

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



**STEVE SIX
Attorney General**

CRIME VICTIMS COMPENSATION BOARD

ANNUAL REPORT

2007



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**STEVE SIX
ATTORNEY GENERAL**

***CRIME VICTIMS
COMPENSATION BOARD***

Board Members

Rita Noll, Council Grove	Chair
Nan Porter, Wichita	Member
Roger Villanueva, Kansas City	Member

Staff

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Dee Boeck	Investigator
Tanya Hoyer-Rogers	Investigator
Yolonda Newman	Accounting Specialist
Phyllis Pankratz	Secretary
Martha Venzor	Office Assistant



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Office of the Attorney General

CRIME VICTIMS COMPENSATION BOARD

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RITA L. NOLL, CHAIR
NAN M. PORTER
ROGER S. VILLANUEVA

TO: Honorable Kathleen Sebelius, Governor
Members of the Kansas Legislature

It is my honor to present the Crime Victims Compensation Board's 2007 Annual Report. As a payor of last resort, the Crime Victims Compensation Board continues to provide aid for medical expenses, lost wages, funeral expenses, crime scene clean-up, counseling and other crime related expenses.

As a former judge, I have personally witnessed the tragic result of violent crime and I understand the burden faced by victims and their families during the difficult time after the crime occurs. No victims or family should have to undergo the financial drain of a violent crime alone. The Crime Victims Compensation Board in my office seeks to assist thousands of victims of crime each year and put them on the road to recovery.

I am grateful to the Board members and my staff, who continue to work unselfishly to achieve justice for all crime victims in Kansas, whether by helping to recover out-of-pocket costs, investigating crimes or prosecuting the criminals. 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,

Steve Six
Attorney General

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 2007 totaled \$4,177,576. In the first 29 years of its existence, from 1978 through 2007, the Board granted payments to crime victims totaling \$53,690,442. 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 are conducted at the agency office 120 S.W. 10th Avenue, Topeka.

God bless you for what you do to help those of us who have to deal with tragedies in our lives.

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 the claimant's customary level of health, safety and education without undue financial hardship.

DIMINISHMENT OF COMPENSATION

The Board may diminish a claim to the extent, if any:

- If the board finds that 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 of 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-- 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 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 can not be provided for pain and suffering.
 - ▶ Property items are not subject to compensation, with the exception of clothing and bedding seized as evidence.

Thank you so much for approving my wages to be paid. I appreciate all your time in helping me with this issue. It is great to know the state of Kansas helps victims in bad times.

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:

- ▶ **11.99 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.

I deeply appreciate the efforts of everyone in your office that has assisted in helping me with this extremely overwhelming medical bills. I would have had absolutely

