

Crime Victims Compensation Fund

**2015
ANNUAL REPORT**

**Court of Claims
Cheryle M. Hall, Clerk**



2015

Annual Report
of the
West Virginia Court of Claims
for the
Crime Victims Compensation Fund

Chief Judge

The Honorable J. David Cecil

Judges

The Honorable T. C. McCarthy Jr.

The Honorable George F. Fordham

Cheryle M. Hall, Clerk

Becky A. Ofiesh, Chief Deputy Clerk

Prepared by Randy D. McCoy, Business Manager



West Virginia Court of Claims

Chief Judge
J. David Cecil
Judges
T. C. McCarthy Jr.
George F. Fordham

1900 Kanawha Blvd., E., Rm. W-334
Charleston, WV 25305-0610
Telephone (304) 347-4851
Facsimile (304) 347-4915

Cheryle M. Hall
Clerk
Becky A. Ofiesh
Chief Deputy Clerk

February 22, 2016

Honorable Members of the
West Virginia State Legislature

It is my honor and privilege to present to you, in accordance with West Virginia Code §14-2A-21, the Annual Report of the West Virginia Crime Victims Compensation Fund. This report covers the activities for the Federal fiscal year 2015.

Very truly yours,

A handwritten signature in blue ink that reads "Cheryle M. Hall".

Cheryle M. Hall
Clerk

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Summary of Program

Created in 1981, and effective January 1, 1982, the compensation program is administered by the West Virginia Court of Claims.

FUNDING

The program receives \$50 per felony, \$10 per misdemeanor, \$8 for each municipal infraction except parking tickets, and 20% of assessed fines in drunk-driving cases. The program also receives an annual VOCA grant from the U.S. Department of Justice that equals 60% of the State's eligible awards.

ELIGIBILITY REQUIREMENTS

- Reporting period: 72 hours
- Filing period: 2 years.
- Exceptions: Reporting period may be waived for good cause; time periods begin when child victims attain age of majority.
- Reporting period - sexual assault: 96 hours

PROCEDURES

Applications are submitted to the Court of Claims. An investigator performs an investigation and prepares a report that includes findings of fact and a recommendation. The report is sent to the applicant who has 30 days to respond. This initial response is handled informally by the investigator who reviews and comments on the response. One judge will review the file and issue an order to award or deny.

Appeals: The applicant has 21 days to request a hearing, which is held before a judge other than the initially deciding judge. The hearing judge's order is final.

BENEFITS

Maximum award:

- \$35,000 in personal injury cases
- \$100,000 in permanent disability cases (in addition to the \$35,000)
- \$50,000 in death cases

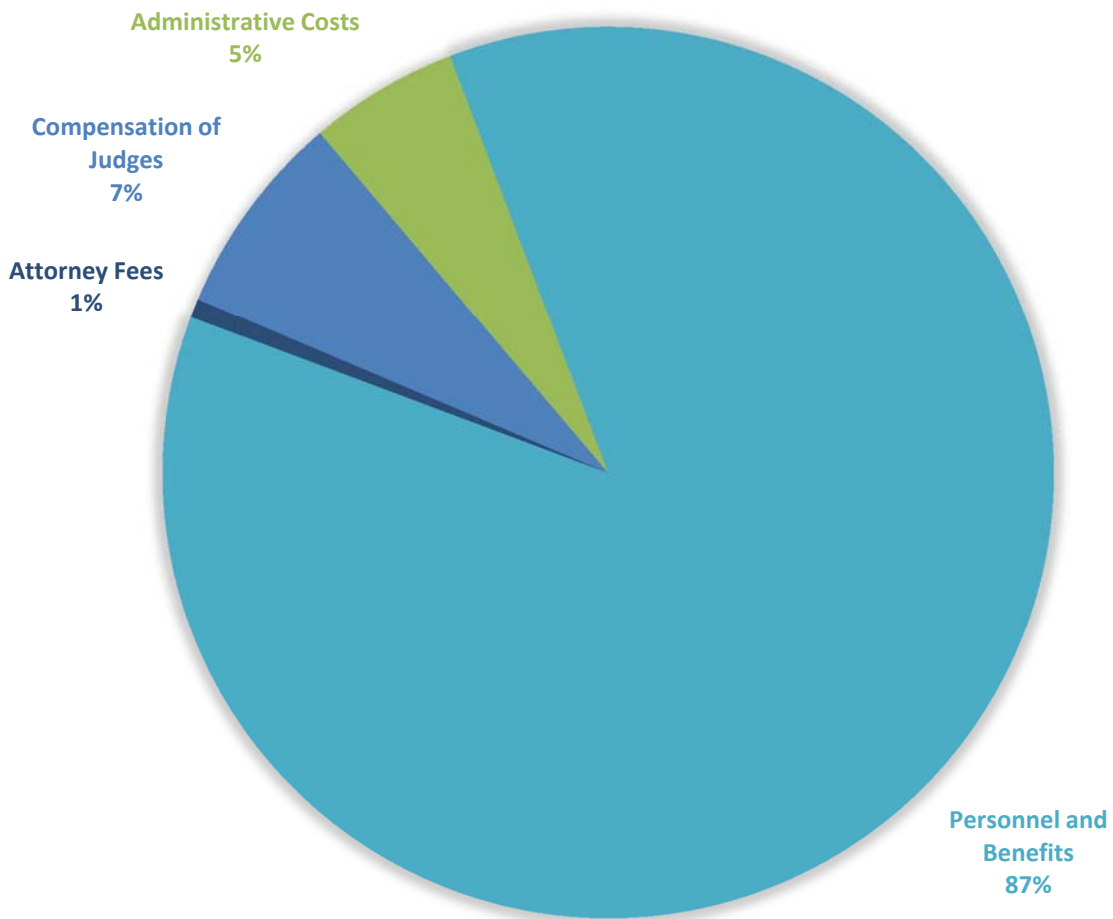
Compensable expenses:

- Medical expenses
- Mental health counseling
- Mental health counseling for secondary victims up to \$1,000
- Lost earnings/support
- Funeral/burial up to \$10,000
- Relocation up to \$2,500
- Travel to medical treatment facility
- Travel to criminal proceeding up to \$1,000
- Travel to return minor from out-of-state/out-of-country
- Replacement services
- Rehabilitation
- Attorney fees (public defender rates)

