years to 65 years and the average age of these victims was 31.8 years ( $s = 19.3$  years). As Table 2 shows, the most frequently occurring age group for close relatives was children aged 1 to 14 years (28.6%) followed by adults aged 25 to 34 years (23.8%).

All the law enforcement victims were aged over 20 years, the eldest being 58 years of age. More than two-thirds of these victims (68.8%) were aged between 25 and 44 years of age. The average age of law enforcement victims was 33.7 years ( $s = 9.7$  years).

### 3.1.4 Occupation

In this analysis, occupation refers to the occupation of the victim at the time of the act of violence which formed the basis of the claim for compensation.

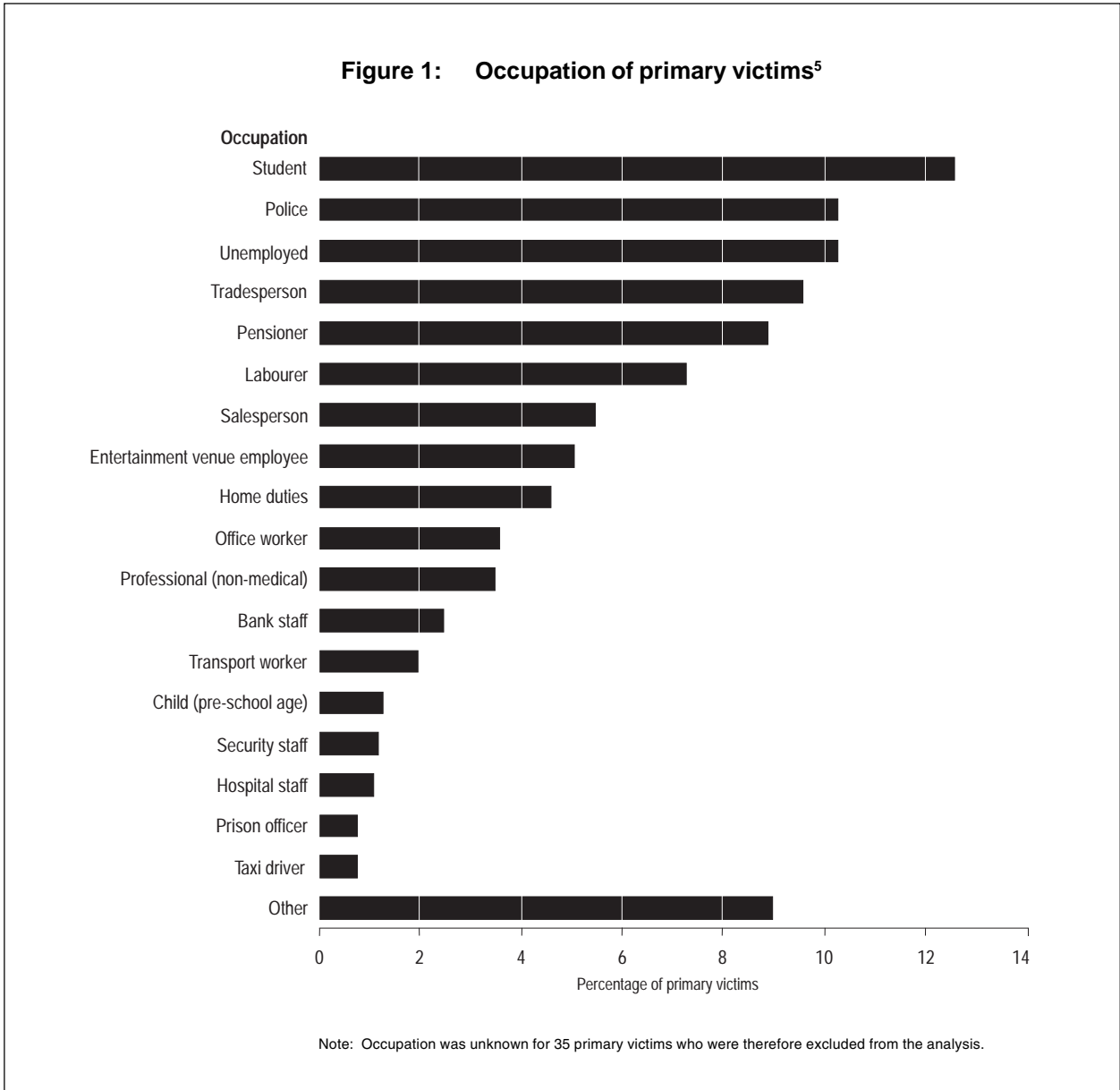


Figure 1 shows the proportion of primary victims in each occupation group. Students formed the most frequently occurring occupation group (12.6%). They included primary and secondary school students, and students in tertiary institutions. The unemployed and those employed as police officers formed the next largest groups, each comprising about 10 per cent of all primary victims. Prison officers and taxi drivers each comprised less than 1 per cent of the primary victims studied.

Due to the small number of secondary, close relative and law enforcement victims, care should be taken when interpreting the findings regarding occupation where these categories of victims are concerned. About one-fifth of the secondary victims were students (21.9% or 7 victims) and nearly one-quarter of the victims who applied for compensation as a close relative of a deceased victim were also students (23.8% or 5 victims).<sup>6</sup> All of the law enforcement victims were police officers.

### 3.1.5 *Whether the victim was employed and working at the time of the act of violence*

In relation to the review of the operations of the current legislation, concern has been raised about whether certain victims should be eligible to claim for compensation to the Tribunal. These victims refer to those who have access to other forms of compensation, such as workers compensation, and those who are employed in situations where there is a likelihood of violence occurring. It is interesting to enquire, therefore, what proportion of the victims studied were employed and working at the time of the act of violence and hence may, at least in principle, have been eligible for workers compensation. It is also of interest to know the type of occupation of victims who were employed and working at the time of the act of violence. For this analysis, it would be inappropriate to include secondary and close relative victims because these persons would not be eligible for workers compensation. Therefore, only primary and law enforcement victims have been included in the analysis.

**Table 3: Occupation of primary victims by whether working at the time of the act of violence**

<i>Occupation</i>	<i>Number of primary victims</i>				<i>Total %</i>
	<i>Working</i>		<i>Not working</i>		
	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	
Police	84	90.3	9	9.7	100
Taxi driver	6	85.7	1	14.3	100
Bank staff	18	78.3	5	21.7	100
Security staff	8	72.7	3	27.3	100
Prison officer	5	71.4	2	28.6	100
Entertainment venue employee	29	61.7	18	38.3	100
Transport worker	9	50.0	9	50.0	100
Salesperson	18	36.7	31	63.3	100
Hospital staff	2	20.0	8	80.0	100
Professional (non-medical)	6	18.8	26	81.2	100
Office worker	5	15.2	28	84.8	100
Tradesperson	5	6.1	77	93.9	100
Labourer	4	6.1	62	93.9	100
Other	23	29.9	54	70.1	100

Note: Whether the victim was working at the time of the act of violence and/or occupation were unknown for 44 primary victims who were therefore excluded from the analysis.

Nearly one-quarter of the claimants studied by the Bureau (23.7%) were employed and working at the time of the act of violence.<sup>7</sup> It should be noted that this proportion is the absolute maximum proportion of claimants in the study who may have, potentially, been eligible for workers compensation. The actual proportion of claimants who would have been eligible to receive workers compensation was probably somewhat smaller.

In relation to the issue of persons employed in situations where there is a likelihood of violence occurring, Table 3 includes primary victims who were employed at the time of the act of violence and shows the proportion of these victims who were working at the time of the act of violence for each occupation group. It can be seen in Table 3 that the proportion of primary victims who were working at the time of the act of violence varied according to the occupation of the victim. The majority of primary victims who were police officers (90.3%), taxi drivers (85.7%), bank staff (78.3%), security staff (72.7%), prison officers (71.4%), and entertainment venue employees (61.7%) were working at the time of the act of violence. In contrast, less than 7 per cent of either tradespersons or labourers were working at the time of the act of violence.

All of the law enforcement victims were working as police officers at the time of sustaining the injuries which formed the basis of their claims to the Tribunal.

## 3.2 CHARACTERISTICS OF THE CLAIMS

### *3.2.1 Type of offence in the act of violence*

The intention of the Victims Compensation Act when introduced was to compensate people who had been victims of violent crime. In light of this, it is of interest to know the range of offences which were the subject of the claims for compensation.

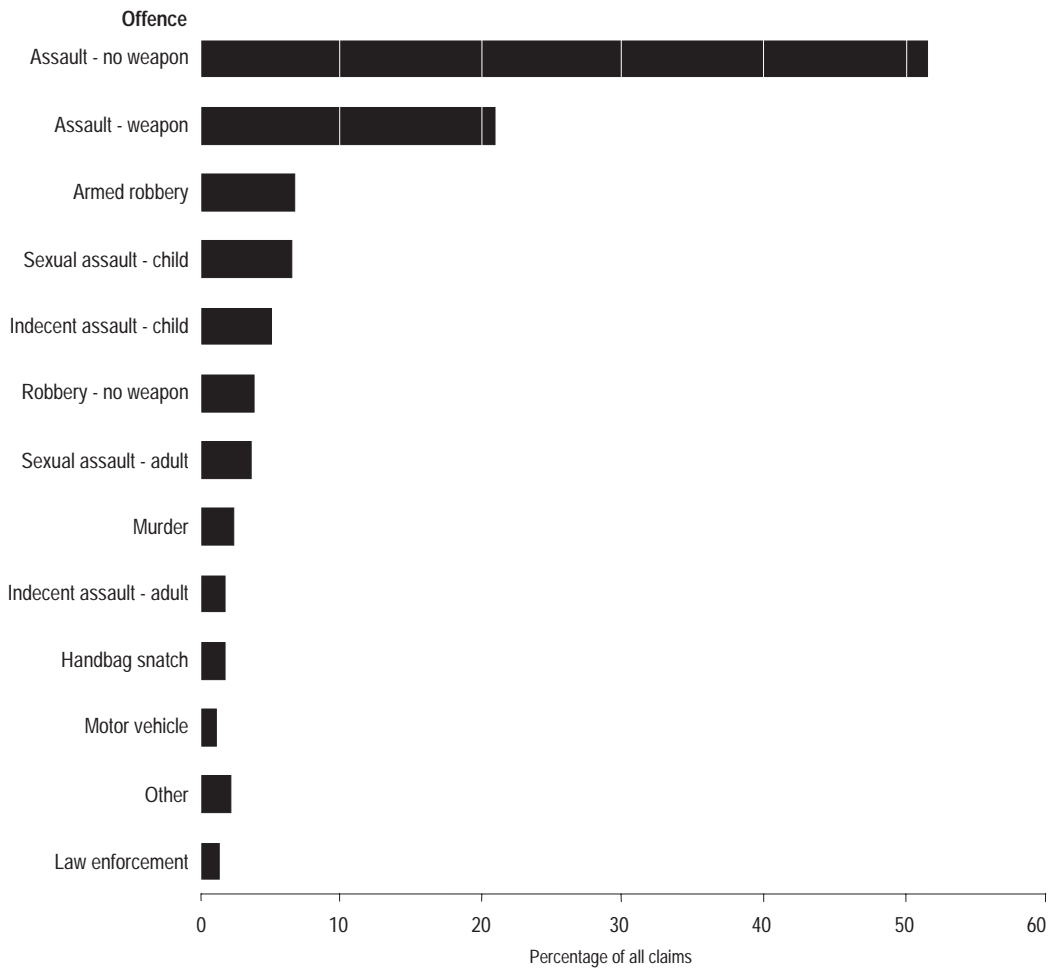
Figure 2 shows the relative frequency of different offences which were the subject of compensation claims. For some claims, the act of violence allegedly involved more than one type of offence. Therefore, the sum of the percentages in Figure 2 is greater than 100 per cent. Assault (with a weapon or otherwise) was by far the most common offence, occurring in almost three-quarters of all the claims (72.9%). Collectively, sexual assault offences (sexual or indecent) against either adults or children were the next most common type of offence. They occurred in 17.7 per cent of the claims. Although not shown in Figure 2, numerous acts of violence could be identified as involving domestic violence and these comprised 9.3 per cent of the claims overall.<sup>8</sup>