Crime Victims Compensation Board

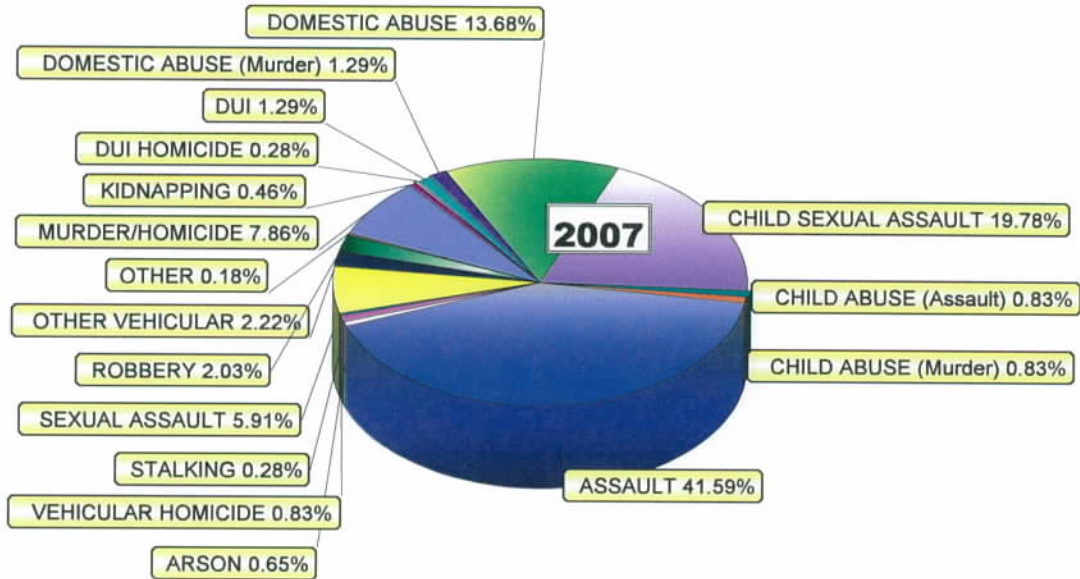
REVENUE

	FY2007	FY 2006	FY 2005	FY 2004	FY 2003
Fines/Penalties	\$2,841,576	\$2,506,712	\$2,629,789	\$1,733,422	\$1,509,035
Restitution	227,451	154,869	128,631	151,327	144,240
Subrogation	33,557	27,191	90,147	54,662	13,443
Department of Corrections					
▸ Parole Supervision and Administrative Fees	296,742	297,240	294,112	279,483	268,722
▸ Inmate Contributions (PIE)	294,659	235,998	248,244	196,983	189,666
Department of Justice VOCA Grant	1,220,000	860,000	1,264,000	1,222,000	1,058,000
TOTAL	\$4,555,985	\$4,082,010	\$4,654,923	\$3,637,877	\$3,183,106

CRIME VICTIMS COMPENSATION CLAIMS

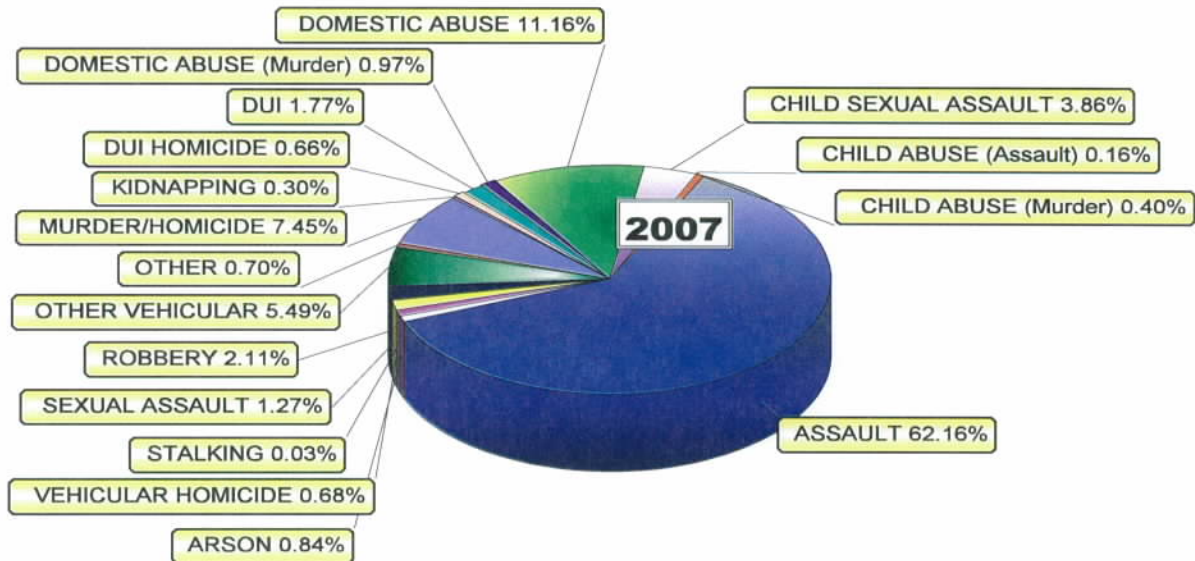
DESCRIPTION	FY 2007	FY 2006	FY 2005	FY 2004	FY 2003
NEW CLAIMS RECEIVED	1,277	1346	1313	1246	1319
TOTAL NUMBER OF CLAIMS GRANTED AWARDS	1,082	1242	1165	1211	1230
TOTAL AMOUNT AWARDED ON CLAIMS	\$4,177,576	\$3,313,595	\$2,945,463	\$3,205,387	\$3,174,159
AVERAGE AMOUNT AWARDED ON CLAIMS	\$3,861	\$2,668	\$2,528	\$2,647	\$2,581

APPROVED CLAIMS (By Crime Type)



TYPE OF CRIME	CLAIMS APPROVED
ARSON	7
ASSAULT	450
CHILD ABUSE (Murder)	9
CHILD ABUSE (Assault)	9
CHILD SEXUAL ASSAULT	214
DOMESTIC ABUSE	148
DOMESTIC ABUSE (Murder)	14
DUI	14
DUI HOMICIDE	3
KIDNAPPING	5
MURDER/HOMICIDE	85
OTHER	2
OTHER VEHICULAR	24
ROBBERY	22
SEXUAL ASSAULT	64
STALKING	3
VEHICULAR HOMICIDE	9
TOTAL	1082

