



KANSAS ATTORNEY GENERAL

Derek Schmidt

Crime Victims Compensation Board

Annual Report

Fiscal Year 2010

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CRIME VICTIMS COMPENSATION BOARD

2010 Board Members

<i>Suzanne Valdez, Lawrence</i>	<i>Chair</i>
<i>Nan Porter, Wichita</i>	<i>Member</i>
<i>Roger Villanueva, Kansas City</i>	<i>Member</i>

2010 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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July 27, 2012

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

It is my honor to present the *Crime Victims Compensation Board's* 2010 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.

I am grateful to the Board members and their 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 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 2010 totaled **\$3,792,444**. In the first **32 years** of its existence, from 1978 through 2010, the Board granted payments to crime victims totaling **\$62,113,388**. 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 720 SW Jackson Street, Topeka, Kansas.

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

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 was filed within two years of the incident. (Child sexual assault claims are based on the date the crime was reported to law enforcement officials.)
 - 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.
 - Compensation for mental health counseling may be awarded 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 incident occurred in Kansas or occurred 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.) totaled \$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 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.

<i>Crime Victims Compensation - Revenue</i>					
<i>REVENUE SOURCES</i>	<i>FY2010</i>	<i>FY2009</i>	<i>FY2008</i>	<i>FY2007</i>	<i>FY2006</i>
Fines/Penalties	\$2,364,209	\$2,444,952	\$2,480,644	\$2,481,576	\$2,506,712
Restitution	142,959	194,100	231,778	227,451	154,869
Subrogation	83,817	128,465	35,982	33,557	27,191
Department of Corrections					
Parole Supervision and Administrative Fees	286,801	26,025	311,020	296,742	297,240
**Inmate Contributions **Prison Industries Employment (PIE)	164,389	129,924	276,883	294,659	235,998
STATE TOTAL	\$3,042,175	\$2,923,466	\$3,336,307	\$3,333,985	\$3,222,010
DEPARTMENT OF JUSTICE GRANTS					
VOCA	1,488,000	1,327,000	1,720,000	1,220,000	860,000
ARRA	0	346,403	0	0	0
FEDERAL GRANT TOTAL	\$1,488,000	\$1,673,403	\$1,720,000	\$1,220,000	\$860,000

CRIME VICTIMS COMPENSATION CLAIMS PROCESSING

FY 2010

DESCRIPTION	FY 2010	FY 2009	FY 2008	FY 2007	FY 2006
NEW CLAIMS RECEIVED	1,397	1,358	1,373	1,277	1,346
TOTAL NUMBER OF CLAIMS GRANTED AWARDS	1,013	1,025	911	1,082	1,242
AMOUNT AWARDED ON CLAIMS	\$3,792,444	\$4,624,953	\$3,510,747	\$4,177,576	\$3,313,595
AVERAGE AMOUNT AWARDED ON CLAIMS	\$3,744	\$4,512	\$3,854	\$3,861	\$2,668

APPROVED CLAIMS – FY 2010

Claims Approved by Crime		
CRIME	Claims Approved	Amount Paid
Arson	0	\$0
Assault	401	2,456,547
Child Abuse (Homicide)	8	6,034
Child Physical Abuse	9	7,080
Child Sexual Abuse	195	132,621
Domestic Assault	154	383,953
Domestic Homicide	13	37,113
DUI	14	63,498
DUI Homicide	5	20,764
Kidnapping	7	7,234
Murder/Homicide	81	245,941
Other Vehicular	16	203,745
Robbery	35	142,514
Sexual Assault	70	76,903
Stalking	1	504
Vehicular Homicide	4	7,993
Total Claims Approved	1,013	
Total Amount Awarded on Claims		\$3,792,444

AWARDS BY AGE AND EXPENSE

AWARDS BY AGE – FY 2010

AGE CATEGORY	TOTAL CLAIMS	AWARD
ADULT (18-64)	721	\$3,470,877
MINOR (0-17)	279	\$290,436
SENIOR (65 and above)	13	\$31,131
FY 2010 Total	1013	\$3,792,444