Crime Victims Compensation Fund

Administrative Funds

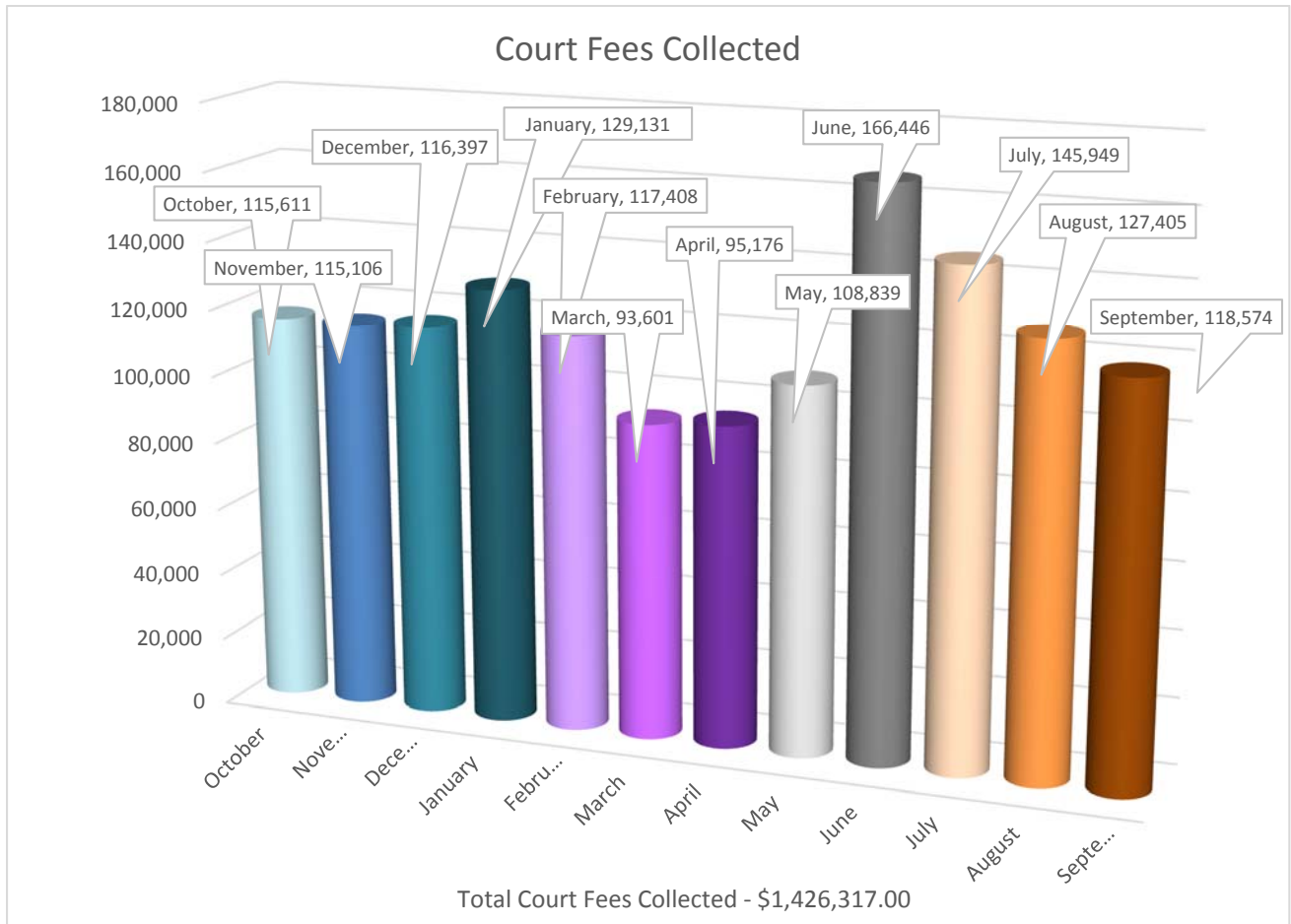
October 1 – September 30



Crime Victims Compensation Fund

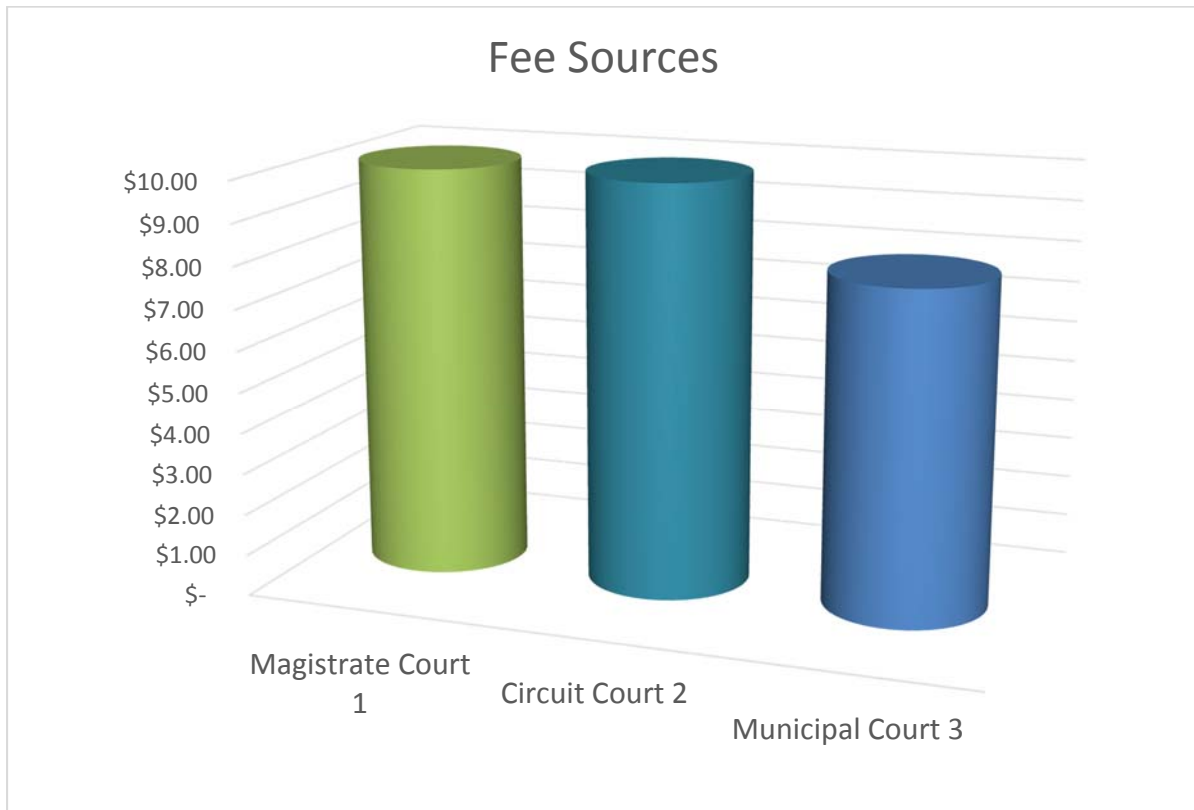
State Funds Collected by Month

Federal Fiscal Year 2015 (October 1 – September 30)