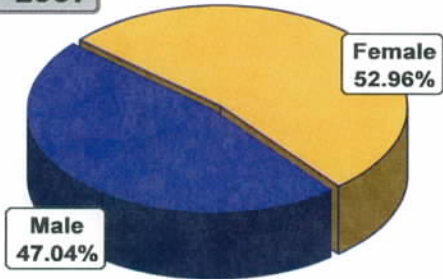
APPROVED CLAIMS (By Expense)



TYPE OF CRIME	AWARD
ARSON	\$ 34,978
ASSAULT	2,596,823
CHILD ABUSE (Murder)	16,656
CHILD ABUSE (Assault)	6,699
CHILD SEXUAL ASSAULT	161,074
DOMESTIC ABUSE	466,357
DOMESTIC ABUSE (Murder)	40,373
DUI	74,143
DUI HOMICIDE	27,506
KIDNAPPING	12,510
MURDER/HOMICIDE	311,222
OTHER	29,190
OTHER VEHICULAR	229,275
ROBBERY	88,347
SEXUAL ASSAULT	52,999
STALKING	1,048
VEHICULAR HOMICIDE	28,375
TOTAL	\$ 4,177,576

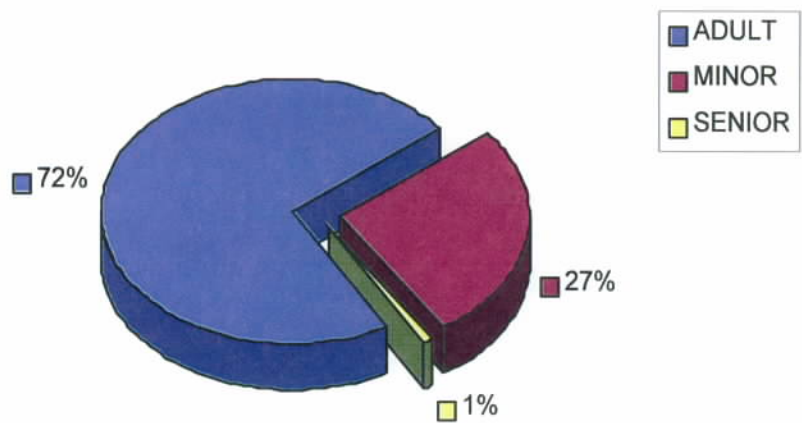
APPROVED CLAIMS (By Gender and Age)

FY 2007



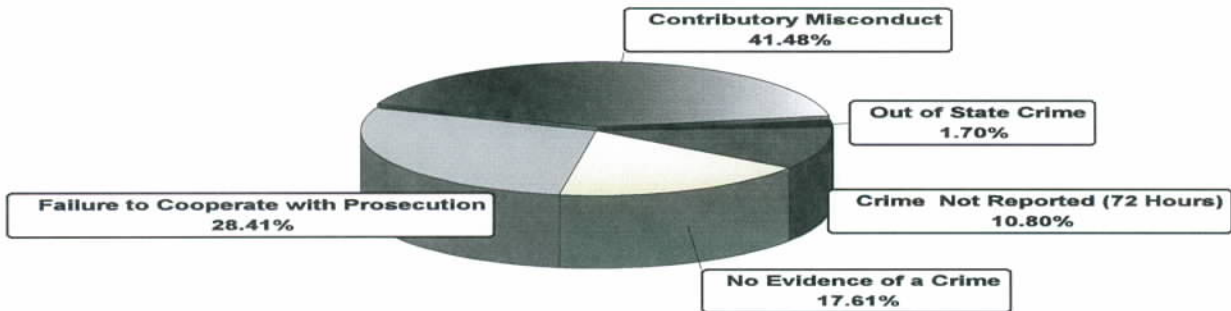
APPROVED CLAIMS (By Gender)	
Male	509
Female	573
Total	1082

APPROVED CLAIMS (By Age Category)	
Adult (18-64)	783
Minor (0-17)	290
Senior (65 and above)	9
Total	1082