The majority of offences which were the subject of the compensation claims appeared to be violent crimes. The apparent seriousness of the alleged offences, however, varied considerably from claim to claim. While the seriousness of the offences could not be quantified, the range of offences illustrates the degrees of seriousness. Claims ranged from minor physical altercations resulting in slight bruising through to homicide.

### *3.2.2 Venue of the act of violence*

In almost one-third of the claims (30.1%) a dwelling was reported to be the place in

**Figure 2: Type of offence<sup>9</sup>**



which the act of violence occurred.<sup>10</sup> The next most frequent venue was licensed premises (20.8% of the claims). The footpath was another common venue (14.7 % of the claims).

Understandably, the venue of the act of violence varied according to the type of offence that was involved. Table 4 shows the venue of the act of violence for the different types of offences. For this analysis, the offence categories refer to those claims where only a single type of offence occurred in the act of violence. ‘Other’ category refers to acts of violence which involved only one type of offence but of a type other than those listed. Claims where the act of violence involved more than one type of offence have been excluded.

It can be seen from Table 4 that the act of violence occurred in either licensed premises or a dwelling for over half of the claims involving assault (with a weapon or otherwise).

For about one-third of the claims involving assaults without the use of a weapon (29.7%) the act of violence occurred in licensed premises. For one-third of the claims involving assaults with a weapon (33.3%) the act of violence occurred in a dwelling. A large proportion of claims involving murder, child sexual and indecent assaults, as well as adult sexual assaults, also occurred in dwellings. A large proportion of armed robberies occurred in banks (33.9%), licensed premises (such as bottleshops) (25.0%) and other business premises (21.4%). Handbag snatches and robberies without the use of a weapon were mainly recorded as having occurred on the footpath (81.8% and 34.2%, respectively).

**Table 4: Venue by offence for claims involving one type of offence**

<i>Offence</i>	<i>Licensed</i>		<i>Footpath</i>	<i>Road</i>	<i>Park</i>	<i>Bank</i>	<i>Business</i>		<i>Other<sup>11</sup></i>	<i>Total</i>
	<i>Dwelling</i>	<i>premises</i>					<i>premises</i>	<i>Vehicle</i>		
	%	%	%	%	%	%	%	%	%	%
Assault - no weapon	23.3	29.7	15.0	4.1	4.4	0.2	3.9	4.6	14.8	100
Robbery - no weapon	7.9	7.9	34.2	2.6	10.5	0.0	10.5	10.5	15.8	100
Assault - weapon	33.3	22.4	13.8	8.1	1.7	0.0	2.3	4.0	14.4	100
Armed robbery	8.9	25.0	1.8	1.8	0.0	33.9	21.4	0.0	7.1	100
Murder	50.0	4.2	8.3	4.2	16.7	0.0	0.0	0.0	16.7	100
Handbag snatch	0.0	0.0	81.8	0.0	0.0	9.1	0.0	0.0	9.1	100
Sexual assault - adult	50.0	3.9	3.9	3.9	7.7	0.0	0.0	11.5	19.7	100
Sexual assault - child	86.7	0.0	0.0	0.0	3.3	0.0	0.0	0.0	10.0	100
Indecent assault - adult	33.3	11.1	0.0	0.0	11.1	0.0	11.1	0.0	33.3	100
Indecent assault - child	75.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.0	100
Motor vehicle	0.0	8.3	16.7	66.7	0.0	0.0	8.3	0.0	0.0	100
Other	17.7	5.9	11.8	5.9	5.9	5.9	0.0	5.9	41.2	100
Law enforcement	18.8	12.5	12.5	12.5	6.3	0.0	0.0	0.0	37.5	100

Note: The venue of the act of violence was unknown for 8 claims which were therefore excluded from the analysis.

### 3.2.3 Postcode location of the act of violence

Of all the claims for which the postcode location of the act of violence was known, about 62 per cent occurred in the Sydney metropolitan area.<sup>12</sup> This corresponds very closely to the proportion of murder, assault, sexual assault and robbery offences recorded in NSW from 1989 to 1991 that were recorded as having occurred in the Sydney Statistical Division (60.4%) (NSW Bureau of Crime Statistics and Research 1992).

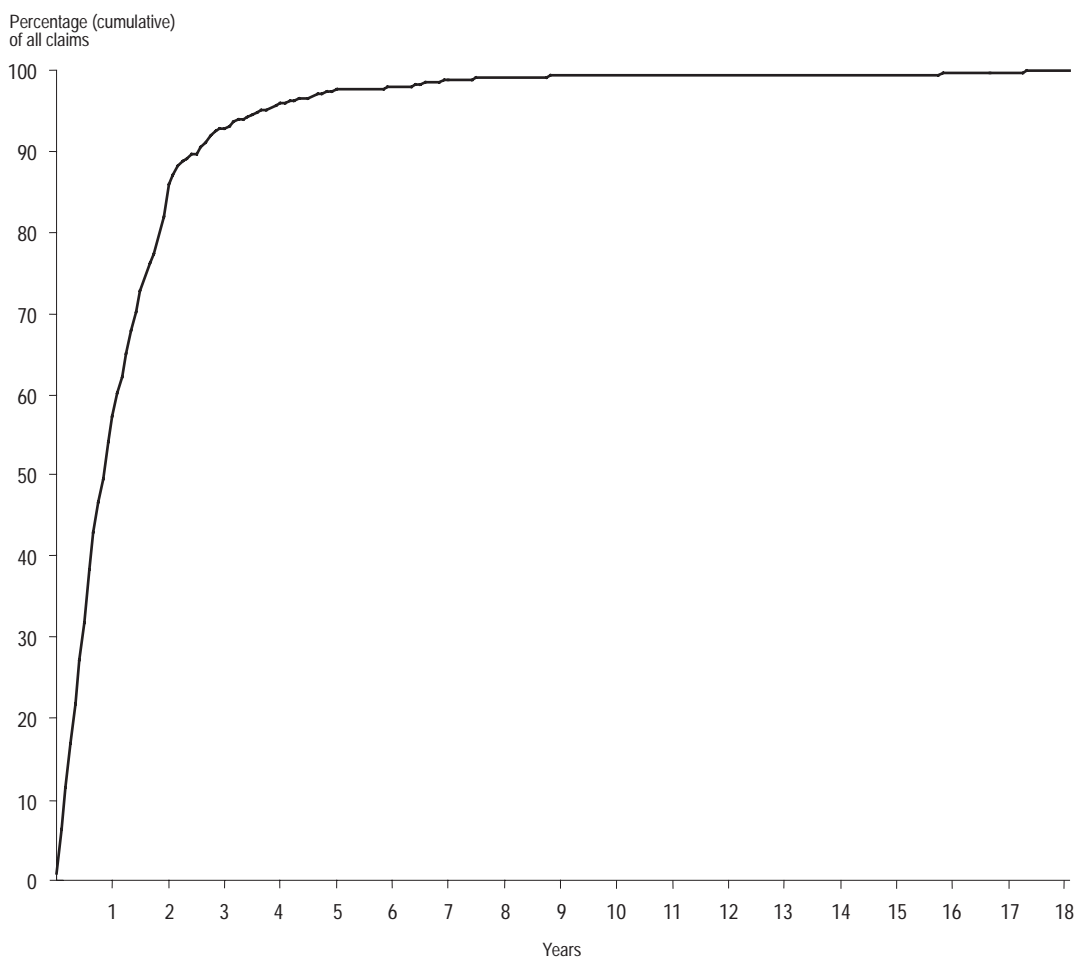
There was no single postcode area which accounted for a large proportion of the acts of violence in the claims. The postcode areas of Sydney (City) and Darlinghurst recorded the highest proportion with 2.7 per cent of the acts of violence in the claims occurring in these areas.

*3.2.4 Time from the act of violence to the date the claim was registered at the Tribunal*

At present, claims for compensation to the Tribunal must be lodged within two years after the act of violence, although the Tribunal has the discretion to lengthen this period. Figure 3 shows the cumulative frequency distribution of the period from the date of the act of violence to the registration of the claim at the Tribunal.<sup>13</sup> It shows that 85.9 per cent of the claims for compensation were lodged at the Tribunal within two years after the act of violence. For those claims that were registered within two years, the mean time from the act of violence to registration was 10.1 months ( $s = 6.9$  months).

On average, the lodgement period of the claims that were registered more than two years after the act of violence was about 4 years (mean = 49.3 months,  $s = 36.6$  months). For a small proportion of claims (0.7%), the time from the act of violence to registration was over 10 years.