Awards by Expense – FY 2010

EXPENSE	AWARD
➤ MEDICAL	\$3,130,038
➤ MENTAL HEALTH	\$170,421
➤ SUPPORT LOSS	\$185,712
➤ CLOTHING BEDDING	\$4,768
➤ FUNERAL	\$292,739
➤ CRIME SCENE CLEAN-UP	\$1,000
➤ RELOCATION	\$6,571
➤ OTHER (Miscellaneous Expenses)	\$1,195
FY 2010 TOTAL	\$3,792,444

DENIED CLAIMS

REASON FOR DENIAL	TOTAL
<ul style="list-style-type: none"> Application Submitted Out of Time (2 Years) 	1
<ul style="list-style-type: none"> Contributory Misconduct 	88
<ul style="list-style-type: none"> Crime Not Reported to Law Enforcement (72 Hours) 	9
<ul style="list-style-type: none"> Crime Occurred Out of State 	5
<ul style="list-style-type: none"> Failure to Cooperate With Law Enforcement/Prosecution 	35
<ul style="list-style-type: none"> No Evidence of a Person Crime 	42
<ul style="list-style-type: none"> Unjust Enrichment of Offender 	2
<ul style="list-style-type: none"> Victim Involved in Illegal Activity 	16
<p align="center">FY 2010 TOTAL CLAIMS DENIED</p>	<p align="center">198</p>

2010 ILLUSTRATED CASES

Assault

A 19 year old female was injured while she was standing outside a residence visiting friends. Several men walked by and one of the men apparently thought someone in the group had said something to or about them and stopped to ask what was said. A verbal confrontation led to a physical altercation. The two men displayed pistols and threatened to shoot. One of the men began swinging his weapon, striking the victim in the head. The suspects fled and have not been identified.

- ***The Board approved \$3,312 in medical expenses.***

Two males ages 38 and 39 indicated they were at a friend's home watching a sporting event on television while waiting for the homeowner to return. Reportedly, one of the men answered a knock at the door and two men armed with shotguns entered the residence and opened fire, seriously injuring both men. Law enforcement investigators discovered large amounts of drugs and cash at the scene. No suspects have been located. No arrests have been made. Neither victim has provided law enforcement with adequate information for the investigation to continue.

- ***Both claims were denied for participating in illegal activity and failure to cooperate with law enforcement. Both men appealed the denials to the board. The decisions to deny both claims were upheld.***

Domestic Assault (Homicide)

A 31 year old female ended the relationship with her boyfriend. After his attempts to reconcile failed, he threatened to kill her. He later broke into her home armed with a knife and fatally wounded her. The offender pleaded to Murder in the first degree and is now serving a life sentence without the possibility of parole.

- ***The Board approved \$3,692 in funeral expenses.***

Sexual Assault

A 54 year old female reported that a man unlawfully entered her apartment and raped her. The offender was later arrested and charged with this incident and two other sexual assault cases. The offender was convicted and sentenced to prison.

- ***The Board approved \$156 for clothing and bedding seized as evidence.***

Child Abuse (Homicide)

A ten month old boy was killed by his mother's boyfriend, who was babysitting him and his older brother. Doctors determined the child died of severe blunt force trauma to the head and other intentionally inflicted injuries. The victim's brother reported to a relative that he witnessed the abuse. The offender was arrested, charged and found guilty of felony murder and sentenced to prison.

- ***The Board approved \$2,970 for funeral expenses.***

Hit and Run (Other Vehicular)

A 40 year old male was riding his moped to work when a vehicle turned, struck the moped he was operating and failed to stop. The victim suffered serious injuries including a fractured back. The offender has not been identified.

- *The Board approved \$25,000 for medical expenses and wage loss.*

Assault/Homicide

A 7 year old girl was one of several people shot while inside her home. The shooter was outside and fired into the house. Those injured included a 64 year old female, a 45 year old male, a 44 year old female and 17 year old female. The 7 year old died of her injuries. The incident appeared to be a drive-by shooting. To date the offender has not been identified. Five applications for compensation were received associated with the incident.

- *The Board approved a total of \$32,775 for medical and funeral expenses.*