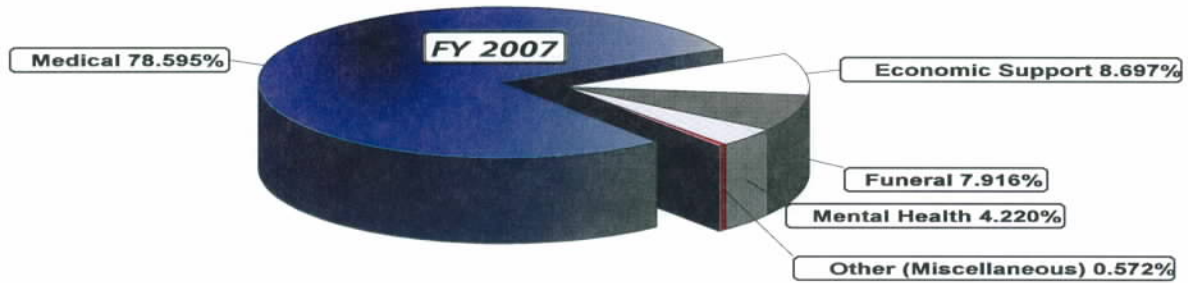
DENIALS

FY 2007



Denied Claims	
Reason for Denial	Total Claims
▶ Crime was not committed in Kansas	3
▶ Crime was not reported to law enforcement within 72 hours	19
▶ No evidence of a crime/Non criminally injurious conduct	31
▶ Contributory misconduct	73
▶ Failure to cooperate with law enforcement and/or prosecution	50
Total	176

EXPENDITURES BY AWARD CATEGORY



Expenditures by Award	
Medical	\$ 3,283,372
Economic Support	363,335
Funeral/Burial	330,690
Mental Health	176,304
Other (miscellaneous)	23,875
TOTAL	\$ 4,177,576

ILLUSTRATED CASES

Approved

- ◆ A 77-year-old man was shot and killed when he surprised two burglars attempting to rob his home. Both offenders were arrested, charged and convicted.

The Board approved \$5000.00 in funeral expenses.

- ◆ A 10 year-old girl reported to her mother she had been the victim of sexual abuse by the family's pastor. The incident was reported to law enforcement and investigated. The offender was charged, convicted and sentenced to prison.

The Board approved \$1700.00 in counseling expenses to date.

- ◆ A 3 month-old girl died as a result of blunt force trauma. Her mother was later convicted of first degree murder and sentenced to prison. The child's paternal grandparents applied for compensation on her behalf.

The Board approved \$699.00 in funeral expenses.

- ◆ A 41 year-old woman testified, as requested, in a court proceeding to have a defendant declared a sexually violent predator.

The Board approved 660.00 in counseling expenses.

- ◆ A 36 year-old man was at his sister's home when her boyfriend started slapping her. When the applicant approached the boyfriend, yelling for him to stop, he punched the applicant knocking him out. Witnesses reported the offender punched and kicked the victim repeatedly while he was unconscious. He later regained consciousness in the hospital. The offender plead guilty to aggravated battery.

The Board approved \$16,935.00 in medical expenses and wage loss.

- ◆ A 28 year-old man heard someone at his back door and recognized his friend, and another man trying to enter his home by way of a barricaded door. The two men forced their way into the victim's home and one of the offenders, armed with a shotgun, shot the victim three times. The two assailants fled the scene. The victim was taken to the hospital. Both offenders were charged and one was convicted.

The Board approved the maximum award of \$25,000.00 in medical expenses.

ILLUSTRATED CASES (continued)

Approved

- ◆ A 19 year-old woman had been communicating with a 24 year-old man via the internet. They decided to meet in person and, she invited him to where she was staying. During the course of the evening, they had a few alcoholic drinks and began kissing. When the offender tried to remove her clothing, she expressed to him that she did not want to engage in sexual activity, but he ignored her demands for him to stop. After the assault, the offender left and the victim called friends who took her to the hospital. A report was filed, but she did not feel she was emotionally capable of facing the offender and testifying at a trial.

The Board approved \$246.00 in medical expenses and clothing and bedding seized as evidence.

- ◆ A 40 year old woman indicated she had been the victim of long term domestic violence by her boyfriend. On this occasion he physically assaulted her by grabbing her arm and punching her in the face. She was unable to work for approximately two weeks due to headaches, blurred vision and very visible bruising to her face and arm. She did not report this to law enforcement immediately because she depended on the offender for financial support of their child and was also influenced by fear and intimidation. She also said she had also lost faith in the judicial system after nothing had been done about previous incidents she had reported. Each time it seemed to make the situation worse.

Five days after this incident, law enforcement was again called to their residence by a neighbor. This time the victim pressed charges and reported the previous incidents. The suspect was charged and convicted in this case and two prior domestic violence incidents.

The Board approved \$852.00 in counseling and wage loss.

Denied

- ◇ A 39 year old man was burglarizing a woman's home. The woman's grandson shot and killed the intruder. The incident was ruled a justifiable homicide and no charges were filed against the shooter.

The claim was denied because there was a lack of evidence a crime had occurred.