

KANSAS ATTORNEY GENERAL

Derek Schmidt

Crime Victims Compensation Board

Annual Report

Fiscal Year 201\$

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CRIME VICTIMS COMPENSATION BOARD

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Tanya Hoyer-Rogers Investigator
Cindy Carver Investigator

Yolonda Newman Accounting Specialist

Phyllis Pankratz Secretary

Lorena Skrdlant Office Assistant

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TO: Honorable Sam Brownback, Governor Members of the Kansas Legislature

It is my honor to present the *Crime Victims Compensation Board*'s FY 2012 Annual Report. The *Crime Victims Compensation Board*, as a payor of last resort, continues to provide aid for medical expenses, lost wages, funeral expenses, counseling and other crime related expenses, for hundreds of innocent victims in our State each year.

Our goal is: "To award just compensation to victims for economic loss arising from violent crime," a mission we strive to meet through ongoing partnership with victims' advocates, criminal justice professionals and service providers.

I am grateful to the Board members and my staff, who have served unselfishly to administer this program with compassion, fairness and integrity to ensure crime victims are not forgotten in the criminal justice system. On behalf of my staff and the innocent crime victims of Kansas, I thank you for your continued support of the Kansas Crime Victims Compensation Board.

Sincerely,

Derek Schmidt Kansas Attorney General

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^{*}All reported values are subject to audit and correction following the close of the fiscal year.

I. INTRODUCTION

The Crime Victims Compensation Board (CVCB) was established by the Kansas Legislature in 1978 pursuant to *K.S.A.* 74-7301, et seq., to provide monetary compensation for out-of-pocket medical expenses, loss of earnings or support, burial expenses, and other costs associated with the treatment of injuries sustained as a result of being a victim of a violent crime. Compensation provided in fiscal year 2012 totaled \$3,823,204. In the first 34 years of its existence, from 1978 through 2012, the Board granted payments to crime victims totaling \$69,919,163. While financial assistance alone does not provide complete restoration, the Legislature is to be commended for recognizing that monetary aid can relieve some of the immediate pressures and stresses that compound the consequences of crime

II. COMPOSITION OF THE CRIME VICTIMS COMPENSATION BOARD

The Crime Victims Compensation Board is a three-member Board appointed by the Attorney General. Members are subject to confirmation by the Kansas Senate. No more than two members of the Board are to be of the same political party. The chair is required by statute to be a person regularly admitted to practice law in Kansas. Each board member is appointed for a term of four years. The Crime Victims Compensation Board consists of seven staff members: an executive director, two investigators, one accounting specialist, one secretary, an office assistant, and a restitution coordinator. The Board meets monthly to review claim summaries and to make claim determinations. The meetings were conducted at the agency office located at 720 SW Jackson Street, Topeka, Kansas.

"I just want to say thank you so much for your care and concern regarding my case."

III. ELIGIBILITY

An application for compensation may be filed by:

- (1) the victim;
- (2) a dependent of a deceased victim;
- (3) a third person other than a collateral source; or
- (4) an authorized person acting on behalf of any of the above.
- ➤ The claim must be filed within two years of the incident (Child sexual assault claims are based on the date the crime was reported to law enforcement officials).
- ➤ Compensation for mental health counseling may be provided if a claim is filed within two years of testimony to a claimant who is, or will be, required to testify in a sexually violent predator commitment of an offender who victimized the claimant or the victim on whose behalf the claim is made.
- The victim suffered bodily injury or death as a result of the criminal actions of another or the victim needs mental health counseling because of emotional trauma resulting from a violent crime.
- ➤ The incident occurred in Kansas, or committed outside the United States against a person whose domicile is in Kansas.
- ➤ The incident was reported to law enforcement officials within 72 hours or would have been reported within that time except for a valid reason.
- ➤ The victim and/or claimant fully cooperated with law enforcement officials during the investigation and prosecution of his or her case.
- Economic loss (medical expenses, wage loss, etc.) will total \$100 or more and has not been, nor will be, totally paid by other sources. The loss may be less than \$100 for crimes of sexual assault.
- ➤ The claimant was not the offender or an accomplice of the offender. An award may not be made to another person if the award would unjustly benefit the offender or accomplice.
- ➤ Compensation may be awarded only if the Board finds that unless the claimant is awarded compensation, the claimant will suffer financial stress as the result of economic loss that is otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain his or her customary level of health, safety and education without undue financial hardship

DIMINISHMENT OF COMPENSATION

The Board may diminish a claim if:

- > The board finds the claimant or victim has not fully cooperated with the appropriate law enforcement agencies.
- > The economic loss is recouped from other sources, including collateral sources.
- > The board deems reasonable...
 - o because of the *contributory misconduct* of the claimant or of a victim whom the claimant claims.
 - o because the victim was likely engaging in or attempting to engage in unlawful activity at the time of the crime (does not apply to claims for sexual assault or domestic violence).