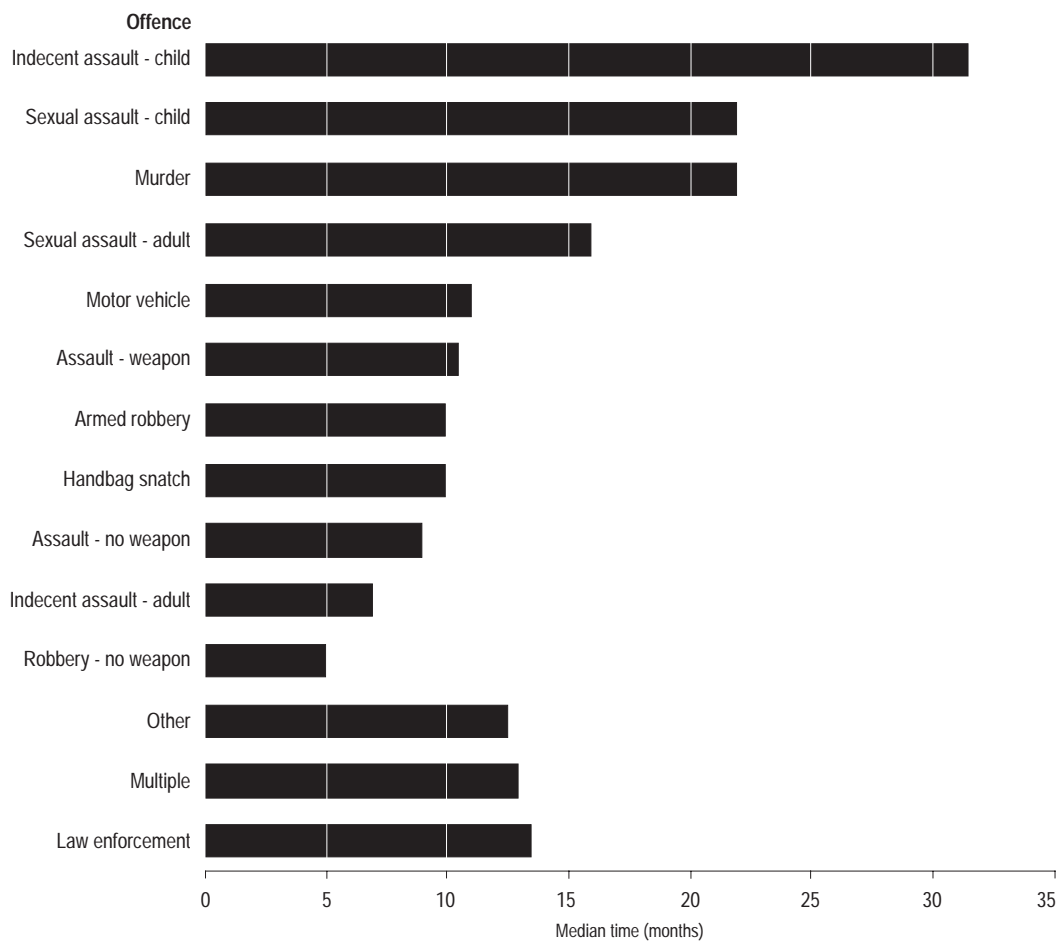
**Figure 3: Cumulative frequency distribution of the time (years) from the act of violence to registration of the claim at the Tribunal**



Note: The time from the act of violence to the registration of the claim was unknown for 37 claims which were therefore excluded from the analysis.

Figure 4 shows that the period from the act of violence to claim registration varied according to the type of offence that was involved. In this analysis, the offence categories refer to acts of violence where only one type of offence occurred. The 'multiple' category refers to acts of violence which involved more than one type of offence, for example, child sexual and indecent assault.

**Figure 4: Median time (months) from the act of violence to registration of the claim at the Tribunal by type of offence**



Note: The time from the act of violence to the registration of the claim was unknown for 37 claims which were therefore excluded from the analysis.

As can be seen in Figure 4, the longest median period from the act of violence to registration occurred for claims involving child indecent assault (31.5 months). Claims for child sexual assault, and claims for murder, also had a long median period from act of violence to registration (22.0 months each). The median lodgement period was shortest for claims involving robbery without a weapon (5.0 months).

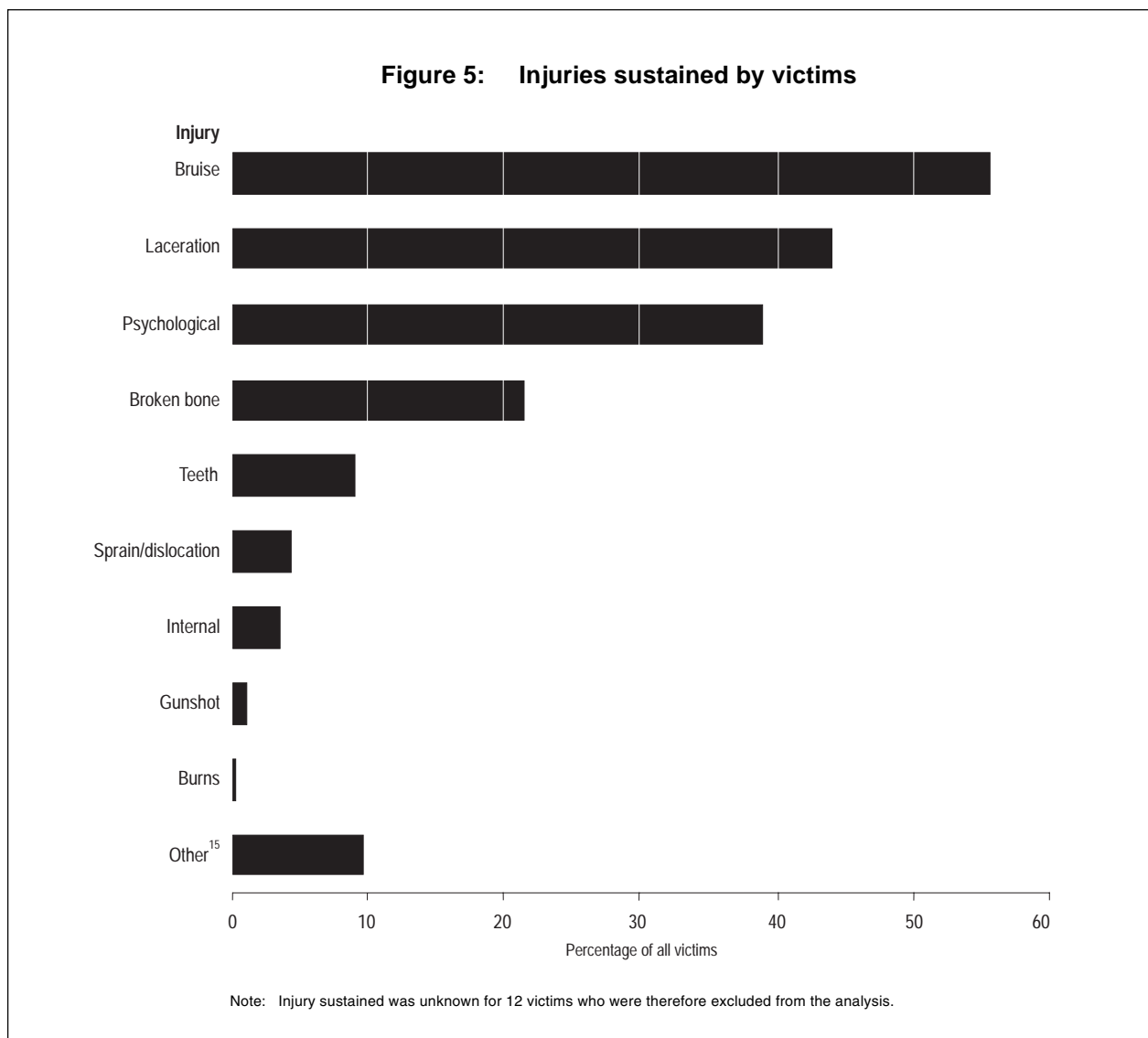


### 3.2.5 Time from the act of violence to the date the act was reported to the police

When making a determination, the Tribunal considers whether the act of violence was reported to a member of the police force within a reasonable time. For the majority of claims studied (95.3%), the act of violence was reported to the police on the same day as the act.<sup>14</sup> A very small proportion of victims (2.4%) reported to the police two or more days after the act. These claims predominantly consisted of indecent and sexual assault offences against children, and claims involving more than one type of offence.

### 3.2.6 Injuries sustained by the victims

Figure 5 shows the types of injuries sustained by the victims and the proportion of victims who sustained these injuries. It should be noted that many victims in the study (59.6%) allegedly sustained more than one type of injury and, therefore, the sum of the percentages in Figure 5 is greater than 100 per cent.



As seen in Figure 5, the most common type of injury cited by victims was bruising. Over half of the victims (55.8%) allegedly sustained bruising. The next most common type of injury was lacerations, with about 44 per cent (44.3%) of victims recording lacerations. Psychological injuries were also frequently cited. Over one-third of all the victims (39.1%) allegedly sustained some sort of psychological injury. Burns were the least common type of injury reported (0.5% of all victims).

Just over 40 per cent of the victims claimed for only one type of injury. The most common type of injury cited by victims with only one alleged injury was psychological injury (193 victims or 47.3% of all victims with a single injury). Victims who cited psychological injury as their only injury represented 19.1 per cent of all the victims studied.

### *3.2.7 Whether the victim contributed to the injuries sustained*

As mentioned earlier, the Tribunal must consider whether the victim contributed to the injuries he or she sustained in the act of violence when making a determination for compensation. Among the claims studied, only 3 per cent of the victims awarded compensation were judged by the Tribunal to have contributed to the injuries they sustained. The percentage of contributory behaviour determined for these victims ranged from 10 to 50 per cent.

Of the 80 claims that were dismissed by the Tribunal, that is the 80 victims who were not awarded compensation, it was not possible to conclude how many were dismissed because the victim was determined to have been totally responsible for the injuries he or she sustained. It was obvious, however, from comments made in the determinations that many claims from primary victims were dismissed because the victim was judged to have contributed significantly to the injuries he or she sustained.

## **3.3 CHARACTERISTICS OF THE AWARDS**

### *3.3.1 Type of award*

Of all the claims analysed by the Bureau, 92.2 per cent were awarded compensation. The Victims Compensation Act provides that the Tribunal may award compensation in respect of injury, expenses, and/or loss of personal effects.

#### (a) Compensation for injury

When all the victims awarded compensation were considered, the mean injury award was \$7,871 ( $s = \$8,125$ ) and the awards given for injury ranged from \$200 to \$50,000.<sup>16</sup> More than half of all the victims awarded compensation (57.0%) were awarded \$6,000 or less for injury compensation and only about 5 per cent were awarded more than \$24,000.

