



**Social Justice Tribunals Ontario**

*Providing fair and accessible justice*

**Criminal Injuries Compensation Board**

# Guide

## Applying for Compensation for a Death

# Contents

<b>Before You Start</b>	3
General Information	3
The Board	3
Who can apply?	3
The Application Process	3
Applying	3
Board Administrative Procedures to Support Applications	3
<b>Completing the Application Form</b>	4
Part 1 - Claimant Information	4
Part 2 - Applicant Information	4
Part 3 - Deceased Person Information	4
Part 4 - Legal Representation	4
Part 5 - Types of Compensation	4
Interim Awards and Assistance	5
Maximum Awards	5
Ontario Disability Support Program (ODSP) and Ontario Works (OW)	5
Part 6 - Request for Extension where Crime occurred more than 2 years ago	5
Part 7 - Compensation from Other Sources	6
Part 8 - Details of the Crime(s)	6
Part 9 - Funeral and Related Expense Information	6
Part 10 - Bereavement Counselling	7
Part 11 - Loss of Financial Support	7
Part 12 - Mental or Nervous Shock Claim	7
Treatment Information	8
Loss of Income	8
Part 13 - Other People Who May Apply for Compensation	9
Part 14 - Additional Information	9
Part 15 - Agreement and Authorization for Release of Information	9
<b>What's Next</b>	9
The Hearing Process	9
Alleged Offender Notification	9
Documentary Hearing	9
Oral Hearing	9
Electronic Hearing	9
Board Considerations	10
Board Decisions	10
Awards	10
Denials	10
Reimbursement	10
Review or Appeal of Decisions	10

## Before You Start

Please read the following general information about the process of applying for compensation. This is not intended to be a complete guide to our process, but it does explain some of the things you will need to think about when deciding whether to apply.

This guide is intended to help you complete an application for compensation arising from the death of someone because of a crime. A separate guide is available if you are applying for compensation arising from an injury. If you have any additional questions, contact us toll free at 1 800 372-7463 (if you live in the Greater Toronto Area, call 416 326-2900) or visit our website at [www.sjto.ca/cicb](http://www.sjto.ca/cicb).

The Victim Support Line (VSL), through FindHelp, provides a province-wide, toll-free telephone information line providing access to information for victims, in the language of their choice, 24 hours a day, seven days a week. If you would like to find out about services in your area, or would like to inquire about organizations that might be willing to assist with the completion of your application, call the Victim Support Line at 1 888 579-2888 (if you live in the Greater Toronto Area, call 416 314-2447) and choose option 1.

## General Information

### The Board

The Criminal Injuries Compensation Board (the Board) is an adjudicative tribunal that is governed by the *Compensation for Victims of Crime Act* (the *Act*). The Board decides on the eligibility of an application for compensation under the *Act* after it holds hearings (oral, electronic or documentary hearings). The Board recognizes that no amount of money can truly compensate for the loss of a loved one.

### Who can apply?

If a person died as a result of a violent crime in Ontario, or while making an arrest or assisting a peace officer with law enforcement duties, or while trying to prevent a crime, any family members that were dependent on the deceased person or who paid expenses as a result of the death (including expenses to care for one or more children of the deceased person, or expenses for bereavement counselling) can apply for compensation. A person can also apply for compensation if he/she witnessed or came upon the scene of the crime that resulted in the death and he/she meets the criteria for a finding of “mental or nervous shock.”

If a claimant is under the age of 18, or is unable to manage his/her personal affairs, a legal guardian must make the application.

## The Application Process

### Applying

If you believe you meet the criteria for a claim, complete an application form with as much detail as possible. Fax, email or mail the application form to the addresses or numbers shown on the form, along with any supporting documents. It is important to keep a copy of any document you send us, as these documents will not be returned to you.

### Board Administrative Procedures to Support Applications

When we receive an application form, we assign it a file number. We will inform you of that file number, and you should write it on any further correspondence or documents you send to us. We may contact you to ensure that the application form is complete. We require information and documents to support your claim. These documents may include receipts for funeral costs or other expenses associated with the death, counselling reports, police reports, court files and so on. In some instances, we can assist you in obtaining documents.

When we determine that your file is substantially complete, we will schedule a documentary, electronic or oral hearing. We will tell you the time, location and type of hearing we will hold. You are responsible for ensuring that we have your current contact information (e.g. telephone numbers and mailing address).

