

KANSAS

CRIME VICTIMS
COMPENSATION BOARD



ANNUAL REPORT 2008

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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



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

It is my honor to present the *Crime Victims Compensation Board's* 2008 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



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ATTORNEY GENERAL

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, conduct hearings and grant approximately 300 awards.

Kansas is a model state in providing services to victims of crime. Executive Director Frank Henderson has brought national attention to Kansas by serving as President of the National Association of Crime Victims Compensation Boards the past two years.

While this report reflects facts and figures, Board members Roger Villanueva, Nan Porter and I believe this report also reflects the dedication and commitment that Mr. Henderson and his staff bring to the CVCB. Serving as Chairperson of the Board for the last five years 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 the CVCB staff has made a difference in the lives of persons who are the victims of crime.

Sincerely,



Rita Noll, Board Chair,
Crime Victims Compensation Board

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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 2008 totaled \$3,510,747.34. In the first 30 years of its existence, from 1978 through 2008, the Board granted payments to crime victims totaling \$53,695,992. 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.

"Your support has made our tragedy easier to deal with. Thank you so much for all your support. This is a great organization and support system."

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 can not 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 SOURCES					
	FY2008	FY2007	FY2006	FY2005	FY2004
Fines/Penalties	\$2,480,644	\$2,481,576	\$2,506,712	\$2,629,789	\$1,733,422
Restitution	231,778	227,451	154,869	128,631	151,327
Subrogation	35,982	33,557	27,191	90,147	54,662
Department of Corrections					
**Parole Supervision and Administrative Fees	311,020	296,742	297,240	294,112	279,483
**Inmate Contributions (PIE)	276,883	294,659	235,998	248,244	196,983
Department of Justice VOCA Grant	1,720,000	1,220,000	860,000	1,264,000	1,222,000
TOTAL	\$5,056,307	\$4,553,985	\$4,082,010	\$4,654,923	\$3,637,877

CRIME VICTIMS COMPENSATION CLAIMS PROCESSING

DESCRIPTION	FY 2008	FY2007	FY2006	FY2005	FY2004
NEW CLAIMS RECEIVED	1,373	1,277	1,346	1,313	1,246
TOTAL NUMBER OF CLAIMS GRANTED AWARDS	913	1,082	1,242	1,165	1,211
AMOUNT AWARDED ON CLAIMS	\$3,510,747	\$4,177,576	\$3,313,595	\$2,945,463	\$3,205,387
AVERAGE AMOUNT AWARDED ON CLAIMS	\$3,845	\$3,861	\$2,668	\$2,528	\$2,647

“The Board’s response in granting this award has provided new hope and some sense of security in the near future.”

Claims Approved by Crime and Expense FY 2008

CRIME	Approved	Amount Paid
Arson	5	\$ 15,701
Assault	366	2,181,011
Child Abuse (Homicide)	6	4,675
Child Physical Abuse	13	15,361
Child Sexual Abuse	157	113,156
Domestic Assault	128	327,885
Domestic Homicide	8	21,208
DUI	18	102,392
DUI Homicide	2	10,000
Kidnapping	2	1,476
Murder/Homicide	100	392,617
Other(Miscellaneous)	1	245
Other Vehicular	17	56,454
Robbery	35	231,721
Sexual Assault	51	34,526
Stalking	3	1,830
Vehicular Homicide	1	489
Total Approved Claims	913	
Total Amount Awarded on Claims		\$ 3,510,747

“We appreciate how promptly you handled our claim. Thank you very much.”

AWARDS BY AGE – FY 2008

<i>Age Category</i>	<i>Award</i>	<i>Total Claims</i>
ADULT (18-64)	\$ 3,211,137	668
MINOR (0-17)	\$ 242,280	238
SENIOR (65 and above)	\$ 57,331	7
TOTAL	\$ 3,510,747	913

Expenditures by Award Category – FY 2008

EXPENSE	AWARD
MEDICAL	\$ 2,761,285
ECONOMIC SUPPORT	302,730
FUNERAL	304,179
MENTAL HEALTH	138,566
CLOTHING/BEDDING (Seized as Evidence)	1,241
CRIME SCENE CLEAN-UP	1,044
OTHER (Miscellaneous Expenses)	1,702
TOTAL	\$ 3,510,747

“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	3
Crime Occurred Out of State	1
Application Submitted Out of Time (2 Years)	1
Crime Not Reported to Law Enforcement (72 hours)	8
No Evidence of a Person Crime	19
Contributory Misconduct	55
Failure to Cooperate With Law Enforcement/Prosecution	44
Victim Involved in Illegal Activity	21
TOTAL	152

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

ILLUSTRATED CASES – FY 2008

Assault

- A 28 year old man was at the home he shared with his 30 year old girlfriend when there was a knock at the door. He opened the door to a youth he and his girlfriend had befriended in the past and four subjects armed with weapons forced their way into the residence. One of the individuals struck the male victim in the head with a handgun as they continued to shout orders to each other as to what items to take.
- The female victim awakened by the shouting, got out of bed and ran outside where she saw her boyfriend on the ground. She managed to create a diversion by throwing a bottle at the offenders' vehicle, striking the windshield. As the victims attempted to flee to safety, the offenders ran to their vehicle, firing guns as they sped away. The female victim was struck by a bullet. *Suspects have been charged with aggravated battery, aggravated burglary and aggravated robbery. The cases are proceeding through court.*

The board approved a total of \$25,630.40 in medical expenses on the two claims.

Sexual Assault

- A 23 year old woman received a call from a male acquaintance asking if it would be alright if he stopped by her apartment. She said that would be fine. Soon after he arrived, he put his arms around her and despite her repeated objections; he forced her into her bedroom, pinned her down on the bed and raped her. *Charges have been filed.*

The board approved \$364.90 in counseling and clothing and bedding seized as evidence.

Domestic Assault

- A 35 year old woman was at a bar with friends when her ex-boyfriend entered the bar and asked her to step outside to speak with him. While standing outside, she reminded him that they were no longer together. He stated that he would decide when they were no longer together and then threw an acid-based substance into her eyes. She suffered permanent vision loss in one eye and is having to undergo surgeries to save the other eye. *The offender was arrested and charged.*

The board approved \$20,565.60 in medical expenses and wage loss to date.

Child Abuse (Homicide)

- A two year old girl was in the care of her step-mother. Her father came home and found the child showing signs of a seizure. She was taken to the emergency room and was found to have swelling on the brain and numerous bruises on her head and body. The child was pronounced brain dead at the hospital. *The offender was arrested and charged with first degree murder and abuse of a child.*

The board approved \$1,822.55 in funeral expenses and grief counseling.

Homicide (Outside the U.S.)

- An 18 year old man went to Mexico to visit friends he met through online video gaming for several weeks. During his return trip home he was robbed and beaten to death. Details are very sketchy and unclear as to the events surrounding his death. *Three suspects have been identified and trials are pending. The U.S. State Department is assisting the family with information as the proceedings continue.*

The board approved \$5,121.40 in funeral expenses and grief counseling.