Crime Victims Compensation Fund

Fee Sources



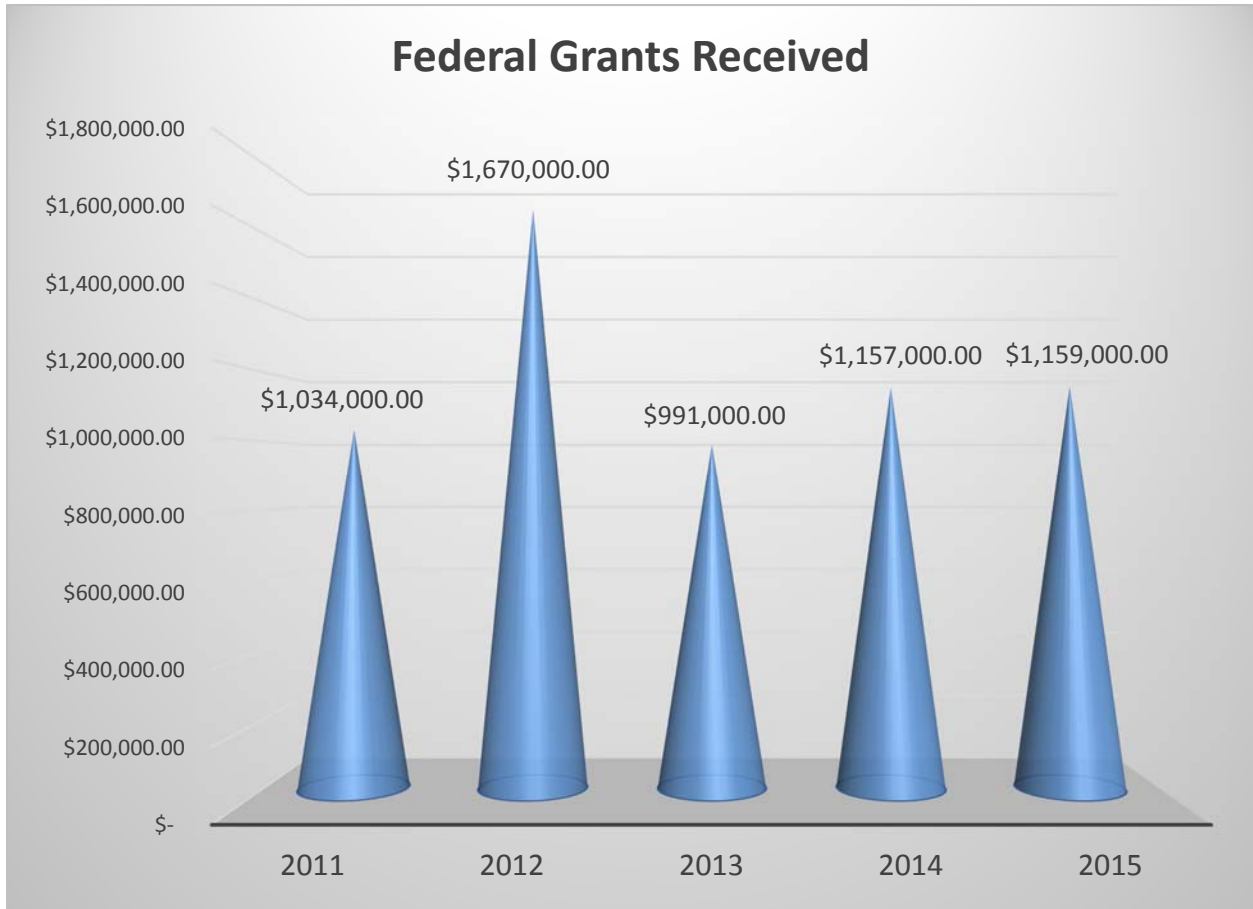
- 1 Plus 20% of DUI fines
- 2 Plus 20% of DUI fines & \$50 for each felony conviction
- 3 Plus 20% of DUI fines – only moving violations

Under the Federal Victims of Crime Act (VOCA) of 1984, federal monies became available to state compensation programs and victim assistance programs.

The U.S. Department of Justice, Office of Justice Programs, allocates these funds to state compensation programs based on a formula of 60% of the previous fiscal year's awarded claims.

Beginning with the 1995 grant, programs are permitted to use up to 5% for administrative expenses, which includes purchasing equipment, hiring personnel, and travel expenses. However, the administrative expenses may not supplant state funds.