## Completing the Application Form

To make it easier to move between the guide and the form, the headings in this guide match the headings on the application. For example, “Part 1 - Claimant Information” below is the same as the heading for the first section of the form.

### Part 1 – Claimant Information

A claimant is a person who wishes to receive compensation. If you are the claimant, you must ensure that your contact information is correct. You must also inform us if your contact information changes while we are processing your claim to ensure that we can send documents to the correct address and can contact you directly, if necessary.

### Part 2 – Applicant Information

This section is completed only if you are applying on behalf of someone else (the claimant). If you, as an applicant, have a Court Order confirming custody, wardship or guardianship of a claimant who is a minor (child under the age of 18), or if you have been appointed as an attorney for the claimant pursuant to a Continuing Power of Attorney for Property, we require copies of these documents, and you must send them with the completed application.

### Part 3 – Deceased Person Information

In addition to completing this section of the form, we require a copy of the death certificate or any other documents that may verify the death. Please include a copy of the death certificate with the completed application.

### Part 4 – Legal Representation

While it is not necessary for you to have a lawyer, agent or paralegal, you may choose to have one. Once you hire a legal representative, we will communicate only with your lawyer, agent or paralegal.

### Part 5 – Types of Compensation

We require copies of receipts and/or supporting documents to compensate you for any of the items listed below. Please note that we will not return any original receipts or documents sent to us.

- **Funeral and Burial Expenses:** We may compensate you for funeral and burial expenses that were actually and reasonably incurred (or will be incurred) as a result of the death. See Part 9 (Funeral and Related Expense Information) for more information.
- **Loss of Financial Support:** We may compensate you if you are a dependant who relied on the deceased person for financial support prior to his/her death. See Part 11 (Loss of Financial Support) for more information.
- **Bereavement Counselling:** We may compensate family members of the deceased person for the cost of bereavement counselling. See Part 10 (Bereavement Counselling) for more information.
- **Other Expenses:** We may compensate you for any other expenses that were reasonably incurred as a result of the death. See Part 9 (Funeral and Related Expense Information) for more information.

Please refer to Part 12 (Mental or Nervous Shock Claim) for the types of compensation available for mental or nervous shock claims.

#### **We do not award compensation for the following:**

- (a) crimes committed outside the Province of Ontario,
- (b) damaged, lost or stolen property,
- (c) motor vehicle incidents (except where the vehicle was used deliberately to assault or harm another person),
- (d) legal fees for criminal court and/or civil suits,
- (e) distress and/or loss of wages for attending criminal court,
- (f) workplace accidents (claim should be filed with the WSIB),
- (g) accidental deaths,
- (h) deaths resulting from suicide,
- (i) negligence by an institution/organization,
- (j) pain and suffering for grief and sorrow (however, compensation may be awarded for bereavement counselling expenses).

## Part 5 – Types of Compensation (continued)

### Interim Awards & Assistance

If you need immediate financial or other assistance, call the Victim Support Line toll-free at 1 888 579-2888 (if you live in the Greater Toronto Area, call 416 314-2447) to find out about other services available in your community (e.g. Victim Quick Response Program).

You may seek an interim award prior to a hearing for support, funeral expenses and/or medical/treatment expenses (s.14 of the *Act*). We may exercise our discretion to make such an award only in exceptional circumstances when a claimant can demonstrate an urgent need for the funds prior to a hearing. To be considered eligible to receive compensation before a hearing, you must provide sufficient documentary evidence, such as police and/or medical records, to lead us to conclude that an award would likely be made at the time of the hearing. If you wish to apply for an interim award, please contact us toll free at 1 800 372-7463 (if you live in the Greater Toronto Area, call 416 326-2900).

### Maximum Awards

When one person has died as a result of a violent crime, the **maximum** award that we may pay as a lump sum is \$25,000. When more than one person has died as the result of a violent crime, we can award a maximum of \$150,000 as a lump sum to all of the claimants.

Ongoing monthly periodic awards can be made in certain cases when there is an ongoing financial loss (e.g. lost income, child care expenses). When a periodic award is made, the amount of the lump sum component cannot exceed \$12,500 (s.19(1) of the *Act*). The **maximum** amount that we may award as a periodic payment is \$1,000 per month. Periodic payments cannot exceed a total of \$365,000. Periodic awards are reviewed on an annual basis to determine whether there is still a need for the funds.

