

2020

Crime Victims Compensation Board Annual Report

Kansas Fiscal Year 2020
July 1, 2019 – June 30, 2020

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**KANSAS
ATTORNEY GENERAL
DEREK SCHMIDT**

OFFICE OF THE ATTORNEY GENERAL



**DEREK SCHMIDT
ATTORNEY GENERAL**

CRIME VICTIMS COMPENSATION BOARD

Board Members

| | |
|----------------------------|--------|
| Richard Samaniego, Wichita | Chair |
| Stuart Hite, Pittsburg | Member |
| Vacant | Member |

Staff

| | |
|------------------|-----------------------|
| Kristen Czugala | Executive Director |
| Arin Turvey | Investigator |
| Paige Campbell | Investigator |
| Sharol Couch | Accounting Specialist |
| Diana Espinoza | Secretary |
| Victoria Schultz | Secretary |



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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May 2021

TO: Honorable Laura Kelly, Governor
Members of the Kansas Legislature

The mission of the Crime Victims Compensation Board is, “**To award just compensation to victims for economic loss arising from violent crime.**” Victims in Kansas continue to face financial hardship as the result of someone victimizing them, and seek assistance from the Crime Victims Compensation Board. While financial assistance cannot erase the trauma victims of crime experience, helping to ease the sudden financial burden helps to remove one more barrier faced by the victim.

As a payer of last resort, the Crime Victims Compensation Board continues to provide assistance for medical expenses, lost wages, funeral expenses, counseling, and other crime-related expenses for thousands of innocent victims in our state each year. The Board and staff of our Division of Crime Victims Compensation strive to uphold their mission through ongoing partnerships with criminal justice professionals, victim advocates and service providers throughout Kansas. Staff and Board members continued to reach out to promote this program throughout 2020 in order to serve more victims.

The Crime Victims Compensation Board and service to victims is one of my top priorities as Attorney General. I am grateful to the Board members and my staff who administer this program. 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.

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 2020 totaled **\$2,575,262**. In the 42 years of its existence, from 1978 through 2020, the Board has granted payments to crime victims totaling **\$95,738,016**. 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.

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, and two secretaries. The Board meets monthly to review claim summaries, make claim determinations, and hear appeals.

"It really helped when I spoke with a staff member about what this program is and how it works. I really understood that they were there to help me in any way they could.

-Victim, 2020

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 with certain exceptions for sexual assault cases (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 by 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
- Compensation for mental health counseling may be provided if a claim is filed within two years of notification of DNA testing that has revealed a DNA profile of a suspected offender who victimized the claimant or the victim on whose behalf the claim is made, or notification that the suspected offender has been identified, whichever occurs later.
- 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 was 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 good cause with an exception for child human trafficking victims.
- The victim and/or claimant fully cooperated with law enforcement officials during the investigation and prosecution of his or her case with an exception for child human trafficking victims.
- 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 or human trafficking.
- 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 (does not apply to child human trafficking victims).
 - ...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, domestic violence, or human trafficking).

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 if an option to do so is readily available.
- Failure to act as a prudent person.

These acts and behaviors may be excused in cases involving domestic abuse or sexual assault.

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.
- Rehabilitation Services.
- Mental Health (maximums):
 - Inpatient psychiatric care – \$10,000
 - Outpatient counseling – \$5,000
- Grief therapy for family members of homicide victims – \$1,500
All therapy is subject to a \$90.00 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 or prosecution.
- 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.

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 – State Revenue FY 2020

| REVENUE SOURCES | FY 2020 | FY 2019 | FY 2018 | FY 2017 |
|--|--------------------|--------------------|--------------------|--------------------|
| Fines / Penalties | \$1,661,193 | \$1,883,854 | \$1,895,699 | \$1,851,388 |
| Restitution | \$272,034 | \$254,460 | \$242,394 | \$190,802 |
| Subrogation | \$13,081 | \$8,979 | \$89,781 | \$55,387 |
| Department of Corrections: | | | | |
| Parole Supervision and Administrative Fees | \$294,540 | \$322,890 | \$306,725 | \$319,944 |
| Inmate Contributions Prison Industries Employment (PIE) | \$578,877 | \$415,868 | \$365,622 | \$354,545 |
| TOTAL REVENUE RECEIVED | \$2,819,725 | \$2,900,221 | \$2,900,221 | \$2,772,066 |