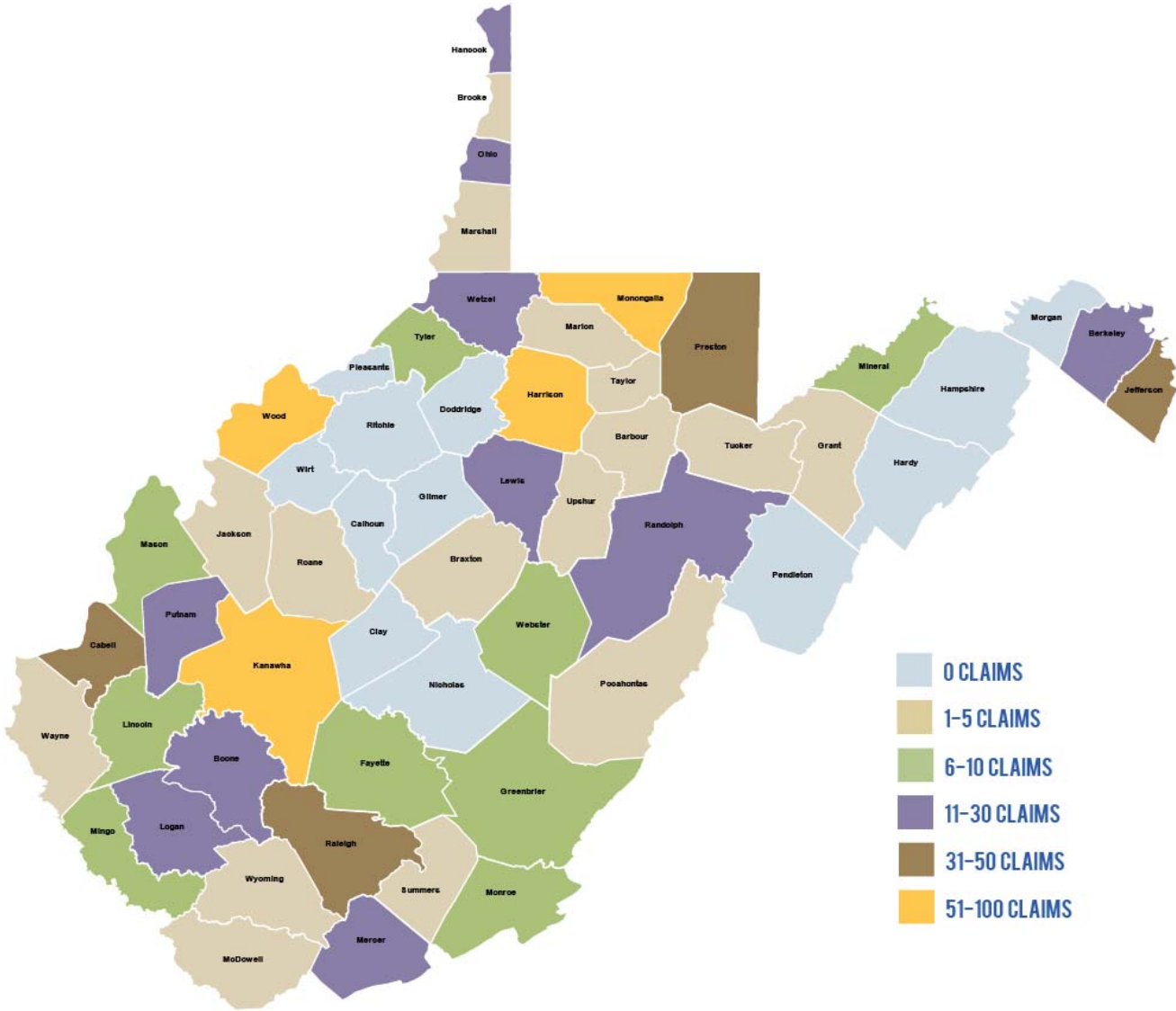
Crime Victims Compensation Fund



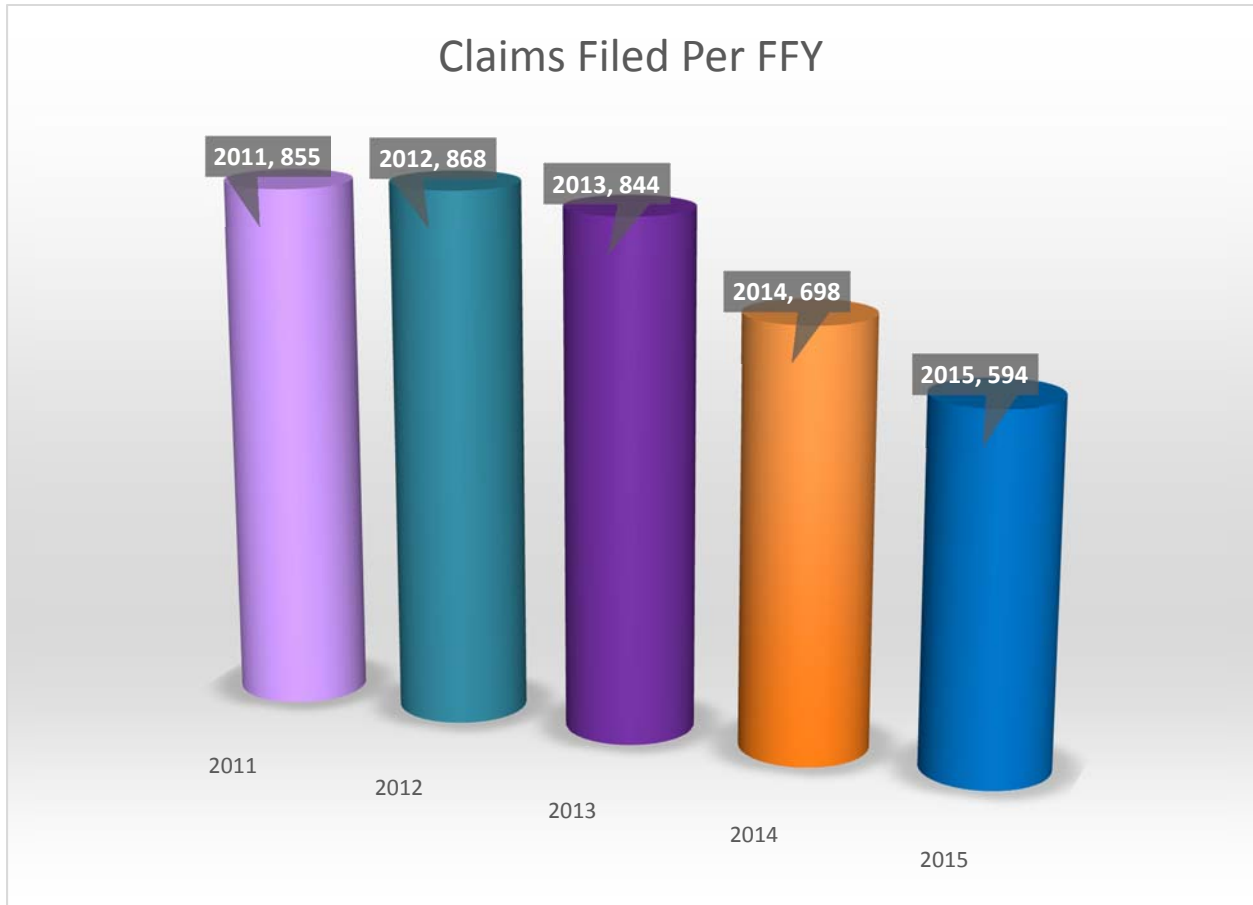
West Virginia has received a total of \$21,412,230.00 in federal funds for its compensation program since 1986 (the first grant year).