### Ontario Disability Support Program (ODSP) and Ontario Works (OW)

If you receive an award from us while you are also receiving benefits from either the Ontario Disability Support Program or Ontario Works, our award may have an impact on those benefits. We recommend that you contact your ODSP/OW caseworker for more information.

## Part 6 – Request for Extension when Death occurred more than two years ago

An application for compensation must be made within two years of the date of the death. However, we may extend the time for filing where it is warranted (s.6 of the *Act*). When we receive an extension request, we take into consideration several factors, including:

- (a) the amount of time that has passed since the death occurred,
- (b) the reasons for the delay in filing an application,
- (c) whether there would be sufficient evidence to support an application and to properly and fairly adjudicate the claim, given the passage of time since the date of the death, and
- (d) all the relevant circumstances of the incident, that is, the context within which the incident occurred and the extent to which the deceased person's behaviour may have contributed to the situation that resulted in his/her death.

The Board will render its decision on the extension based on written information you provide including the information you have given in the application form. If your request for an extension is approved, your application for compensation can proceed. If your request for an extension will be denied, we will send you a letter explaining why. You will have an opportunity to make submissions before we render a final decision. You may appeal this decision to the Superior Court of Justice.

## Part 7 – Compensation from Other Sources

You must inform us of any other compensation you have received or will receive in respect of the death (s.17(3) of the *Act*) (e.g. life insurance, CPP benefits, etc.). This information will be taken into consideration when we decide whether to make an award for compensation and the amount of the award.

If you have started a civil action, you must provide copies of the Statement of Claim, Statement of Defence, or any settlement documents that were issued to you. If you are successful in the civil action, you must reimburse the Board for any compensation you received from us [s.26(5.1) of the *Act*].

## Part 8 – Details of the Crime(s)

If there has been a criminal conviction against the individual who committed the crime, we will refer to him/her as the “offender.” In all other circumstances, we will refer to him/her as the “alleged offender.” Please provide us with the full name, birth date and full address of the (alleged) offender(s), if known to you. We are obligated, by law, to make a reasonable attempt to locate and notify the (alleged) offender(s) of your application. **If you have concerns about our notification of an (alleged) offender or any disclosure of personal information to the (alleged) offender, you must tell us during the application process.**

We require sufficient details regarding the crime to ensure the incident meets the eligibility criteria for compensation (s.5 of the *Act*). We may award compensation only when a person died in the Province of Ontario as a result of:

- (a) a violent crime, or
- (b) while making an arrest or assisting a peace officer with his/her law enforcement duties, or,
- (c) while trying to prevent a crime.

The following are examples of the types of evidence we may consider to confirm that a violent crime occurred:

- (a) the claimant's description of the incident,
- (b) police/court records,
- (c) proof that the offender was convicted of the crime,
- (d) medical reports.

We must review all of the relevant circumstances, including the extent to which the behaviour of the deceased person contributed to the circumstances that resulted in his/her death, when we decide whether to award compensation and the amount (s.17(1) of the *Act*). Accordingly, we must consider the context in which the incident took place, including any involvement the deceased person had in criminal activities. We will request information from the police regarding their investigations surrounding the crime.

We may also refuse compensation or reduce the amount of compensation if we are satisfied that you have refused reasonable cooperation with or failed to report promptly the offence to a law enforcement agency (s.17(2) of the *Act*).

If there was a criminal trial as a result of the crime, we will obtain documents regarding the outcome on your behalf. If the matter is still before the courts, we may not be able to proceed with your hearing until after the trial is completed, depending on the circumstances of the case. We decide this on a case-by-case basis.

## Part 9 – Funeral and Related Expense Information

We may compensate you for some or all of the following costs:

- (a) a funeral director,
- (b) clergyman,
- (c) casket,
- (d) cemetery plot,
- (e) grave marker,
- (f) costs of cremation,
- (g) newspaper notices, and
- (h) death certificates.

## Part 9 – Funeral and Related Expense Information (continued)

We may also award you compensation for any other reasonable expenses incurred as a direct result of the death. However, we do not generally pay for thank you cards, postage, flowers, food, cars, police escort, clothing for relatives, clothing for the deceased person, and legal or accounting fees for settling the estate.

You must provide copies of receipts and/or supporting documents before we will compensate you for expenses. Please send these documents with the completed application.