#### (b) Compensation for expenses

The mean amount awarded for expenses to victims awarded compensation

was about \$695 ( $s = \$1,787$ ). Almost one-quarter of the victims awarded compensation (22.7%) received no compensation for expenses. The awards given ranged from \$20 to \$19,988. About 53 per cent of the victims awarded compensation received between \$20 and \$500 for expenses and only 4 per cent received more than \$4,000.

(c) Compensation for loss of personal effects

The mean award for loss of personal effects to victims awarded compensation was \$45 ( $s = \$144$ ). The vast majority of victims awarded compensation (80.0%), however, did not receive any compensation for loss of personal effects. The awards given for personal effects ranged from \$5 to \$1,000 with about 15 per cent of victims awarded compensation receiving between \$5 and \$300. Only 5 per cent were awarded more than \$300 for loss of personal effects.

(d) Total award

The total award refers to the sum of the injury, expenses and loss of personal effects awards. When all victims awarded compensation were considered, the total awarded to victims on average was some \$8,612 ( $s = \$8,758$ ). The distribution of the total award given to victims awarded compensation is shown in Figure 6.

From Figure 6, the most common category of total award was \$2,001-\$4,000 (18.7% of all victims awarded compensation) followed by \$200-\$2,000 (17.9%). In all, more than one-third of the victims awarded compensation (36.5%) received a total of \$4,000 or less in compensation. More than three-quarters of the victims (77.2%) were awarded \$12,000 or less. Very few victims (15 victims or 1.6%) received more than \$40,000 in total in compensation.

(e) Legal costs

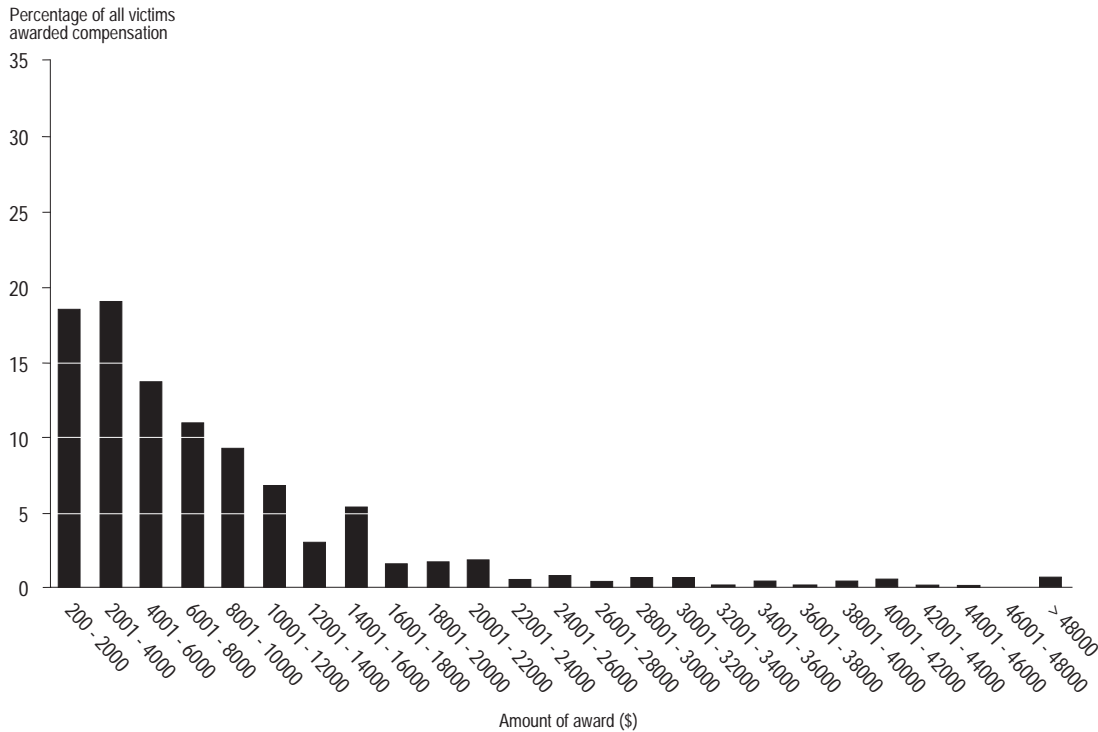
Irrespective of whether a claimant is awarded compensation, a claimant is entitled to be paid for the legal costs incurred in respect of the application for compensation. The Tribunal has scheduled professional costs that it awards for solicitors.

The vast majority of claimants studied (89.6%) had legal representation. For those claimants who had legal representation, the mean amount awarded by the Tribunal for legal costs was \$521 ( $s = \$197$ ).<sup>17</sup> The legal costs awarded ranged from \$137 to \$2,200.

The most frequent amount awarded in legal costs for solicitors by far was \$550 (77.6% of all claimants with legal representation). The next most frequent amounts awarded for legal costs were \$605 (4.4%), \$165 and \$1,050 (each 2.6% of all claims with legal representation) and \$413 (2.4%).

In addition to scheduled professional costs, the Tribunal awards other payments, known as 'disbursements', for solicitors acting on behalf of a claimant. Disbursements typically include costs such as those associated with photocopying and telephone calls. Disbursements may also include any medical costs of a claimant met by the solicitor.

**Figure 6: Frequency distribution of the total awards for victims awarded compensation**



Note: The total award was unknown for 2 victims who were therefore excluded from the analysis.

For claimants who had legal representation, the amounts awarded for disbursements ranged from \$8 to \$1,720. On average, about \$22 was awarded for disbursements by the Tribunal. Most claimants with legal representation (90.7%) did not have disbursements awarded.

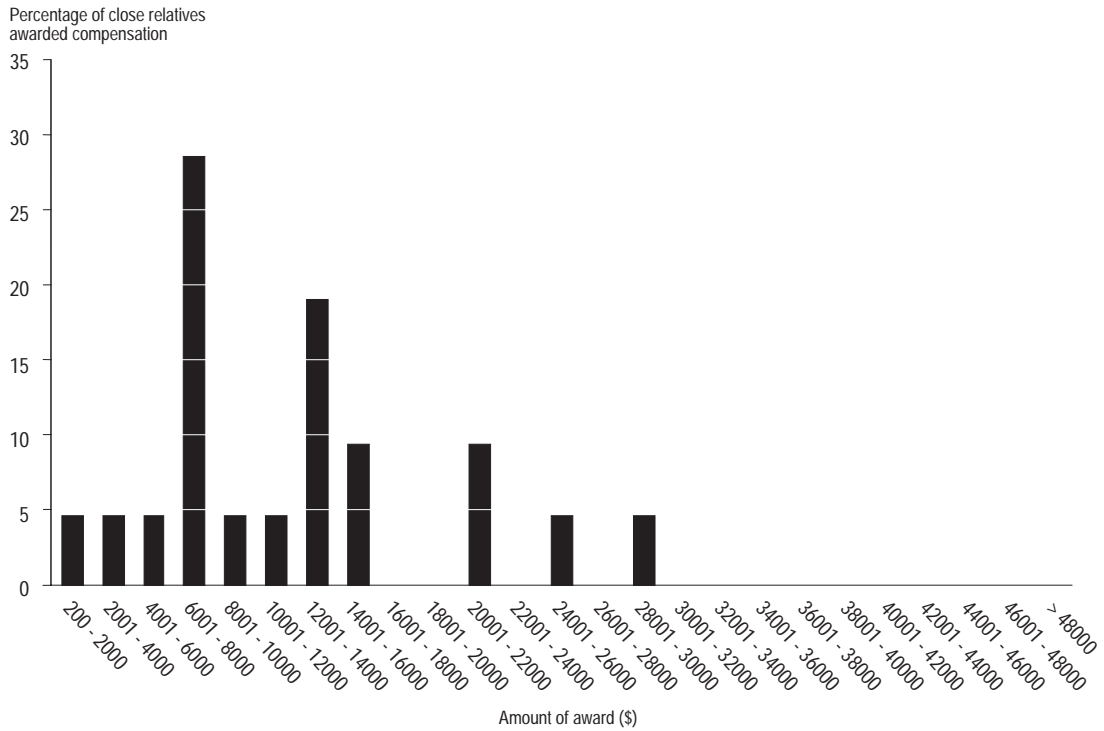
### 3.3.2 Type of victim

In this analysis, the award refers to the total award, that is, the sum of the awards for injury, expenses and loss of personal effects.

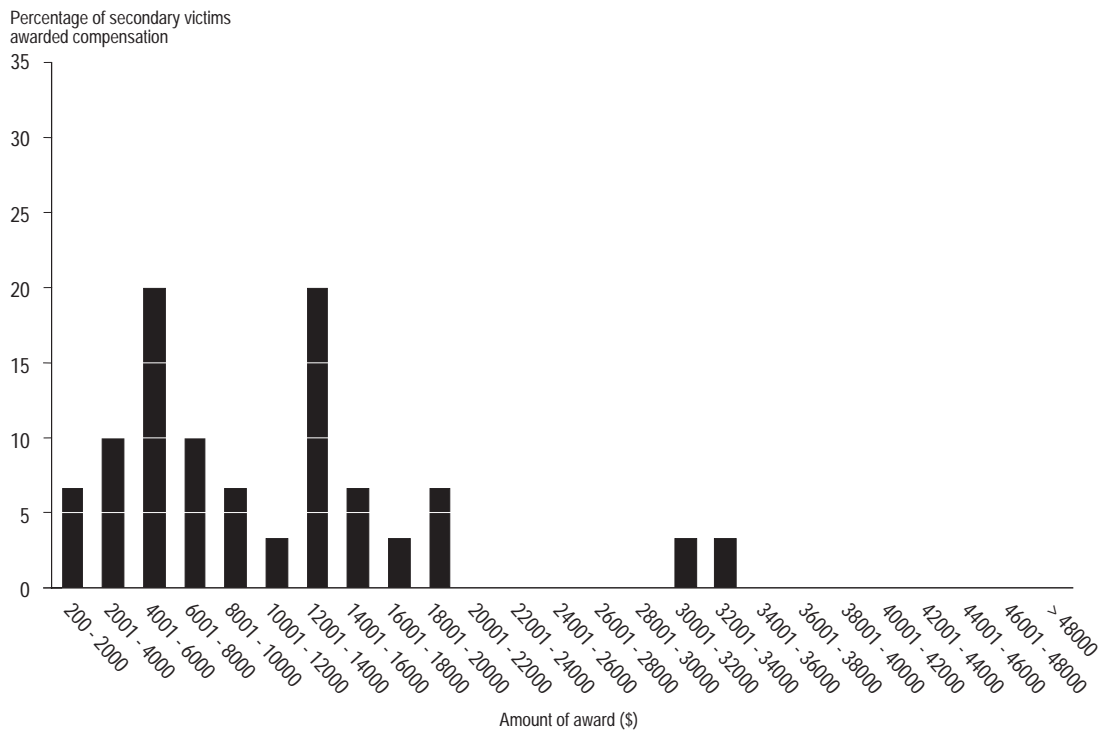
When all the claimants who were awarded compensation were considered, close relatives of a deceased victim received the largest mean award. The mean award for close relative victims was \$11,830 ( $s = \$7,227$ ). Figure 7 shows the frequency distribution of the compensation awards for close relatives of a deceased victim.