Crime Victims Compensation Fund

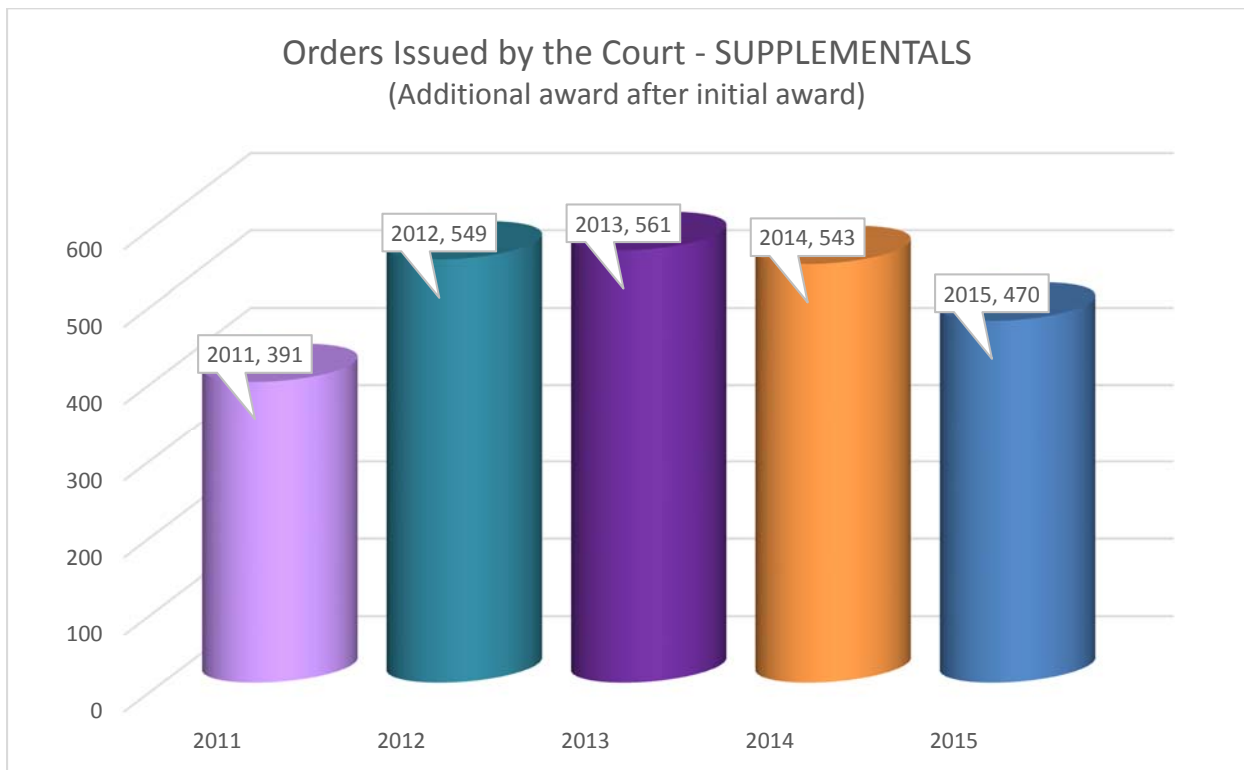
Awards by County Federal Fiscal Year 2015