## Part 10 – Bereavement Counselling

We may award compensation for the cost of bereavement counselling for:

- (a) any family member(s) of the deceased person that lived in the same household as the deceased person, or
- (b) any children, parents, grandchildren, grandparents and siblings of the deceased person that did not live in the same household as the deceased person.

We will assess compensation for bereavement counselling for family members **after** claims for dependent children and funeral expenses have been assessed and paid out.

Consideration will be given to the total number of potential family members who could apply to assess the amount of financial compensation available to each of them. Priority will be given to those family members who lived with the deceased person at the time of his/her death.

You must provide copies of receipts and/or supporting documents before we will compensate you for expenses. Please send these documents with the completed application.

## Part 11 – Loss of Financial Support

We may provide financial support for dependants of a deceased person. A dependant may be a spouse, parent, grandparent, child, brother, sister or any other relative of the deceased person who was being financially supported by the deceased person prior to his/her death. Each dependant must provide proof of financial dependence on the deceased person, such as bank statements, Income Tax Assessments, Birth Certificates (Long Form) for minor dependants, and other documents confirming spousal and/or child support.

## Part 12 – Mental or Nervous Shock Claim

We cannot award compensation in the form of pain and suffering for the grief and sorrow that follow a death, or for problems in dealing with the aftermath of the occurrence, such as difficulty in adjusting to a new lifestyle, stress, financial problems or having to attend court.

However, if you witnessed the crime or came upon the scene of the crime that resulted in the death and you experienced severe psychological trauma (and were not physically harmed) we may consider the injury known as “mental or nervous shock,” which is a legal term and not a medical condition (s.1 of the Act).

You must meet **all** of the following criteria in order for there to be a finding of “mental or nervous shock:”

- (a) The crime involved a significant degree of violence,
- (b) You had close ties of love and affection with the deceased person,
- (c) You were either present at the scene of the crime or came upon the scene of the crime,
- (d) You suffered psychiatric/psychological injury induced by the shock of being present at the scene of the crime or from coming upon the scene of the crime, and not by hearing about it from someone else. We require medical and/or psychological evidence to support the claim for mental or nervous shock.



## Part 12 – Mental or Nervous Shock Claim (continued)

The following are examples of the types of evidence we may consider to confirm your claim for mental or nervous shock:

- (a) hospital records,
- (b) medical records/reports,
- (c) ambulance records,
- (d) police records/reports,
- (e) counselling records/reports,
- (f) your own description,
- (g) victim impact statements.

If you meet the criteria for a finding of “mental or nervous shock,” we may compensate you for the following items:

- **Treatment Expenses:** May be awarded for ambulance fees, hospital charges, counselling expenses, etc. Only expenses not payable by any other source will be considered.
- **Travel to Treatment Expenses:** May be awarded if you are required to travel more than 40 km each way from your residence for treatment.
- **Loss of Income:** May be awarded if you are unable to work because of your condition. See below for more information.
- **Pain and Suffering:** Awards are based on several factors including:
  - (a) the extent of the psychological harm caused,
  - (b) the treatment required and recovery period,
  - (c) the possibility of a continuing disability, and
  - (d) the impact that witnessing the death had upon your life.

We require copies of receipts and/or supporting documents to compensate you for the items listed above.

### Treatment Information

Treatment information assists us in assessing your claim for mental or nervous shock and in deciding appropriate compensation. We will request reports from your treatment providers to make a decision on the claim. It is your responsibility to obtain these reports or ensure they are returned directly to us by your treatment providers. You will be provided with instructions for doing so during the processing of your application. We will pay the treatment providers directly for providing us with records or reports. We will pay the full cost of each hospital record and up to \$100 for each medical and therapy report that we request, but we will not pay for records or reports that we have not specifically requested.

### Loss of Income

Compensation may be awarded for your loss of wages/income as a result of a total or partial disability affecting your ability to work (s.7(1)(b) of the *Act*). This type of award is paid if the following criteria are met:

- (a) you were working at the time of the incident (employed or self-employed) or had a firm offer of employment that could not be carried out because of the injuries suffered in the incident; and
- (b) you submit supporting financial documentation to the Board (e.g. Employer’s Report, Income Tax Returns, etc.); and
- (c) medical documentation that supports the disability period being claimed.