Secondary victims were granted the next largest mean award of \$10,736 ( $s = \$7,769$ ). Figure 8 shows the frequency distribution of the compensation awards for secondary victims.

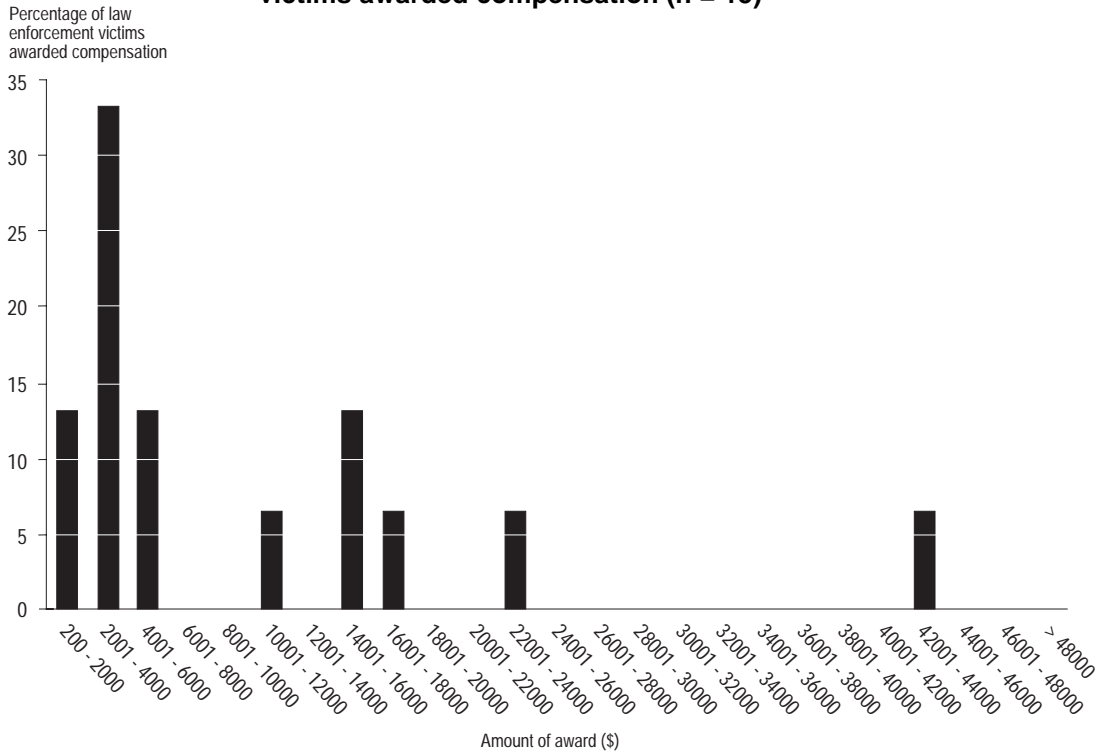
**Figure 7: Frequency distribution of the awards for close relatives awarded compensation (n = 21)**



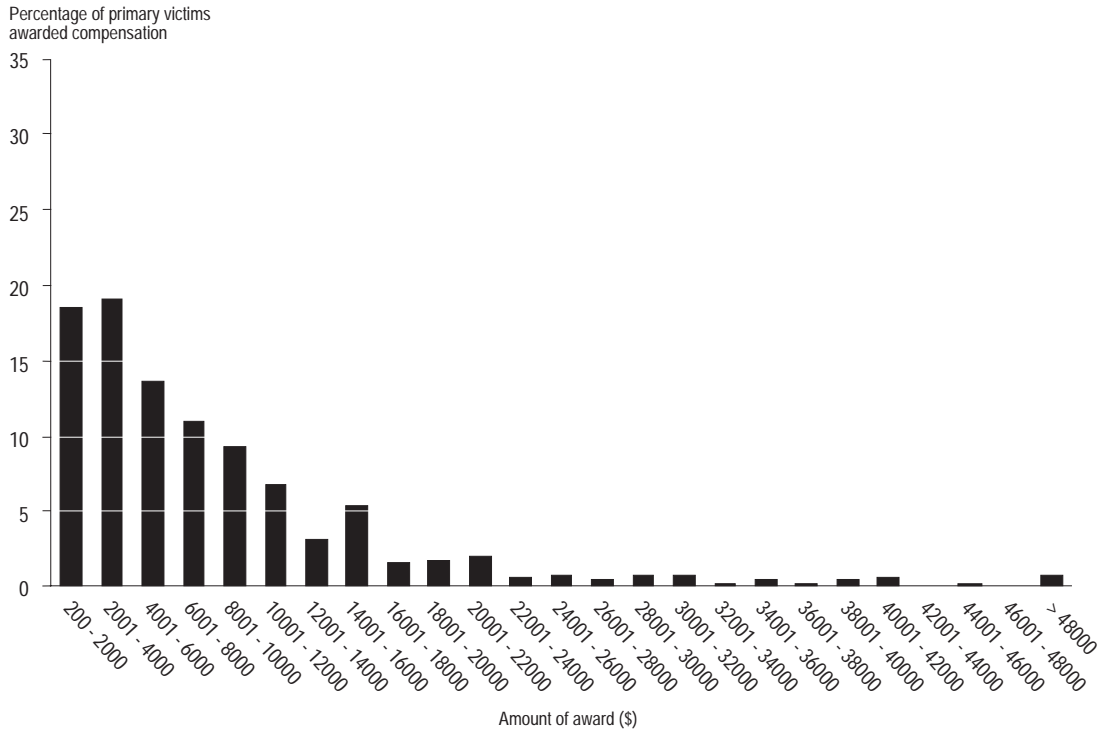
**Figure 8: Frequency distribution of the awards for secondary victims awarded compensation (n = 30)**



**Figure 9: Frequency distribution of the awards for law enforcement victims awarded compensation (n = 15)**



**Figure 10: Frequency distribution of the awards for primary victims awarded compensation (n = 874)**



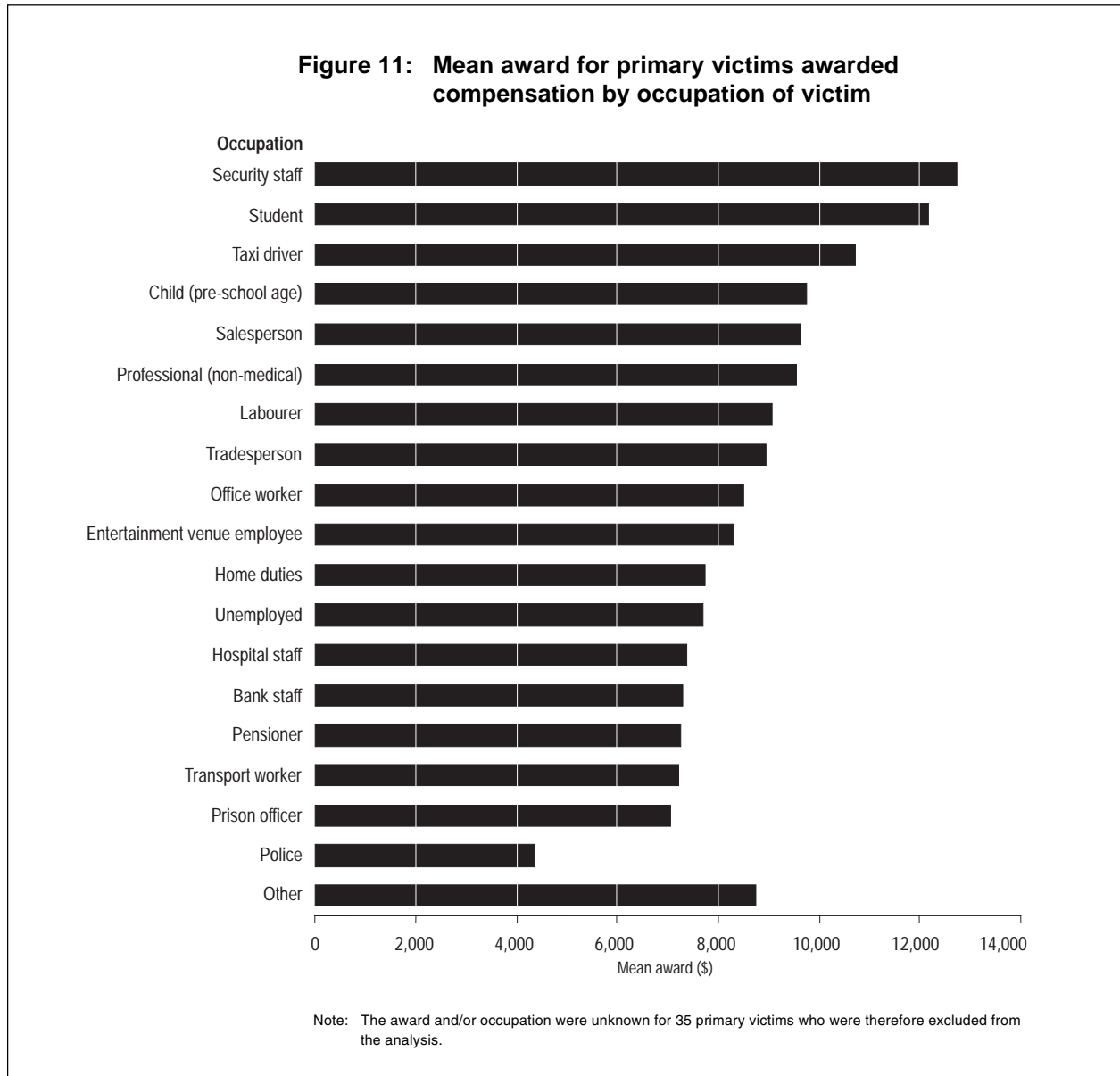
Note: The award was unknown for 2 primary victims who were therefore excluded from the analysis.