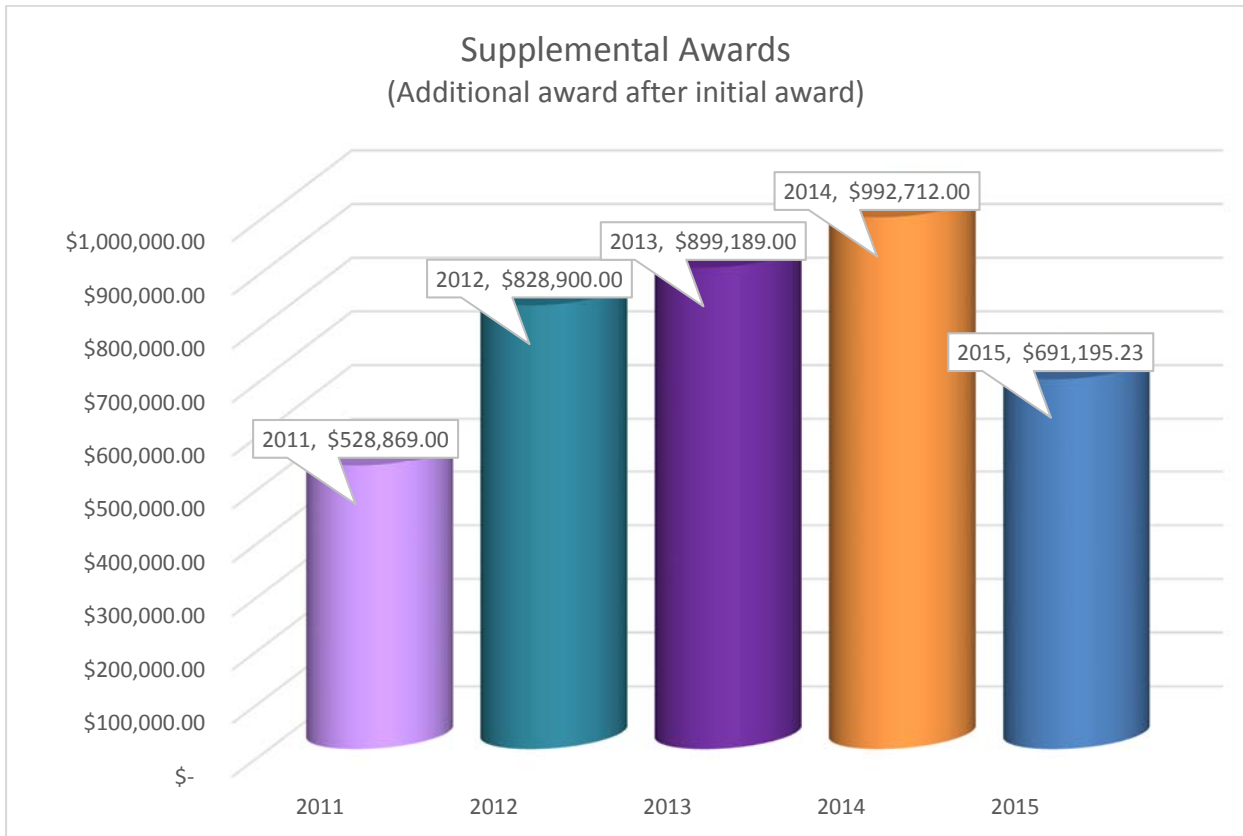
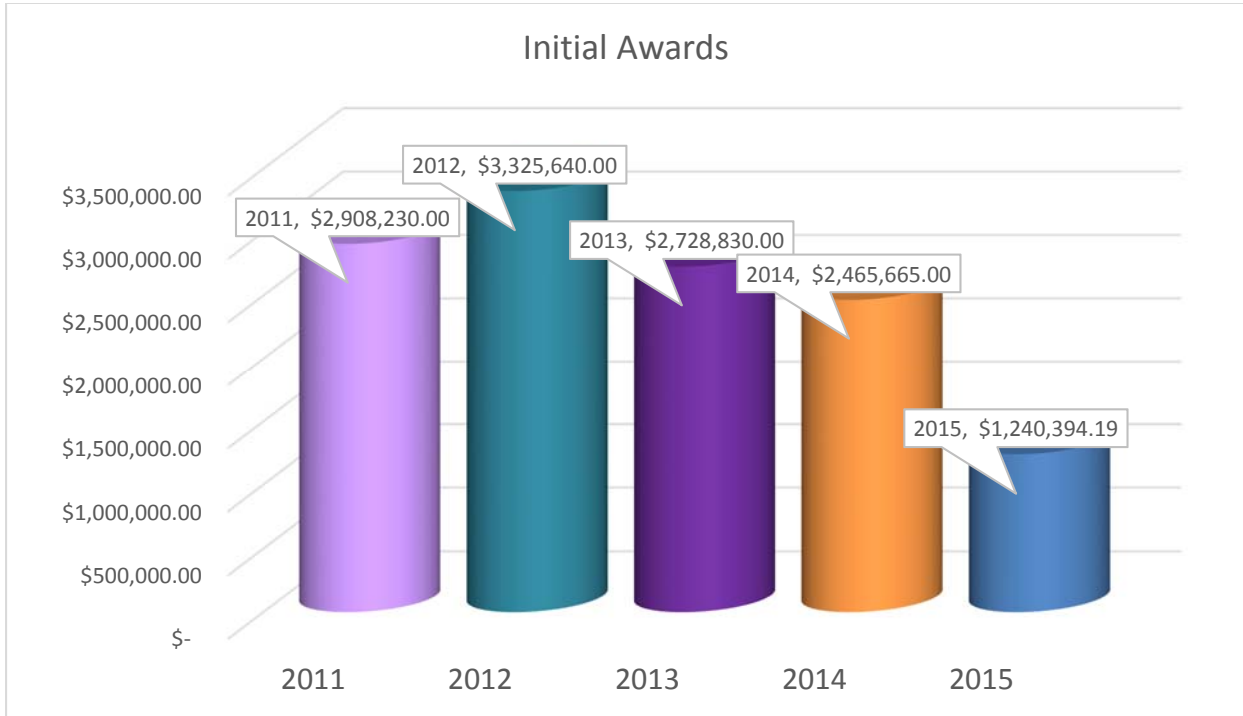
Crime Victims Compensation Fund