Application Summary

Fiscal Years 2017 - 2020

| | FY 2020 | FY 2019 | FY 2018 | FY 2017 |
|--|--------------------|--------------------|--------------------|--------------------|
| *New Applications Received | 1,310 | 1,436 | 1,444 | 1,390 |
| Total Number of Applications Approved | 705 | 784 | 864 | 744 |
| Total Number of Applications Denied as Ineligible | 112 | 160 | 174 | 173 |
| Total Number of Applications Closed | 514 | 412 | 415 | 373 |
| Total Amount Awarded | \$2,575,262 | \$3,341,390 | \$3,554,244 | \$3,197,062 |

*Applications neither approved nor denied are still in the processing phase

*Applications are considered closed if a victim withdraws their application or if the Division of Crime Victims Compensation is unable to process the claim for administrative reasons.

Demographics

*Primary Victims By Age – FY 2020

| ADULT CATEGORY | TOTAL CLAIMS |
|-----------------------|---------------------|
| Minor (0-17) | 283 |
| Adult (18-59) | 901 |
| 60 and Older | 55 |
| Not Reported | 2 |

*Primary Victims By Gender – FY 2020

| GENDER | TOTAL CLAIMS |
|---------------------|---------------------|
| Female | 782 |
| Male | 459 |
| Not Reported | 0 |

*Primary Victims By Race/Ethnicity – FY 2020

| RACE/ETHNICITY | TOTAL CLAIMS |
|---------------------------------------|---------------------|
| American Indian/Alaskan Native | 24 |
| Asian | 11 |
| Black/African American | 218 |
| Hispanic or Latino | 290 |
| White Non-Latino/Caucasian | 636 |
| Some Other Race | 60 |
| Not Reported | 2 |

*Direct victims are considered primary claims while an indirect victim is considered a secondary claim