Law enforcement victims on average were awarded more compensation (mean = \$10,064, *s* = \$11,597) than primary victims who received the smallest mean award (mean = \$8,437, *s* = \$8,756). Figures 9 and 10 show the frequency distributions of the compensation awards for these victims.

### 3.3.3 Occupation of victim

In this analysis, the award refers to the total award, that is, the sum of the awards for injury, expenses and loss of personal effects.

Figure 11 shows the mean amount awarded to primary victims in different occupations. Caution should be taken when interpreting the mean awards for the occupation groups of 'security staff', 'prison officer', 'hospital staff', 'taxi driver' and 'child (pre-



school age)' due to the fact that each of these means were derived from a small number of claims ( $n < 11$ ) and may be subject to a high sampling error.

Of those primary victims who were awarded compensation, those in the occupation group of security staff received the highest mean award (\$12,765,  $s = \$15,295$ ). Figure 11 shows that, relative to the other occupation groups, students also received a high mean award (\$12,207,  $s = \$9,729$ ). On average, primary victims who were police officers were awarded the smallest amount of compensation (\$4,379,  $s = \$6,533$ ), being over \$2,500 less than the mean for any other occupation group. It is likely that these findings reflect a relationship between the occupation of a victim and the type and severity of any injury sustained.

It is not possible to report on the mean award for the occupation groups of the secondary, close relative and law enforcement victims due to the small number of these victims in the study.

**Table 5: Breakdown of the total amount awarded for primary victims by occupation of victim**

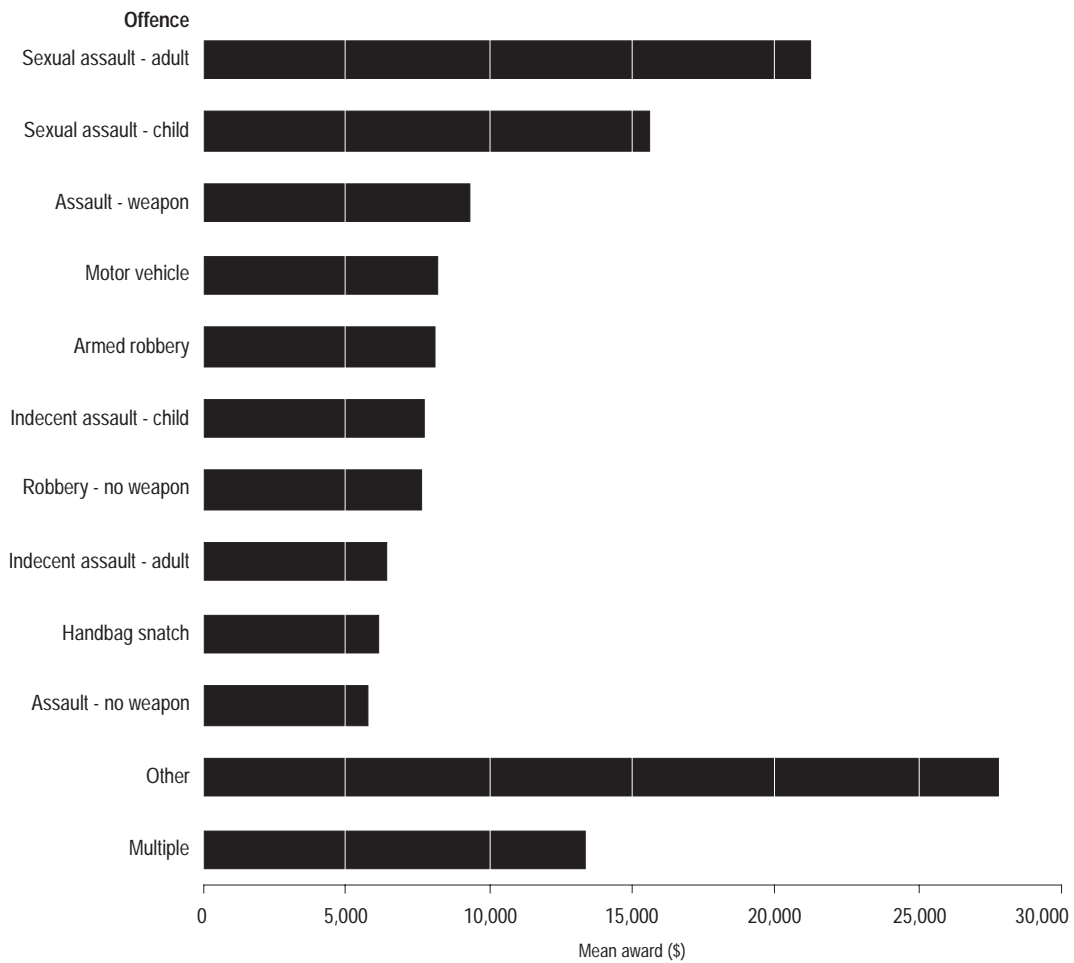
<i>Occupation</i>	<i>Number of primary victims awarded compensation</i>		<i>Percentage of total amount awarded</i>
	<i>Number</i>	<i>%</i>	
Student	110	13.1	18.7
Tradesperson	85	10.1	10.6
Unemployed	89	10.6	9.6
Labourer	63	7.5	8.0
Pensioner	72	8.6	7.3
Salesperson	45	5.4	6.1
Entertainment venue employee	47	5.6	5.4
Police	87	10.3	5.3
Home duties	37	4.4	4.0
Office worker	32	3.8	3.8
Professional (non-medical)	28	3.3	3.7
Bank staff	23	2.7	2.3
Security staff	10	1.2	1.8
Transport worker	16	1.9	1.6
Child (pre-school age)	8	1.0	1.1
Taxi driver	6	0.7	0.9
Hospital staff	8	1.0	0.8
Prison officer	7	0.8	0.7
Other	68	8.1	8.3
<b>Total</b>	<b>841</b>	<b>100</b>	<b>100</b>

Note: The award and/or occupation were unknown for 35 primary victims who were therefore excluded from the analysis.



By contrast with Figure 11, Table 5 shows the amount of money in total granted to primary victims in the different occupation groups as a proportion of the total amount of money received by primary victims who were awarded compensation. It can be seen that the proportion of money awarded to primary victims in different occupation groups generally corresponded to the relative frequencies of primary victims awarded compensation. Students, the group with the largest frequency, received the largest share of the money awarded to primary victims (18.7%). Similarly, taxi drivers, hospital staff and prison officers, the smallest occupation groups, each received less than 1 per cent of the money awarded to primary victims. In contrast, the proportion of the total amount awarded to police did not reflect the relative frequency of victims in this group. Police represented the third largest group of primary victims awarded compensation (10.3%) yet they were awarded only 5.3 per cent of the total amount granted to primary victims. This was largely due to the fact that police received the smallest mean award (see Figure 11).

**Figure 12: Mean award for primary victims awarded compensation by type of offence**



Note: The award was unknown for 2 primary victims who were therefore excluded from the analysis.

Of the total amount of compensation awarded by the Tribunal to all claimants, the proportion awarded to claimants who were working at the time of the act of violence was 18.2 per cent.<sup>18</sup> These claimants comprised primary and law enforcement victims who, at least in principle, may have been eligible for workers compensation.

### 3.3.4 Type of offence

In this analysis, the award refers to the total award, that is, the sum of the awards for injury, expenses and loss of personal effects.

Figure 12 shows the mean awards for primary victims according to the type of offence that was involved in the act of violence. The offence categories refer to acts of violence where only one type of offence occurred. The 'multiple' category refers to acts of violence which involved more than one type of offence. Caution should be taken when interpreting the mean awards for the offence types of 'handbag snatch', 'adult indecent assault', 'child indecent assault', 'other', and 'motor vehicle' due to the fact that each of these means were derived from a small number of claims ( $n < 12$ ) and may be subject to a high sampling error.

In Figure 12 it can be seen that for claims involving a single type of offence, those involving sexual assault were awarded the largest amount of compensation on average.<sup>19</sup> Claims involving the sexual assault of adults received a large mean award (\$21,298,  $s = \$7,710$ ), as did claims which involved the sexual assault of children (mean award = \$15,618,  $s = \$9,307$ ). All other categories of offence on average were awarded less than \$10,000. Claims for assault without the use of a weapon were awarded the lowest amount of compensation. Victims who claimed in respect of an assault received a mean award of \$5,793 ( $s = \$6,158$ ).

When compensation for offences was examined on a gender basis, there were generally only small differences in the awards given by the Tribunal. Table 6 shows the mean awards given to male and female primary victims according to the type of offence involved in the act of violence. It does not include all categories of offence due to the small number of claims in some offence categories.

**Table 6: Mean award for primary victims awarded compensation by type of offence and gender of victim**

Offence	Male			Female		
	No.	Mean award (\$)	s (\$)	No.	Mean award (\$)	s (\$)
Assault - no weapon	335	6,247	6,707	105	4,337	3,625
Robbery - no weapon	28	8,169	6,838	10	6,234	5,679
Assault - weapon	119	9,406	10,496	35	9,305	10,877
Armed robbery	24	8,376	4,773	28	7,917	5,215
Sexual assault - child	6	12,469	5,901	17	16,729	10,158
Indecent assault - child	5	6,821	3,285	6	8,577	4,947

Note: Gender was unknown for 5 primary victims who were therefore excluded from the analysis.

Claims involving assault (without a weapon) were the only claims for which the gender difference in award was significant ( $t = 2.8, df = 438, p < 0.05$ ). It can be seen in Table 6 that the mean award for males claiming for assault without a weapon was larger than the average amount awarded to females. From the present data it cannot be determined why this difference occurred, however, it may have been due to male victims of assault being more seriously injured than female victims of assault.

In order to show the breakdown by offence of all the money awarded to primary victims, Table 7 shows, for each type of offence, the total amount of money granted to primary victims as a proportion of the total amount of money received by primary victims who were awarded compensation. From Table 7 it can be seen that victims claiming for assaults (with a weapon or otherwise) received most of the money awarded by the Tribunal, accounting for over half (54.6%) of all the compensation awarded to all primary victims. This is not surprising given that assaults were involved in about two-thirds of the claims awarded compensation. Nearly 13 per cent of all the money awarded to primary victims was awarded to victims of sexual or indecent assault.

