



Social Justice Tribunals Ontario

Providing fair and accessible justice

Criminal Injuries Compensation Board

Guide

Applying for Compensation for an Injury

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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 an injury caused by a violent crime. A separate guide is available if you are applying for compensation arising from a death. If you have any additional questions, you may 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.

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 makes decisions on the eligibility of applications 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 victims for the injury they have suffered.

Who can apply?

Those injured in Ontario as a result of violent crime can apply. This includes those hurt or affected while making an arrest or assisting a peace officer with law enforcement duties, or while trying to prevent a crime.

Applications can be made by:

- the victim; or
- a person acting in an official capacity for the victim.

If a victim is under the age of 18, or 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. Please only provide copies of documents. Do not send originals.

Board Administrative Procedures to Support Applications

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

When we determine that the 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 - Victim Information” below is the same as the heading for the first section of the form.

Part 1 – Victim Information

The victim is the person who has been injured by a violent crime. If you are the victim, 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 if you are applying on behalf of someone else (the victim). If you, as an applicant, have a Court Order confirming custody, wardship or guardianship of a minor child (under the age of 18), or if you have been appointed as an attorney for the victim pursuant to a Continuing Power of Attorney for Property, we require copies of these documents, and you must send them with the completed application. You may also complete this section if you witnessed an extremely violent crime against a close family member.

Part 3 – 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 4 – Types of Compensation

We require original receipts and/or supporting documents to compensate you for any of the items listed below.

- Treatment Expenses: May be awarded for ambulance fees, hospital charges, prosthetics, eyeglasses, prescriptions, dental expenses, 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 to you (or a person responsible for your care) if you were unable to work because of injuries arising from the incident. See Part 11 (Loss of Income) for more information.
- Pain and Suffering: Awards are based on several factors, including:
 - (a) the nature of the crime/abuse,
 - (b) any breach of trust or abuse of power,
 - (c) the age and vulnerability of the victim,
 - (d) the degree of violence involved,
 - (e) the seriousness of the injuries sustained or the extent of the harm caused,
 - (f) the recovery period,
 - (g) the possibility of a continuing disability,
 - (h) the impact the crime/abuse had on the victim's life,
- Other: Costs associated with the support of a child born as a result of a sexual assault.

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 income for attending criminal court,
- (f) workplace accidents (claim should be filed with the WSIB),
- (g) monetary loss due to fraud,
- (h) claims for pain and suffering from family members of victims (except when the criteria for mental or nervous shock are met; see Fact Sheet on website re: Mental or Nervous Shock.),
- (i) neglect or abandonment of children (except where it amounts to criminal negligence),
- (j) accidental injuries (slip and falls),
- (k) negligence by an institution/organization,
- (l) malicious prosecution of accused persons.

Part 4 – 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 victim 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 is injured as a result of a violent crime, the **maximum** award that we may pay as a lump sum is \$25,000. This amount is awarded only in the most serious of cases. When more than one person has been injured 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 5 – Request for Extension where Crime occurred more than two years ago

An application for compensation must be made within two years of the date of the injury of the victim. 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 incident 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, and
- (d) all the relevant circumstances of the incident, that is, the severity of the violence, whether the offence involves historical sexual/physical abuse, the severity of the injury, the context within which the incident occurred and the extent to which the victim's behaviour may have contributed to the situation that resulted in his/her injury.

If the application is as a result of a crime of sexual violence or of violence that occurred within a relationship of intimacy or dependency the two year limitation period does not apply.

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 6 – 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. 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. **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 violent crime to ensure the incident meets the eligibility criteria for compensation (s.5 of the Act). We may award compensation only when a victim was injured 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 victim’s description of the incident,
- (b) police/court records,
- (c) proof that the offender was convicted of the crime,
- (d) letters or testimony of friends or relatives,
- (e) medical or treatment reports.

Please note that you may include allegations involving multiple (alleged) offenders within the same application, even if the crimes are not related in any way. When it is clear that the emotional and/or psychological impact of abuse has occurred over a period of time, the Board can make a global assessment of pain and suffering after considering the cumulative effect of all occurrences on a victim. If you choose to seek compensation for incidents involving some (alleged) offenders and not others, you may not be able to claim against the others at a later date.

We must review all of the relevant circumstances, including the extent to which the victim’s behaviour contributed to the circumstances that resulted in the injury, 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 victim may have had in criminal activities. We will request information from the police regarding their investigations of the crime.

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

If the crime was not reported to the police you may need to identify individuals who witnessed the crime or were aware of it, and include with your completed application form letters of support written by these individuals (e.g. family members, close friends or elders).

If there was a criminal trial as a result of the crime, we may 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 the trial is completed, depending on the circumstances of the case. We decide this on a case-by-case basis.

Part 7 – Details of Injuries

In assessing compensation, we consider several factors that include the seriousness of the injuries sustained or the extent of the harm caused, the recovery period, the possibility of a continuing disability, the impact the crime/abuse had on the victim’s life, as well as other factors depending upon the case.

The following are examples of the types of evidence we may consider to confirm the victim’s injuries:

- a. hospital records,
- b. medical records/reports,
- c. ambulance records,
- d. dental records/reports,
- e. police records/reports,
- f. counselling/therapy records/reports,
- g. chiropractic records/reports,
- h. physiotherapy records/reports,
- i. the victim’s own description of the injuries,
- j. victim impact statements

Part 8 – Medical and/or Treatment Information (for injuries)

Medical and treatment information assists us in assessing a claim and in deciding appropriate compensation. We will request reports from 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.

Part 9 – Compensation from Other Sources

You must inform us of any other compensation you have received or will receive in respect of the incident (s.17(3) of the Act). 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 a restitution order, please send it to us with your completed application. Similarly, 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 receive from us (s.26(5.1) of the Act).

Part 10 – Expense Information

We may compensate you for reasonable expenses that are incurred or will be incurred as a direct result of the injury that resulted from the crime/abuse (s.7(1)(a)(f) of the Act).

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

If you have not yet received a bill, do not wait for it before submitting your application. Submit the completed application and forward the bill to us when you receive it. Send copies of the bills and receipts as we will not return any originals sent to us.

Part 11 – Loss of Income

We may compensate you 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 may be 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) the Board is provided with medical documentation that supports the disability period being claimed.

Your employment information is needed to calculate 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 per month for lost income. Generally, this is paid out to a maximum of \$50 per day or \$250 per week. Loss of income does not include loss of rental income or loss of business profits. A person responsible for the care of an injured victim may also be eligible to receive compensation for loss of income.

Part 12 – 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 to information in another section, clearly identify the part of the form to which the additional information relates.

Part 13 – 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 the Board asks for, or any information it releases, is governed by the *Freedom of Information and Protection of Privacy Act* and the *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 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 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 a violent crime under the Criminal Code has occurred, or an arrest, or whether the victim 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 victim that caused or contributed to the injuries,
- (c) whether the victim has refused reasonable cooperation with or failed to report the offence promptly to the police,
- (d) whether the victim 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 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.