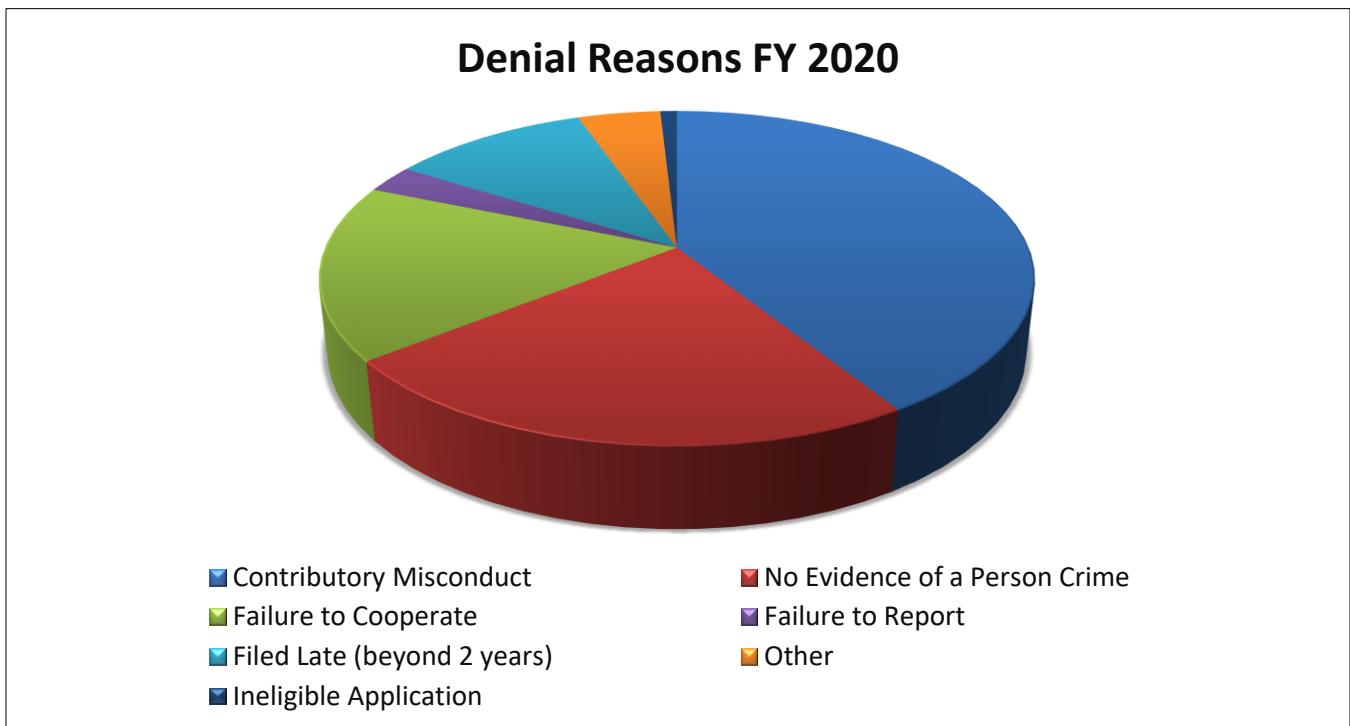
Awarded Claims

Total Claims Awarded by Crime and Expense

| Crime | Payments Made | Amount Paid |
|---------------------------------------|----------------------|-----------------------|
| ARSON | 1 | \$270.00 |
| ASSAULT | 914 | \$1,261,230.26 |
| BURGLARY | 2 | \$1,209.01 |
| CHILD ABUSE MURDER | 23 | \$12,412.75 |
| CHILD PHYSICAL ABUSE | 31 | \$12,448.43 |
| CHILD SEXUAL ASSAULT | 443 | \$152,766.85 |
| DOMESTIC ABUSE | 718 | \$492,091.85 |
| DOMESTIC ABUSE (HOMICIDE) | 20 | \$45,979.70 |
| DUI | 31 | \$33,142.78 |
| DUI/HOMICIDE | 4 | \$16,800.00 |
| ELECTRONIC SOLICITATION | 6 | \$8,512.62 |
| HOMICIDE/MURDER | 129 | \$285,411.03 |
| HUMAN TRAFFICKING | 2 | \$935.00 |
| KIDNAPPING | 27 | \$4,593.83 |
| OTHER | 29 | \$36,726.45 |
| OTHER VEHICULAR | 48 | \$57,157.26 |
| ROBBERY | 51 | \$17,407.35 |
| SEXUAL ASSAULT | 214 | \$96,263.23 |
| STALKING | 31 | \$28,538.63 |
| VEHICULAR HOMICIDE | 6 | \$11,365.36 |
| TOTAL PAYMENTS MADE | 2,730 | |
| TOTAL AMOUNT AWARDED ON CLAIMS | | \$2,575,262.39 |

Denied/Closed Claims

| REASON FOR DENIAL - FY 2020 | TOTAL |
|---------------------------------|------------|
| Contributory Misconduct | 46 |
| Failure to Cooperate | 19 |
| Failure to Report | 3 |
| Filed Late (beyond 2 years) | 12 |
| Ineligible Application | 1 |
| No Evidence of a Person Crime | 26 |
| Other | 5 |
| TOTAL CLAIMS DENIED 2020 | 112 |



| REASON FOR CLOSURE - FY 2020 | TOTAL |
|---------------------------------|------------|
| Unable to Process | 504 |
| Withdrawn by Claimant/Victim | 10 |
| TOTAL CLAIMS CLOSED 2020 | 514 |

Comments from Victims and Others Who Work with the Program

- *Thank you all so very much. Thank you all, the Board of Crime Victims Compensation and Attorney General, Derek Schmidt. Thank you.*
- *I really just want to say thank you for all of your time and effort. My family and I greatly appreciate it!*
- *You saved my life. Thank you!*
- *What a blessing this is! Thank you from the bottom of my heart and please extend my thank you to your Board as well.*
- *Thank you so much! I was amazed to learn about the benefits available and so thankful that we were approved. THANK YOU! Everyone that we talked to...has been very supportive, kind and helpful.*
- *Everyone was kind and personable. Thank you very much!!*
- *I want to thank the Attorney General's Office and the diligent workers who are a part of it for the time, energy and resources that allowed me to work with [a victim]. Thank you for all that you provide children who have been exploited and traumatized who otherwise would not receive help.*



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