**Table 7: Breakdown of the total amount awarded to primary victims by type of offence**

<i>Occupation</i>	<i>Number of primary victims awarded compensation</i>		<i>Percentage of total amount awarded</i>
	<i>Number</i>	<i>%</i>	
Assault - no weapon	444	50.8	34.9
Assault - weapon	155	17.7	19.7
Sexual assault - adult	21	2.4	6.1
Armed robbery	52	5.9	5.7
Sexual assault - child	23	2.6	4.9
Robbery - no weapon	38	4.3	3.9
Indecent assault - child	11	1.3	1.2
Handbag snatch	9	1.0	0.8
Indecent assault -adult	8	0.9	0.7
Motor vehicle	4	0.5	0.4
Other	10	1.1	3.8
Multiple	99	11.3	18.0
<b>Total</b>	<b>874</b>	<b>100</b>	<b>100</b>

Note: The award was unknown for 2 primary victims who were therefore excluded from the analysis.

### 3.3.5 Appeals to the District Court

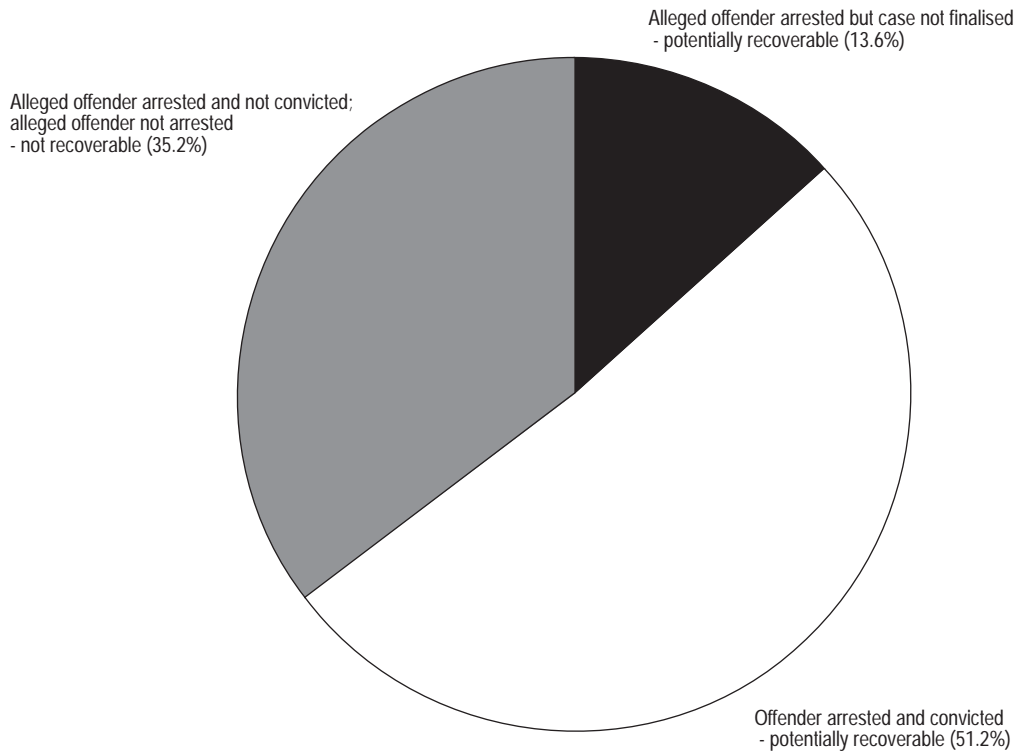
In this analysis, the award refers to the total award, that is, the sum of the awards for injury, expenses and loss of personal effects.

A small proportion of all the claimants studied (3.5%) lodged an appeal to the District Court.<sup>20</sup> Almost all of the claimants who appealed (94.4%) were awarded compensation prior to their appeal. Of these claimants who were awarded compensation and appealed, the mean award given by the Tribunal prior to their appeal was \$9,457 ( $s = \$8,844$ ).<sup>21</sup> It is not known what the final mean award was for these claimants, that is the amount awarded after the outcome of the appeal, however, in most cases the final amount awarded by the District Court was much larger than that awarded by the Tribunal. For those claimants who did not lodge an appeal the mean award was \$8,575 ( $s = \$8,772$ ).<sup>22</sup>

### 3.3.6 Potential recovery of moneys awarded in compensation

Under the Victims Compensation Act there are provisions for the Victims Compensation Tribunal to recover compensation moneys from convicted offenders. It is interesting to know, therefore, what proportion of moneys paid out by the Tribunal are potentially recoverable.

**Figure 13: Potentially recoverable proportions of total compensation awarded to claimants**



Note: Whether an offender was arrested or not and/or the award were unknown for 16 claims which were therefore excluded from the analysis.

Figure 13 shows the total amount of compensation awarded to claimants according to whether an offender was convicted or not. It can be seen that 51.2 per cent of the total amount paid out by the Tribunal was awarded to claimants for claims where an offender had been arrested and convicted. For a further 13.6 per cent, an offender had been arrested but it was not known whether the offender had been convicted. For the remaining 35.2 per cent, either an offender had not been arrested or an offender had been arrested but not convicted.

In other words, about half of the money awarded by the Tribunal to the sample of claimants studied could potentially be recovered, and possibly a further 13.6 per cent. In real terms, of course, the Tribunal's probability of recovering this money is heavily dependent on the offender's capacity to pay. As a large proportion of offenders are known to be impecunious, the practical likelihood of being able to recover a large proportion of the award moneys from offenders may be quite small.

## 4. SUMMARY AND CONCLUSIONS

The main aim of this report has been to provide an accurate picture of the current operation of the Victims Compensation Act. From the Bureau's sample study of claims for compensation to the Victims Compensation Tribunal, a number of findings emerged and these are summarised below.

Most of the persons who applied for compensation to the Victims Compensation Tribunal did so as primary victims (92.8%). Secondary victims comprised the next largest group of all victims (3.3%) followed by close relatives of a deceased victim (2.3%) and law enforcement victims (1.6%).

In over half of the claims for compensation (55.8%), victims cited bruising as the type of injury sustained in the act of violence. Lacerations also reportedly occurred frequently, with about 44 per cent of victims allegedly sustaining lacerations. It was impossible to quantify the seriousness of the physical injuries which were the subject of compensation claims but many claims clearly involved only very minor physical injuries. In these claims it must be acknowledged that the psychological impact of the act of violence may have been significant. Claims for psychological injury occurred in 39.1 per cent of claims. In approximately 19 per cent of claims, psychological injury was in fact the sole basis of the claim for compensation.

The vast majority of the claims for compensation were judged by the Tribunal to be acts of violence as defined by the Victims Compensation Act. Most of the acts of violence (72.9%) involved assault offences. Nearly 18 per cent of the claims involved sexual assault. Claims involving domestic assault constituted a little over 9 per cent of all claims.

At the time of becoming a victim of violent crime, nearly one-quarter of the claimants studied were employed and working. When primary victims were examined, the proportion who were working at the time of the act of violence varied markedly according to the occupation of the claimant. More than 90 per cent of police officer claimants were working at the time of the act of violence as were nearly 86 per cent of taxi drivers and 72 per cent of prison officers. By contrast, this was true of less than 7 per cent of labourers and tradespersons.

Occupation groups also varied considerably in the relative frequency with which they lodged claims. Students accounted for 12.6 per cent of primary victim claimants. Police and unemployed persons each accounted for a little over 10 per cent of the primary victim claimants. Taxi drivers and prison officers, who, as already noted, were generally working at the time of the act of violence, each accounted for less than 1 per cent of the primary victim claimants.

Nearly all claimants (92.2%) were awarded some type of compensation. The average total award was \$8,612. The range of total awards, however, was highly variable. Over one-third of the claimants received a total award of \$4,000 or less. Less than one-quarter of the claimants received in excess of \$12,000. Unsurprisingly, compensation for injury accounted for the largest component of the total award. On average, \$7,871 was awarded for injury whereas the average award for expenses was \$695 and the average award for loss of personal effects was \$45.

Average awards were highest for adult sexual assault offences. On average, primary victim claimants in this category received \$21,298. Claims for child sexual assault received the next highest average award at \$15,618. Primary victim claimants in most other categories of offence each received less than \$10,000 on average. Taking into account the relative frequency of claimants in different offence categories, claims in relation to assault accounted for nearly 55 per cent of all compensation moneys awarded to primary victims. Claimants in the remaining categories of offence each accounted for less than 7 per cent of the compensation moneys awarded to victims.

In terms of occupation, security staff, students and taxi drivers received the highest awards, each receiving over \$10,000 on average. Police received \$4,379 on average. This was the lowest average award for any occupation group by a considerable margin. It was only 62 per cent of the average award granted to prison officers, the group with the second lowest average award. Taking into account the relative frequency of claimants in different occupation groups, students and tradespersons between them accounted for the largest proportion (29.3%) of total moneys awarded to primary victims. Primary victim claimants in the remaining occupation groups each accounted for less than 10 per cent of the total moneys awarded to primary victims.

Money awarded to primary and law enforcement claimants employed and working at the time of the act of violence accounted for 18.2 per cent of the total amount awarded to all claimants in the study. It is impossible to tell, however, what proportion of claimants might have actually had a legitimate claim to workers compensation. Most claimants (including those working at the time of the act of violence) stated that they had received no workers compensation and were not entitled to it. One reason for believing that this might have been true, at least of a significant number of claimants, is the fact that section 67 of the *Workers Compensation Act 1987* places significant restrictions on awards for pain and suffering. In the present study, a high proportion of victims compensation claimants sought awards for psychological injury.

Only 3.0 per cent of awards were reduced by the Tribunal on the grounds that the claimant was judged to have contributed to the injuries he or she claimed to have sustained. The proportion of claims dismissed on these grounds is unknown. However, since dismissed claims made up only 7.8 per cent of the total sample, the number of claims dismissed on the grounds of contributory behaviour could not have been high. A variety of studies on the relationship between risk of criminal victimisation and lifestyle factors (e.g. alcohol consumption) have shown a close relationship between the two (Lynch 1987, Felson 1986). The Tribunal's findings on the proportion of victims contributing to their injuries might, therefore, at least at face value, seem somewhat out of kilter with the empirical evidence on the issue.