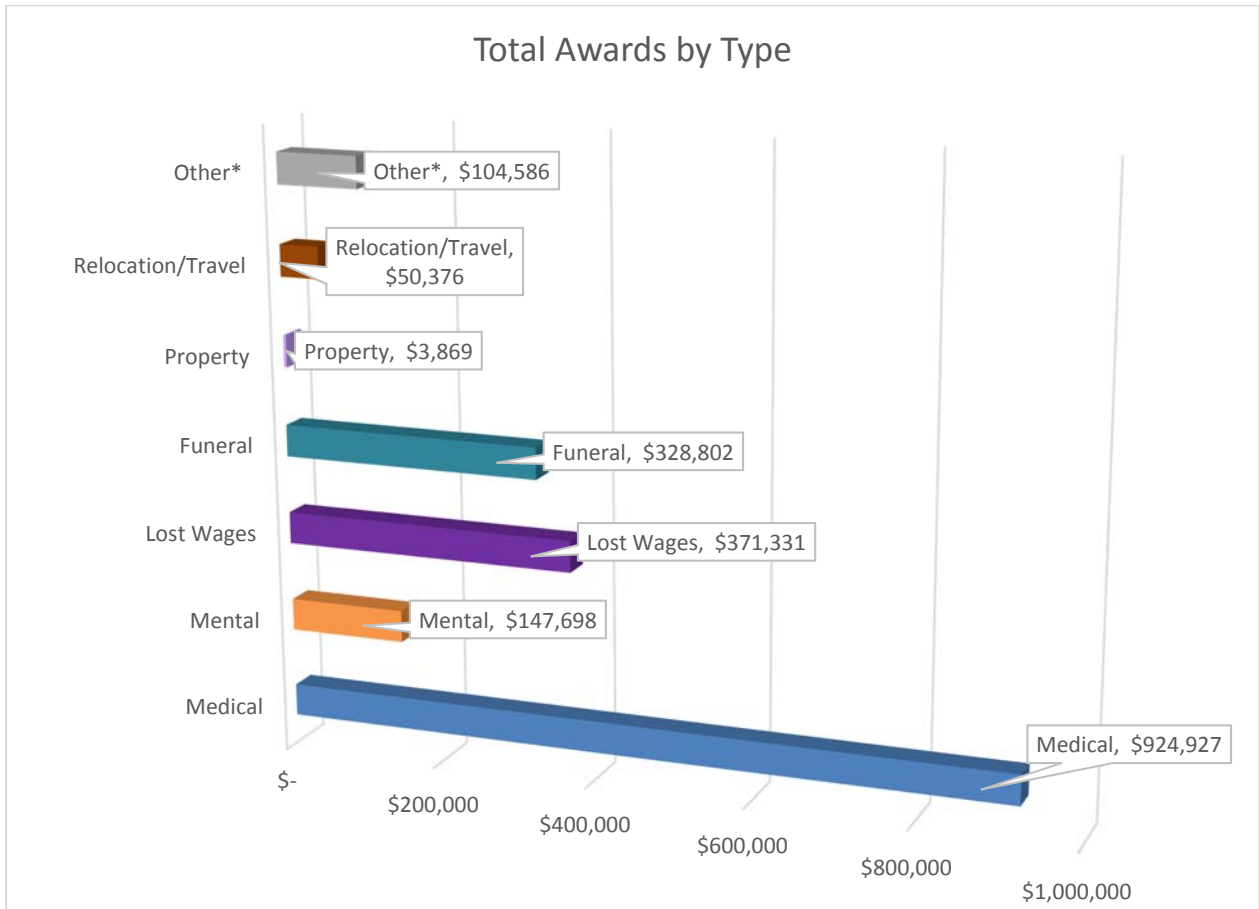
Crime Victims Compensation Fund



Crime Victims Compensation Fund



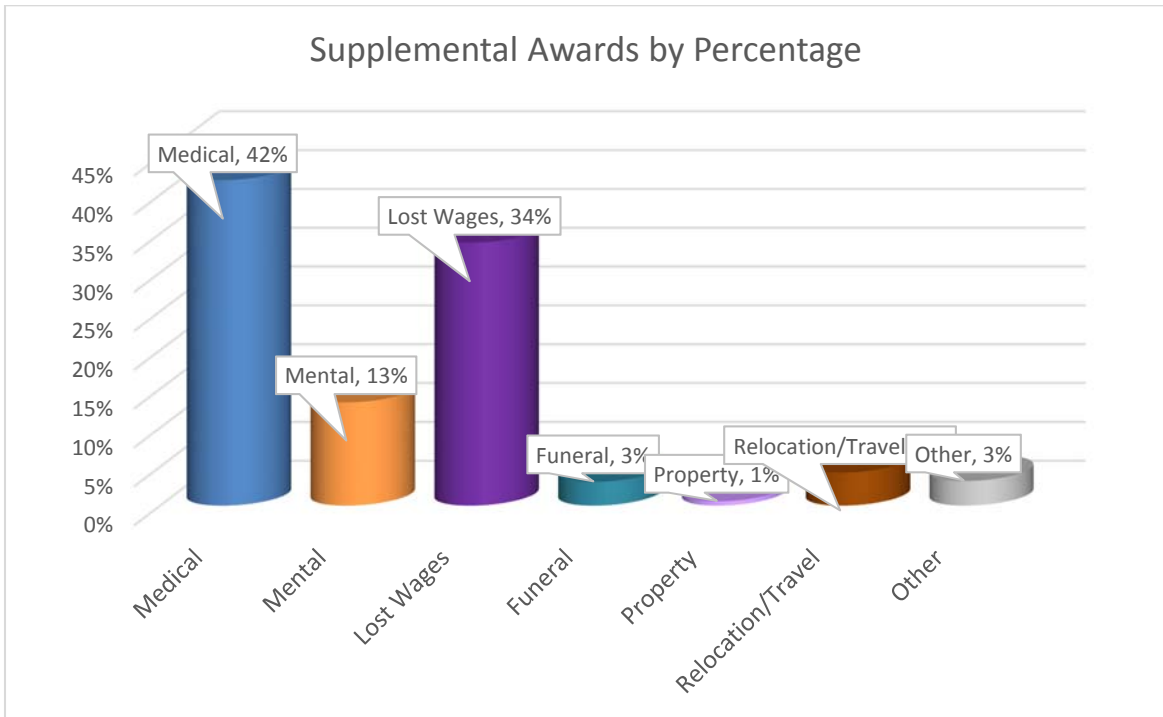
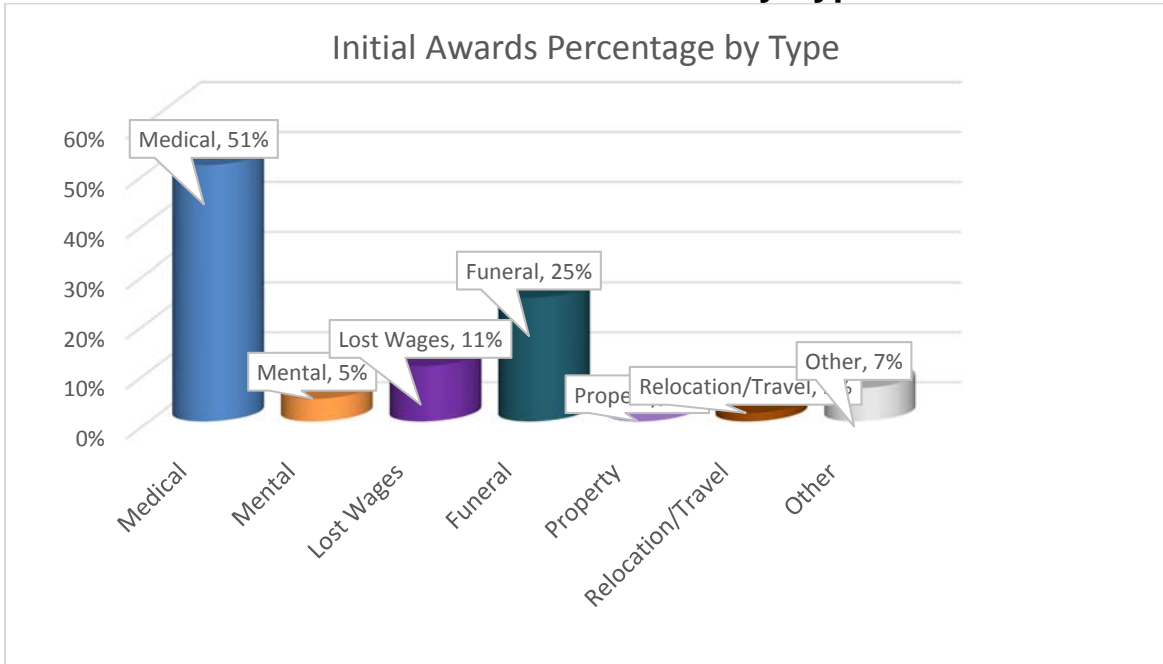
Crime Victims Compensation Fund



Total paid – \$ 1,931,589.00

*Includes: Replacement Services Loss, Dependent’s Economic Loss, and Lost Scholarships.

