

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL



Steve Six, Attorney General

CRIME VICTIMS COMPENSATION BOARD
ANNUAL REPORT
2009

STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL



STEVE SIX
ATTORNEY GENERAL

CRIME VICTIMS COMPENSATION BOARD

Board Members

<i>Rita Noll, Topeka</i>	<i>Chair</i>
<i>Nan Porter, Wichita</i>	<i>Member</i>
<i>Roger Villanueva, Kansas City</i>	<i>Member</i>

Staff

Frank S. Henderson, Jr.	Executive Director
Tanya Hoyer-Rogers	Investigator
Sheryl Fields	Investigator
Yolonda Newman	Accounting Specialist
Phyllis Pankratz	Secretary
Martha Venzor	Office Assistant
Elaine Heisler	Restitution Coordinator



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STEVE SIX
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

TO: Honorable Mark Parkinson, Governor
Members of the Kansas Legislature

It is my honor to present the *Crime Victims Compensation Board's* 2009 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 victim’s 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,

A handwritten signature in black ink, appearing to read "Steve Six".

STEVE SIX
Attorney General



STEVE SIX
ATTORNEY GENERAL

State of Kansas
Office of the Attorney General

Crime Victims Compensation Board

120 S.W. 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
Phone (785)296-2359 Fax (785)296-0652

*Rita L. Noll, Chair
Nan M. Porter
Roger S. Villanueva*

TO: Honorable Mark Parkinson, Governor
Members of the Kansas Legislature

The Crime Victim's Compensation Board issues this report as an annual summary of the Board's work in serving the victims of crime.

Board members, who are appointed by the Attorney General and confirmed by the Kansas Senate, serve without compensation. The Board meets each month of the year to review and consider an average of 110 new applications each month. For fiscal year 2009, the Board received 1,358 claims and granted awards in 1,025 claims for total award amount of \$4,624,953. This is the largest total amount awarded in any single fiscal year in the Board's 31 year history.

All too often victims of crime and their families are faced with medical bills, funeral expenses, and other costs as a result of the crime. The Crime Victims Compensation Fund is there to help relieve victims of the financial stress so that they can recover emotionally during this difficult time. Serving as chairperson of the Board has given me the opportunity to see the CVCB staff work with law enforcement and victim services coordinators from across the state. The good work of Executive Director Frank Henderson and his staff has made a difference in the lives of persons who are the victims of crime.

Sincerely,

Rita L. Noll
Immediate Past Chair
Crime Victims Compensation Board

Table of Contents

I. Introduction 1

II. Composition of the Crime Victims Compensation Board 1

III. Eligibility and Diminishment of Compensation 2

IV. Benefits 4

V. Compensation Revenue Sources 5

☞ CHARTS ☞

Revenue Sources 5

Claims Processing 6

Claims Approved (By Crime and Expense)..... 7

Claims Approved (By Age Category)..... 8

Expenditures by Award Category 8

Denied Claims 9

Illustrated Cases 10



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 2009 totaled \$4,624,953. In the first 31 years of its existence, from 1978 through 2009, the Board granted payments to crime victims totaling \$58,320,945. 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 located at 120 S.W. 10th Avenue, Topeka.

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

II. 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 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:
- **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.

REVENUE					
REVENUE SOURCES	FY2009	FY2008	FY2007	FY2006	FY2005
Fines/Penalties	\$2,444,952	\$2,480,644	\$2,481,576	\$2,506,712	\$2,629,789
Restitution	194,100	231,778	227,451	154,869	128,631
Subrogation	128,465	35,982	33,557	27,191	90,147
Department of Corrections					
Parole Supervision and Administrative Fees	26,024	311,020	296,742	297,240	294,112
**Inmate Contributions **Prison Industries Employment (PIE)	129,924	276,883	294,659	235,998	248,244
TOTAL	\$2,923,466	\$3,236,307	\$3,333,985	\$3,222,010	\$3,390,923
DEPARTMENT OF JUSTICE GRANTS					
VOCA	1,327,000	1,720,000	1,220,000	860,000	1,264,000
AARA	346,403	0	0	0	0
GRANT TOTAL	\$1,673,403	\$1,720,000	\$1,220,000	\$860,000	\$1,264,000

CRIME VICTIMS COMPENSATION CLAIMS PROCESSING

DESCRIPTION	FY 2009	FY 2008	FY2007	FY2006	FY2005
NEW CLAIMS RECEIVED	1,358	1,373	1,277	1,346	1,313
TOTAL NUMBER OF CLAIMS GRANTED AWARDS	1025	911	1,082	1,242	1,165
AMOUNT AWARDED ON CLAIMS	\$4,624,953	\$3,510,747	\$4,177,576	\$3,313,595	\$2,945,463
AVERAGE AMOUNT AWARDED ON CLAIMS	\$4,512	\$3,854	\$3,861	\$2,668	\$2,528

“Being a victim of crime has been very traumatic for me. The Crime Victims Compensation Board has prevented the re-victimization of having to pay for my medical treatment. You have helped me to get through the healing process.”