The empirical evidence on risk factors associated with criminal victimisation, however, must be regarded as of limited value to the Tribunal in deciding whether to dismiss a claim or reduce an award for compensation. The reason for this is that, while it may be reasonable to ask individuals to avoid engaging in activities which place them at particular risk of criminal victimisation, it is not reasonable to expect them to restrict themselves to a lifestyle which actively minimises the risk of such victimisation. To take an extreme example, the risk of assault in public places is known to rise on Friday and Saturday nights and during the summer months (Devery 1992, Robb 1987). Most people would regard it as unreasonable, however, to reduce or refuse victim compensation to a person who refused to stay indoors at these times. Ultimately,

judgements about when a claimant has contributed to his or her injuries must proceed on the basis of principles which state what kinds of contribution place a claimant at unreasonable risk of falling victim to an act of violence. One of the weaknesses of the existing compensation scheme would seem to be the absence of any set of principles fulfilling this function.



## NOTES

- <sup>1</sup> The hearing is held in public except where the interests of justice demand a private hearing (see section 31 of the Victims Compensation Act).
- <sup>2</sup> For the remainder of this report, the term 'act of violence' will generally include the incident in which a law enforcement victim sustained injury, unless stated otherwise.
- <sup>3</sup> Gender was unknown for 9 primary victims who were therefore excluded from the analysis.
- <sup>4</sup> Coding of age was in whole years. As a result, victims aged less than one year were coded as aged one year and, therefore, the youngest primary victim may have been younger than one year.
- <sup>5</sup> 'Entertainment venue employee' includes bouncers and staff employed in a bottleshop which is attached to an entertainment venue. 'Bank staff' includes TAB staff. 'Other' includes prisoners, hospital patients, managers and supervisors (non-specified), farmers and graziers.
- <sup>6</sup> Occupation was unknown for 2 secondary victims and 3 close relatives of a deceased victim who were therefore excluded from the respective analyses.
- <sup>7</sup> Whether the victim was working at the time of the act of violence was unknown for 12 primary victims who were therefore excluded from the analysis.
- <sup>8</sup> Whether the act of violence was a domestic violence incident was unknown for 12 claims which were therefore excluded from the analysis.
- <sup>9</sup> 'Motor vehicle' offences refer to traffic offences or accidents involving vehicles, including bicycles. 'Other' offences mainly include Chelmsford Hospital cases; break, enter and steal offences; and firearm offences. 'Law enforcement' does not refer to an offence per se but to the incident during which the victim sustained injury. The actual offence that the offender was engaged in at the time of pursuit by the law enforcement victim was not coded.
- <sup>10</sup> The venue of the act of violence was unknown for 8 claims which were therefore excluded from the analysis.
- <sup>11</sup> 'Other' includes prisons, police stations, sporting venues, educational venues (e.g. schools), hospitals, public toilets, and private open land.
- <sup>12</sup> The postcode location of the act of violence was unknown for 23 claims which were therefore excluded from the analysis. The Sydney metropolitan area corresponds closely to the Sydney Statistical Division.
- <sup>13</sup> The date of the act of violence refers to the date on which the act of violence ended. For the majority of claims the start and end date of the act of violence was identical. Some violent acts, however, such as sexual assault, extended over periods of up to several years.
- <sup>14</sup> See Note 13 for an explanation of the date of the act of violence. The date the act of violence was reported to the police was unknown for 65 claims which were therefore excluded from the analysis.
- <sup>15</sup> 'Other' includes eye and ear damage (other than lacerations), nerve damage, non-specific head injuries, loss of consciousness, concussion, dizziness, memory impairment, swelling, muscular strain, localised pain, numbness, impairment due to deep-sleep therapy, and aggravation of existing conditions.
- <sup>16</sup> The injury award was unknown for 2 claims which were therefore excluded from the analysis.
- <sup>17</sup> The legal costs awarded was unknown for one claim which was therefore excluded from the analysis.
- <sup>18</sup> Whether the victim was working at the time of the act of violence and/or the award were unknown for 14 primary victims who were therefore excluded from the analysis.

- <sup>19</sup> The large mean award for 'other' offences was mainly due to the awards for Chelmsford Hospital cases.
- <sup>20</sup> Whether an appeal was lodged or not was unknown for 3 claims which were therefore excluded from the analysis.
- <sup>21</sup> The total award was unknown for 2 claims which were therefore excluded from the analysis.
- <sup>22</sup> There was no statistically significant difference between the mean award for those victims who lodged an appeal and the mean award for those who did not appeal ( $t = 0.58$ ,  $df = 935$ ,  $p > 0.05$ ).

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- Lynch, J.P. 1987, 'Routine activities and victimization at work', *Journal of Quantitative Criminology*, vol 3, pp. 283-300.
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- Robb, T. 1987, *Police Reports of Serious Assaults in New South Wales*, NSW Bureau of Crime Statistics and Research, Sydney.
- Victims Compensation Tribunal 1992, *Issues Paper: Review of the Victims Compensation Act*, Victims Compensation Tribunal, Attorney General's Department, Sydney.

# APPENDIX

## NSW BUREAU OF CRIME STATISTICS AND RESEARCH Victims Compensation Tribunal Study - Coding Sheet

### Form Number

1. File number


2. Date of Registration

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3. Date of Determination

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### APPLICANT DETAILS

4. Sex of applicant (1 = male; 2 = female)

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5. Date of birth of applicant (day-month-year)

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6. Relationship to victim (1 = primary victim; 2 = secondary victim;  
3 = close relative to victim when victim dead; 4 = law enforcement victim  
[if not a primary or a secondary victim])

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7. Solicitors ( vendor number code, 88888 = acting for self, 99999 = D/K )

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### VICTIM DETAILS

8. Sex of victim (1 = male; 2 = female; 3 = victim was applicant)

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9. Date of birth of victim (if victim was applicant code 99 99 99)

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10. Was there continuing disability (incl. scarring) (1 = yes; 2 = no)

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11. Was there a claim for loss of earnings (1 = yes; 2 = no)

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12. Percentage of contributory behaviour (0 if none)

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13. Was there an appeal against Tribunal decision (1 = yes; 2 = no)

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14. Outcome (1 = compensation; 2 = dismissal)

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15. Compensation value:

Pain and suffering	\$					
Expenses	\$					
Loss of personal effects	\$					
Professional costs	\$					
Disbursements	\$					

# APPENDIX continued

16. Was there an application for leave to apply? (1 = yes; 2 = no; 9 = D.K.)

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17. Date of report to police (99 99 99 = D.K.)

**INCIDENT DETAILS**

18. Start date of offence

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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19. End date of offence

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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20. Type of offence (enter 1 next to appropriate offences)

- Assault - no weapon
- Assault and robbery / robbery without weapon
- Assault - weapon
- Armed robbery
- Murder / manslaughter
- Handbag snatch
- Sexual assault (vaginal / oral / anal intercourse)
- Sexual assault (child under 16)
- Indecent assault (act of indecency)
- Indecent assault (child under 16)
- Motor vehicle (e.g. accident)
- Telecommunications (e.g. phone harassment)
- Dog bite / attack (dog not used as weapon)
- Injured in course of law enforcement (not assault)
- Other - specify.....

## APPENDIX continued

21. Location of offence (postcode)	<input style="width: 25px; height: 25px;" type="text"/> <input style="width: 25px; height: 25px;" type="text"/> <input style="width: 25px; height: 25px;" type="text"/> <input style="width: 25px; height: 25px;" type="text"/>
22. Venue of offence (enter 1 next to venues):	
Dwelling	<input type="checkbox"/>
Licensed premises (hotel, club, restaurant, bottleshop)	<input type="checkbox"/>
Footpath	<input type="checkbox"/>
Road (incl. car accident)	<input type="checkbox"/>
Park (incl. beach, river, recreation area)	<input type="checkbox"/>
School / university / college	<input type="checkbox"/>
Sport (ovals)	<input type="checkbox"/>
Bank (incl. building society, credit union, TAB)	<input type="checkbox"/>
Office	<input type="checkbox"/>
Non-licensed business premises	<input type="checkbox"/>
Prison (incl. prison farm)	<input type="checkbox"/>
Police station	<input type="checkbox"/>
Vehicle (in car, taxi but no collision)	<input type="checkbox"/>
Hospital	<input type="checkbox"/>
Public toilets	<input type="checkbox"/>
Don't know	<input type="checkbox"/>
Other - specify.....	<input type="checkbox"/>
23. Was this a domestic violence incident? (1 = yes; 2 = no; 9 = D.K.)	<input type="checkbox"/>
24. Was someone arrested for the offence? (1 = yes; 2 = no; 9 = D.K.)	<input type="checkbox"/>
25. Was offender convicted? (1 = yes; 2 = no, or no-one arrested; 9 = D.K. / not finalised)	<input type="checkbox"/>

## APPENDIX continued

26. Occupation of victim at time of incident (enter 1 in appropriate box):

	Police	<input type="checkbox"/>
	Prison officer	<input type="checkbox"/>
Entertainment venue employee (e.g. bouncer, bar staff, restaurant staff)		<input type="checkbox"/>
	Bank staff	<input type="checkbox"/>
	Security staff	<input type="checkbox"/>
Hospital staff (e.g. doctor, nurse, dentist)		<input type="checkbox"/>
	Hospital patient	<input type="checkbox"/>
Student - school, university, college		<input type="checkbox"/>
	Unemployed	<input type="checkbox"/>
	Taxi driver	<input type="checkbox"/>
Pensioner - (old age, invalid, single parent, etc.)		<input type="checkbox"/>
Office worker (e.g. secretary, clerk)		<input type="checkbox"/>
Professional (e.g. accountant, lawyer, [non-medical])		<input type="checkbox"/>
	In custody / prisoner	<input type="checkbox"/>
Transport worker (incl. bus, truck driver, train)		<input type="checkbox"/>
	Child - pre-school age	<input type="checkbox"/>
Trades person (e.g. plumber, builder)		<input type="checkbox"/>
	Home duties	<input type="checkbox"/>
	Salesperson	<input type="checkbox"/>
Labourer / plant, machine operator		<input type="checkbox"/>
	Don't know	<input type="checkbox"/>
Other - specify.....		<input type="checkbox"/>

## APPENDIX continued

27. Type of injury (enter 1 in appropriate boxes):

- Bruise
- Sprain / dislocation
- Laceration
- Broken bone
- Gunshot (bullet, shotgun, arrow, speargun)
- Internal (kidney, spleen, liver, etc.)
- Burns
- Death
- Psychological (shock, stress)
- Teeth
- Don't know
- Other (e.g. poison, electrocution)

28. Was the person working at the time of the incident? (1 = yes; 2 = no; 9 = D.K.)