Your employment information is needed to calculate your net income loss, and we must take into consideration any benefit, compensation or indemnity paid or payable to you from any source other than general welfare assistance or family benefits (s.17(3) of the *Act*). We may award up to a maximum of \$1,000.00 per month for lost income. Generally, this is paid out to a maximum of \$50.00 per day or \$250.00 per week. Loss of income does not include loss of rental income or loss of business profits.



## Part 13 – Other People Who May Apply for Compensation

Use this section to list the total number of potential family members of the deceased person who may apply to the Board for compensation. This information will assist us in assessing the amount of financial compensation available to each of them.

## Part 14 – Additional Information

Use this section to provide any additional information that you believe we should consider that has not already been included in other sections of the application form. If adding information in another section, clearly identify the part of the form to which the additional information relates.

## Part 15 – Agreement and Authorization for Release of Information

There are times when we must obtain or share your personal or health information so that we can make decisions on a claim. Any information we ask for, or any information we release, is governed by the *Freedom of Information and Protection of Privacy Act* and *Statutory Powers Procedure Act*.

### What's Next

#### The Hearing Process

Our process does not interfere with your right to sue the (alleged) offender(s) in a civil action.

#### Alleged Offender Notification

If it is not clear to the Board, whether a crime of violence occurred, the CICB may issue a Notice of Application to a person identified in the application as responsible for the alleged crime of violence. We will advise you whether an (alleged) offender will participate in the hearing process. Generally, an alleged offender's participation will be by way of written submissions, however, on occasion, the Board may determine that, based on his/her submissions, an alleged offender must take part in the hearing to support proper adjudication. If this is the case, you will be informed accordingly. If you have concerns about our notification of an (alleged) offender or any disclosure of personal information to the (alleged) offender, you must tell us during the application process.

#### Documentary Hearing

If your claim can be assessed based on written evidence alone, you won't need to attend a hearing. One of our adjudicators will make a decision based on the information in the file.

#### Oral Hearing

If an oral hearing is needed, you must be present. During an oral hearing, the adjudicators will ask questions about the incident, injuries (for mental or nervous shock claims) and associated costs. Oral hearings are generally open to the public, but may be closed if:

- (a) there are public safety concerns,
- (b) there are ongoing criminal proceedings, or
- (c) the claim involves a sexual offence, spousal abuse or child abuse

If you have concerns about participating in an open hearing, you must tell us during the application process.

#### Electronic Hearing

In certain cases you may only be required to participate in the hearing by telephone. At an electronic hearing, adjudicators assess written materials submitted by the parties and oral evidence presented at the hearing. They will ask questions to assist in understanding the evidence.

## Board Considerations

In assessing a claim, we must consider the following:

- (a) whether the death occurred as a result of a violent crime under the Criminal Code, or an arrest, or whether the deceased person was assisting a peace officer with his/her law enforcement duties, or trying to prevent a crime from occurring. The Board considers the provisions of the Criminal Code in effect at the time of the incident,
- (b) all of the relevant circumstances, including any behaviour of the deceased person that caused or contributed to the death,
- (c) whether the claimant has refused reasonable cooperation with or failed to report the offence promptly to the police,
- (d) whether the claimant has received any benefits paid by private insurance, the Workplace Safety and Insurance Board or any other source, as a result of the crime (not including Ontario Works or Ontario Disability Support Program).

## Board Decisions

Following the hearing, you will receive notice of the adjudicator's decision.

### Awards

If you are awarded compensation, you will receive a cheque approximately 30 days after you receive the Board's decision.

### Denials

If your claim for compensation is denied, you will be provided with reason(s) for the denial.

### Reimbursement

If you are successful in a civil action in a related matter, you must reimburse the Board for any compensation you received.

## Review or Appeal of Decisions

If you do not agree with the decision in your case, the following options are available:

- 1. If a single adjudicator made a decision about your claim, you can make a written request within 15 days for a review hearing with two new adjudicators.
- 2. If a panel of two or more adjudicators made a decision about your claim, you can write to the Board to request a reconsideration of your case.
- 3. You can appeal to the Superior Court of Justice, Divisional Court, within 30 days of receiving the decision. Appeals to the Divisional Court can only be made on a point of law.

Our contact centre is available to assist you should you have any questions not answered in this guide. You may call us toll free at 1 800 372-7463 (if you live in the Greater Toronto Area, call 416 326-2900) or please visit our website at [www.sjto.ca/cicb](http://www.sjto.ca/cicb).