CONTRIBUTORY MISCONDUCT

K.A.R. 20-2-8

Acts or behaviors that may signify contributory misconduct:

- > Consent, provocation or incitement, including the use of fighting words or obscene gestures.
- > Willing presence in a vehicle operated by a person who is known to be under the influence of alcohol or an illegal substance.
- > Abuse of alcohol or an illegal substance.
- > Failure to retreat or withdraw from a threatening situation when an option to do so is readily available.
- > Failure to act as a prudent person.

(May be excused in claims for domestic violence or sexual assault)

IV. BENEFITS

Compensation payable to a victim, and to all other claimants sustaining economic loss because of injury to or death of that victim, may not exceed \$25,000 in the aggregate.

Compensable Costs/ Limits

- Medical Expenses including transportation to obtain medical assistance -- \$25,000 maximum
- ➤ Mental Health (maximums):
 - inpatient psychiatric care -- \$10,000
 - outpatient counseling -- \$3,500
 - grief therapy for family members of homicide victims -- \$1,000 *All therapy is subject to a \$60.00 per hour maximum allowance.*
- ➤ Dependent Economic Loss, Wage Loss and Replacement Services -- maximum of \$400 per week.
- Funeral and related expenses --\$5,000.
- ➤ Moving Expenses -- reasonable allowance compensable at recommendation of law enforcement.
- ➤ Rehabilitation Services -- \$25.000.
- Reasonable replacement costs for items of clothing and bedding seized as evidence.
- > Crime Scene Cleanup -- \$1,000.
- ➤ Attorney Fees -- \$45 per hour, for claim preparation only.
- > Compensation cannot be provided for pain and suffering.
- > Property items are not subject to compensation.

V. COMPENSATION REVENUE SOURCES

- ➤ The Crime Victims Compensation Board receives funding from both the state and federal government. The monies come from the following sources:
- ➤ 10.94 percent of all fines, penalties and forfeitures remitted from Kansas district courts.
- Fines, penalties and forfeitures from federal convictions. These funds are administered through Victims of Crime Act (VOCA) grants by the Office for Victims of Crime within the U.S. Department of Justice. States may apply for a grant each year equal to 60 percent of the total awarded to victims from state funds in the previous federal fiscal year.
- ➤ Court-ordered restitution from offenders, subrogation, and refunds. Judges are encouraged to order offenders to pay restitution to reimburse the fund for awards granted. Refunds and funds from subrogation are received when a claimant's financial obligation has been met through a collateral source.
- ➤ Kansas Department of Corrections. Five percent of the gross wages of inmates employed in a private industry program other than work release, a portion of supervision fees from parolees and probationers, and administrative fees assessed to inmates for maintenance of their trust accounts are paid to the Crime Victims Compensation Fund.

Crime Victims Compensation - Revenue					
REVENUE SOURCES	FY2012	FY2011	FY2010	FY2009	FY2008
Fines/Penalties	\$2,101,791	\$2,158,157	\$2,364,209	\$2,444,952	\$2,480,644
Restitution	219,306	213,792	142,959	194,100	231,778
Subrogation	42,248	72,923	83,817	128,465	35,982
Department of Corrections	Department of Corrections				
Parole Supervision and Administrative Fees	313,805	305,525	286,801	26,025	311,020
**Inmate Contributions **Prison Industries Employment (PIE)	280,856	226,090	164,389	129,924	276,883
TOTAL	\$2,958,006	\$2,976,487	\$3,042,175	\$2,923,466	\$3,336,307
VOCA	1,718,688	1,710,000	1,488,000	1,327,000	1,720,000
ARRA	0	0	0	346,403	0
GRANT TOTAL	\$1,718,688	\$1,710,000	\$1,488,000	\$1,673,403	\$1,720,000

