

**STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL**



Attorney General Derek Schmidt

**CRIME VICTIMS COMPENSATION BOARD
ANNUAL REPORT
FISCAL YEAR 2013**

OFFICE OF THE ATTORNEY GENERAL



DEREK SCHMIDT
ATTORNEY GENERAL

CRIME VICTIMS COMPENSATION BOARD

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Nan Porter, Wichita

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Member

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Executive Director

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Investigator

Administrative Specialist

Accounting Specialist

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

I am pleased to present the *Crime Victims Compensation Board's* FY 2013 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.

In FY 2013, I made significant organizational changes to the division to better serve victims of crime. The reorganized Division of Crime Victims Compensation in the Attorney General’s Office provides dedicated, professional support to the Board as it fulfills its mission. I am pleased that we are helping more victims of crime during their time of need than ever before.

I am grateful to the Board members and to my staff, who administer this program with compassion, fairness and integrity to ensure crime victims are helped during their time of need. 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 2013 totaled \$3,221,554.54. In the 35 years of its existence, from 1978 through 2013, the Board has granted payments to crime victims totaling \$73,140,718. 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 six staff members: an executive director, two investigators, one accounting specialist, one secretary, and an administrative specialist. The Board meets monthly to review claim summaries and to make claim determinations. The meetings were conducted at the agency office located at 900 SW Jackson Street, Topeka, Kansas.

***“I would like to thank you for your support,
kind words, and help to get by at this
difficult time in my brother’s terrible death.”
-Family Member of Victim***

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...**
 - **because of the *contributory misconduct* of the claimant or of a victim whom the claimant claims.**
 - **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

<i>REVENUE SOURCES</i>	<i>FY2013</i>	<i>FY2012</i>	<i>FY2011</i>	<i>FY2010</i>	<i>FY2009</i>
Fines/Penalties	\$2,012,268	\$2,101,791	\$2,158,157	\$2,364,209	\$2,444,952
Restitution	244,397	219,306	213,792	142,959	194,100
Subrogation	46,660	42,248	72,923	83,817	128,465
Department of Corrections					
Parole Supervision and Administrative Fees	319,018	313,805	305,525	286,801	26,025
Inmate Contributions *Prison Industries Employment (PIE)	318,747	280,856	226,090	164,389	129,924
TOTAL	\$2,941,090	\$2,958,006	\$2,976,487	\$3,042,175	\$2,923,466
VOCA	1,245,740	1,718,688	1,710,000	1,488,000	1,327,000
ARRA	0	0	0	0	346,403
GRANT TOTAL	\$1,245,740	\$1,718,688	\$1,710,000	\$1,488,000	\$1,673,403

CRIME VICTIMS COMPENSATION CLAIMS PROCESSING

Fiscal Years 2009-2013

	<i>FY 2013</i>	<i>FY 2012</i>	<i>FY 2011</i>	<i>FY 2010</i>	<i>FY 2009</i>
New Claims Received	1,083	1,143	1,352	1,397	1,358
Total Number of Claims Granted Awards	1,301	928	915	1,013	1,025
Amount Awarded on Claims	\$3,221,555	\$3,823,219	\$3,996,822	\$3,792,444	\$4,624,953
Average Amount Awarded on Claims	\$2,476	\$4,120	\$4,368	\$3,744	\$4,512

APPROVED CLAIMS – FY 2013

CLAIMS APPROVED BY CRIME

CRIME	Claims Approved	Amount Paid
Arson	1	4,742
Assault	417	1,913,399
Child Abuse (Homicide)	9	28,053
Child Physical Abuse	32	31,108
Child Sexual Abuse	301	102,539
Domestic Assault	213	567,381
Domestic Homicide	41	38,105
DUI	9	51,901
DUI Homicide	1	5,000
Kidnapping	15	6,100
Murder/Homicide	69	140,200
Other Vehicular	24	118,024
Robbery	57	150,874
Sexual Assault	97	56,273
Stalking	5	1,521
Vehicular Homicide	1	5,000
Other	9	1335
Total Claims Approved	1,301	
<i>TOTAL AMOUNT AWARDED ON CLAIMS</i>		\$3,221,555

AWARDS BY AGE AND EXPENSE

AWARDS BY AGE – FY 2013

AGE CATEGORY	TOTAL CLAIMS	AWARD
ADULT (18-64)	887	2,994,997
MINOR (0-17)	409	216,646
SENIOR (65 and above)	5	9,912
<i>FY 2013 Total</i>	1,301	\$3,221,555

AWARDS BY EXPENSE – FY 2013

EXPENSE	AWARD
MEDICAL	2,669,647
MENTAL HEALTH	146,121
SUPPORT LOSS	229,196
CLOTHING BEDDING	9,052
FUNERAL	160,123
CRIME SCENE CLEAN-UP	1,500
RELOCATION	3,876
OTHER (Miscellaneous Expenses)	2,040
<i>FY 2013 TOTAL</i>	\$3,221,555

DENIED CLAIMS

CLAIM DENIAL SUMMARY - FY2013

REASON FOR DENIAL	TOTAL
• Application Submitted Out of Time (2 Years)	8
• Contributory Misconduct	78
• Crime Not Reported to Law Enforcement (72 Hours)	16
• Crime Occurred Out of State	5
• Failure to Cooperate With Law Enforcement/Prosecution	38
• No Evidence of a Person Crime	54
• Unjust Enrichment of Offender	1
• Victim Involved in Illegal Activity	19
<i>FY 2013 TOTAL CLAIMS DENIED</i>	219

2013 COMMENTS FROM VICTIMS AND OTHERS WHO WORK WITH THE PROGRAM

“Thank you again, I don’t know where this family would be without the dedicated team of professionals we had the privilege of knowing and being in contact with.”

- *Family Member of Victim*

“Really like the courtesy, concern from your staff, the prompt attention in this matter. Thank you very much.”

- *Victim*

“Thank you very much. I am very grateful.”

- *Victim*

“I cannot thank you enough for what you did for me...God Bless all of you!!!”

- *Victim*

“I would also like to thank you for the amazing work your Board has done throughout the years in assisting victims during difficult times”

- *Michael Gayoso, Jr., Crawford County Attorney*

“This is a great service you provide. This has saved me from filing bankruptcy. Your investigator was considerate and thorough. I can’t express my gratitude.”

- *Victim*

“You all did an amazing job. It was no fun being hurt as a victim. But the help from the Board has helped a lot.”

- *Victim*