**CLAIMS APPROVED
by Crime and Expense FY 2009**

CRIME	Approved	Amount Paid
Arson	1	\$307
Assault	409	3,023,392
Child Abuse (Homicide)	6	23,210
Child Physical Abuse	13	24,518
Child Sexual Abuse	192	106,653
Domestic Assault	137	418,344
Domestic Homicide	14	36,977
DUI	16	117,763
DUI Homicide	1	5,000
Kidnapping	6	18,489
Murder/Homicide	92	308,939
Other Vehicular	21	202,178
Robbery	38	178,424
Sexual Assault	72	150,432
Stalking	2	472
Vehicular Homicide	5	9,856
Total Approved Claims	1025	
Total Amount Awarded on Claims		\$4,624,954

“Thank you for providing an important part of the healing process for victims.”

AWARDS BY AGE - FY 2009

AGE CATEGORY	AWARD	TOTAL CLAIMS
ADULT (18-64)	\$4,249,109	742
MINOR (0-17)	333,348	274
SENIOR (65 and above)	42,495	9
TOTAL	\$4,624,953	1,025

Expenditures by Award Category – FY 2009

EXPENSE	AWARD
➤ MEDICAL	\$ 3,747,129
➤ ECONOMIC SUPPORT	396,122
➤ FUNERAL	316,671
➤ MENTAL HEALTH	151,944
➤ CLOTHING/BEDDING (Seized as Evidence)	5,435
➤ CRIME SCENE CLEAN-UP	0
➤ RELOCATION	4,817
➤ OTHER (Miscellaneous Expenses)	2,847
TOTAL	\$4,624,953

"I really appreciate all you do for us. I am so glad that there are people like you who look after victims like us."

Denials

Reason for Denial	Total Claims
Unjust Enrichment of Offender	1
Crime Occurred Out of State	1
Crime Not Reported to Law Enforcement (72 hours)	6
No Evidence of a Person Crime	32
Contributory Misconduct	72
Failure to Cooperate With Law Enforcement/Prosecution	36
Victim Involved in Illegal Activity	8
TOTAL	152

“Your kindness really meant more than words could ever thank you for.”

2009 Illustrated Cases

Assault

A 28 year old man was with friends on the night of his bachelor party. When he noticed his best friend engaged in a verbal altercation with another man, he went over to where the two were standing and asked his friend to just let it drop. As he turned to make the same request of the other man, the offender stabbed victim and fled the scene. He was later arrested and charged. He pled guilty and was given probation.

The Board approved \$25,000 in medical expenses.

A 49 year old man was at a local establishment having dinner with his family. As they were leaving they noticed a man exposing himself. The victim asked the man to cover himself and indicated his actions were rude. The offender started yelling at the man and his wife and then struck the victim in his jaw. The offender was arrested and charged with aggravated battery.

The Board approved \$2853 in medical expenses, dental expenses and wage loss.

Child Abuse (Homicide)

Three children, ages 9, 11 and 14 were killed by their father. After killing the children he attempted to commit suicide by shooting himself in the upper torso with a shotgun, but died as the result of smoke inhalation from a fire he had set in the home. The children's mother was at work at the time of the incident.

The Board approved \$16,304 in funeral and counseling expenses (to date)

Child Sexual Assault

A 14 year old girl agreed to arrange a meeting with someone she met on a social networking site. The two met and established a sexual relationship. It was later discovered that the 26 year old man was a registered sex offender and had been gathering information about the victim using his younger brother's account. At the time of the incident the offender was on probation regarding previous convictions of aggravated indecent liberties with a child. The offender was convicted of multiple counts of aggravated indecent liberties with a child and sentenced to prison.

The Board approved \$704 in counseling expenses.

Illustrated Cases (continued)

Hit and Run (Other Vehicular)

A 25 year old man was struck by a car while walking down the street. The driver of the vehicle fled the scene, leaving the unconscious victim lying in the street. A passing motorist stopped and called emergency services. The victim suffered multiple injuries, including a traumatic head injury. As a result, he is a paraplegic and permanently disabled. The offender has never been identified.

The Board approved \$7,830 in wage loss (to date)

Domestic Assault

A 24 year old woman arrived home to find her husband very angry and demanding money. When she went to the bedroom to get the money he requested, he threw her to the bed, struck her in the face and attempted to strangle her. The two are now divorced and the offender was charged with domestic battery as a three time offender.

The Board approved \$211 in counseling and wage loss.

Sexual Assault

A 46 year old woman was jogging when an unknown male grabbed her and dragged her by the feet from the sidewalk to a wooded area. He raped her at knifepoint and threatened to kill her if she did not cooperate.

The Board approved \$1,243 for clothing and bedding seized as evidence, medical expenses and wage loss.

A 40 year old woman was preparing to go out of state to visit family so she wanted spend some time with her boyfriend before she left. While they were at his apartment, he made sexual advances, but the victim indicated she had to get up early the next morning to finish getting ready for her trip. He became angry, accusing her of seeing another man, and started choking her until she passed out. When she regained consciousness the offender was armed with a knife and forced her to perform sexual acts. Following the rape, the victim told the offender she needed to go to her apartment and get her medication. He took her keys, drove to her apartment and ordered her to stay in the car and went to get her medication. She ran from the car and was able to able to contact law enforcement. The offender was arrested and charged with rape and aggravated battery and sentenced to 24 months probation.

The Board approved \$8,102 in medical expenses.