CRIME VICTIMS COMPENSATION CLAIMS PROCESSING

FY 2012

DESCRIPTION	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
NEW CLAIMS RECEIVED	1,143	1,352	1,397	1,358	1,373
TOTAL NUMBER OF CLAIMS GRANTED AWARDS	928	915	1,013	1,025	911
AMOUNT AWARDED ON CLAIMS	\$3,823,219	\$3,996,822	\$3,792,444	\$4,624,953	\$3,510,747
AVERAGE AMOUNT AWARDED ON CLAIMS	4,120	\$4,368	\$3,744	\$4,512	\$3,854

APPROVED CLAIMS – FY 2012

Claims Approved by Crime				
CRIME	Claims Approved	Amount Paid		
Arson	0	0		
Assault	322	2,249,941		
Child Abuse (Homicide)	12	31,736		
Child Physical Abuse	11	14,842		
Child Sexual Abuse	161	125,777		
Domestic Assault	180	777,995		
Domestic Homicide	21	55,491		
DUI	13	5,698		
DUI Homicide	4	8,233		
Kidnapping	3	15,871		
Murder/Homicide	76	227,972		
Other Vehicular	16	78,262		
Robbery	26	119,500		
Sexual Assault	78	91,827		
Stalking	1	4,200		
Vehicular Homicide	4	15,875		
Total Claims Approved 928				
Total Amount Awarded on Claims \$3,823,219				

AWARDS BY AGE AND EXPENSE

AWARDS BY AGE – FY 2012			
AGE CATEGORY	TOTAL CLAIMS	AWARD	
ADULT (18-64)	705	3,823,219	
MINOR (0-17)	213	277,170	
SENIOR (65 and above)	10	20,522	
FY 2012 Total	928	\$3,823,219	

Awards by Expense – FY 2012			
EXPENSE AWARD			
> MEDICAL	3,141,293		
MENTAL HEALTH	167,898		
> SUPPORT LOSS	212,629		
CLOTHING BEDDING	5,036		
> FUNERAL	283,108		
> CRIME SCENE CLEAN-UP	1,383		
> RELOCATION	3,043		
> OTHER (Miscellaneous Expenses)	8,830		
FY 2012 TOTAL	\$3,823,219		

DENIED CLAIMS

REASON FOR DENIAL	TOTAL
 Application Submitted Out of Time (2 Years) 	1
Contributory Misconduct	84
Crime Not Reported to Law Enforcement (72 Hours)	10
Crime Occurred Out of State	0
Failure to Cooperate With Law Enforcement/Prosecution	45
No Evidence of a Person Crime	24
Unjust Enrichment of Offender	0
Victim Involved in Illegal Activity	29
FY 2012 TOTAL CLAIMS DENIED	193

2012 ILLUSTRATIVE CASES

Assault

A 52-year-old female was having dinner at a friend's house when the friend's estranged husband came into the home and threatened to kill everyone. He picked up a baseball bat and began assaulting her. She suffered severe facial and head injuries. The offender was arrested and charged with Attempted Second Degree Murder, Aggravated Battery and Violation of a Protection Order. The victim's health insurance covered most of the medical expenses.

The Board approved \$2,927 in medical and dental expenses

Domestic Assault (Homicide)

A 38-year-old female had a new boyfriend and they had only been dating several months. He took her to a shooting range, as she had never been to a range before. Suddenly, he turned toward her and shot her in the head. He then turned the gun on himself and shot himself to death. No one had any idea why the murder/suicide was committed, but they later found out the he had a history of mental illness.

The Board approved \$3,820 in funeral expenses.

Sexual Assault

A 22-year-old female was awakened by a noise in her home and found a male standing in her home holding a knife. She was raped by the intruder, who also stole some items from her home. Her offender was later identified and charged with Rape, Aggravated Burglary and Aggravated Theft.

The Board approved \$1,381 in medical expenses.

Child Sexual Assault

An 11-year-old female reported to the school counselor that her mother's live-in boyfriend had inappropriately fondled her that morning. The charges for Aggravated Indecent Liberties with a Child were dropped because of a lack of physical evidence. She now lives with her father, who has been given full custody following the incident.

The Board approved \$649 in medical and mental health counseling