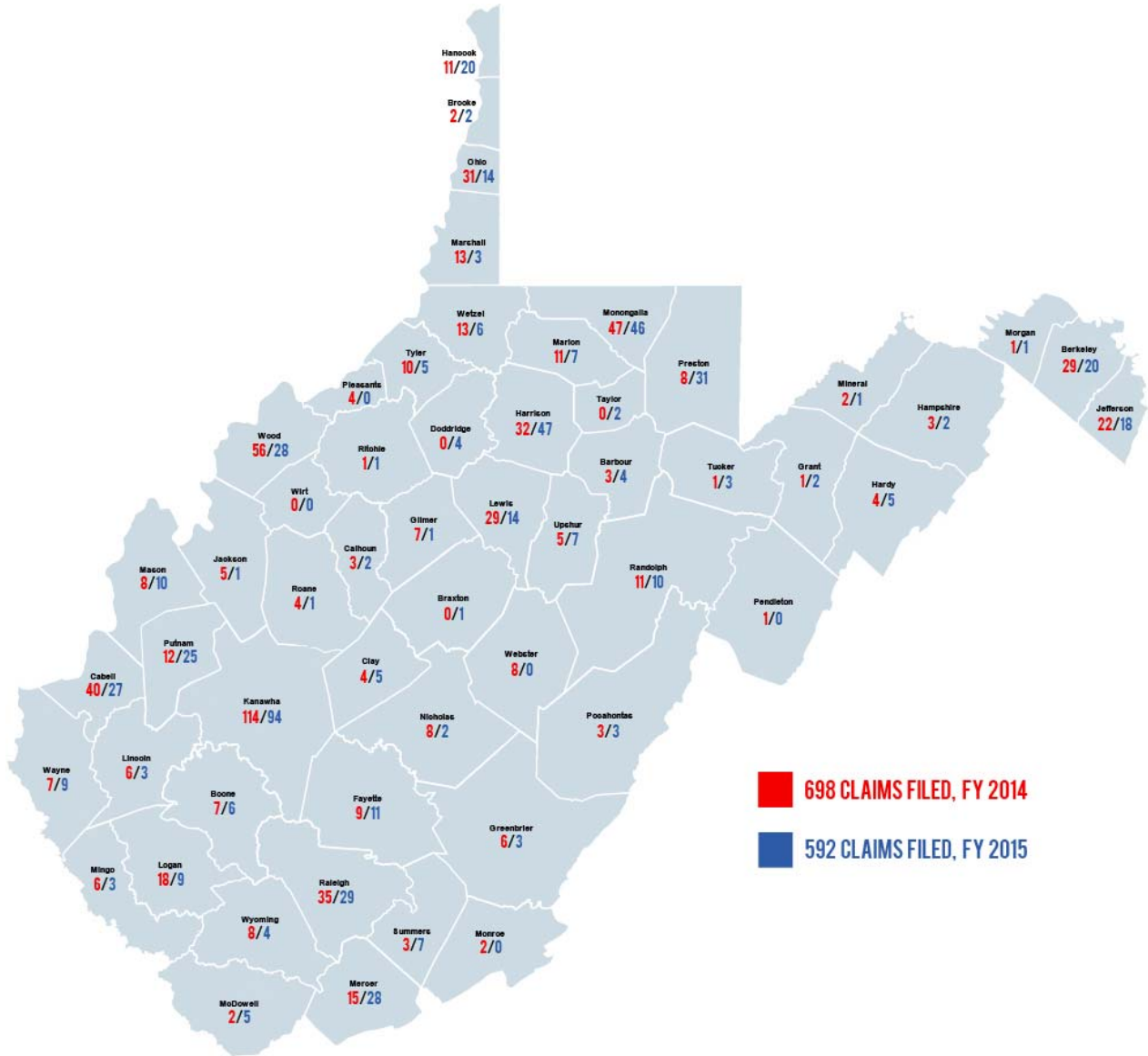
Crime Victims Compensation Fund
Percent of Total Awards by Type



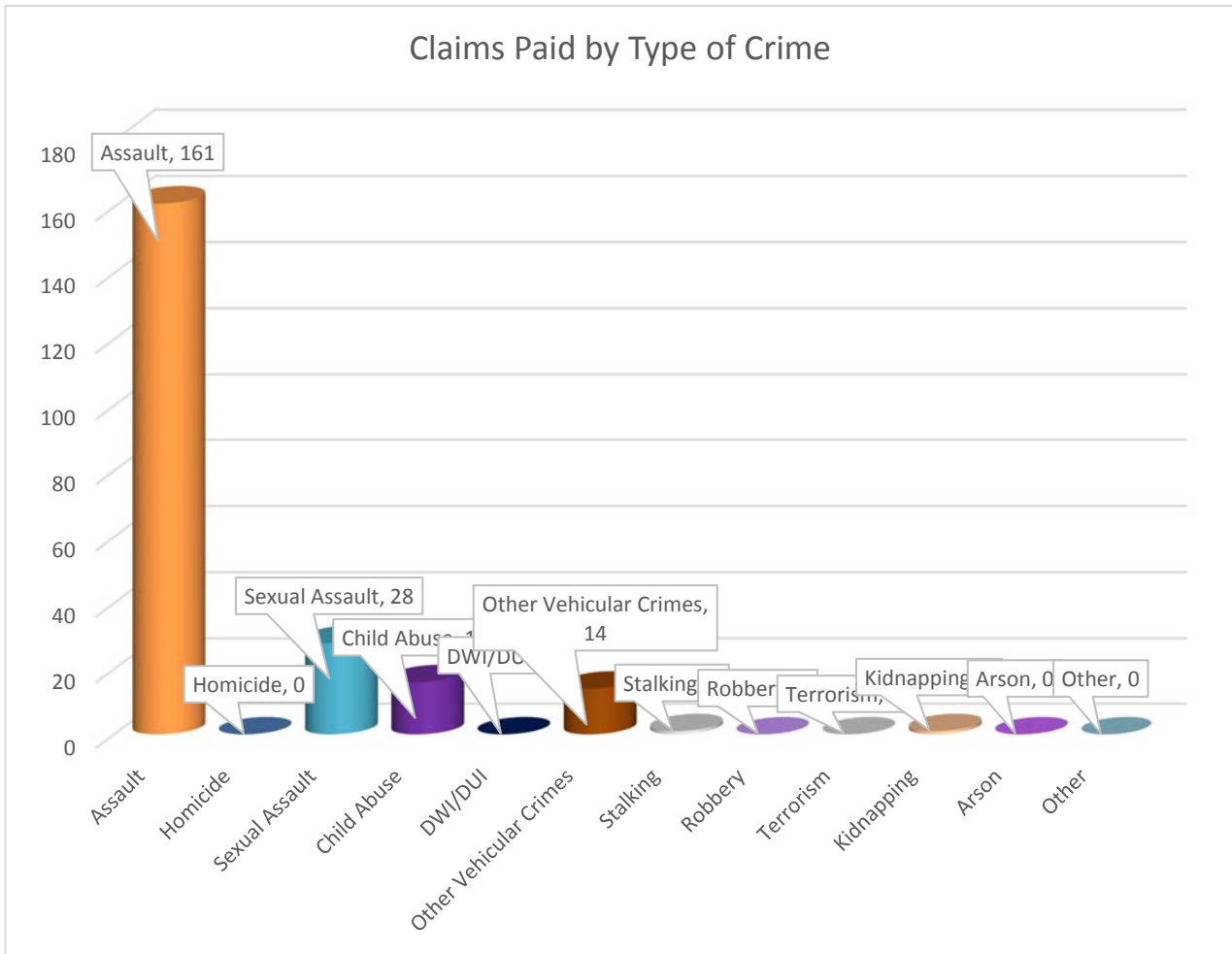
*Includes: Replacement Services Loss, Dependent’s Economic Loss, and Lost Scholarships.

Crime Victims Compensation Fund

Claims Filed by County FFY 2014-2015



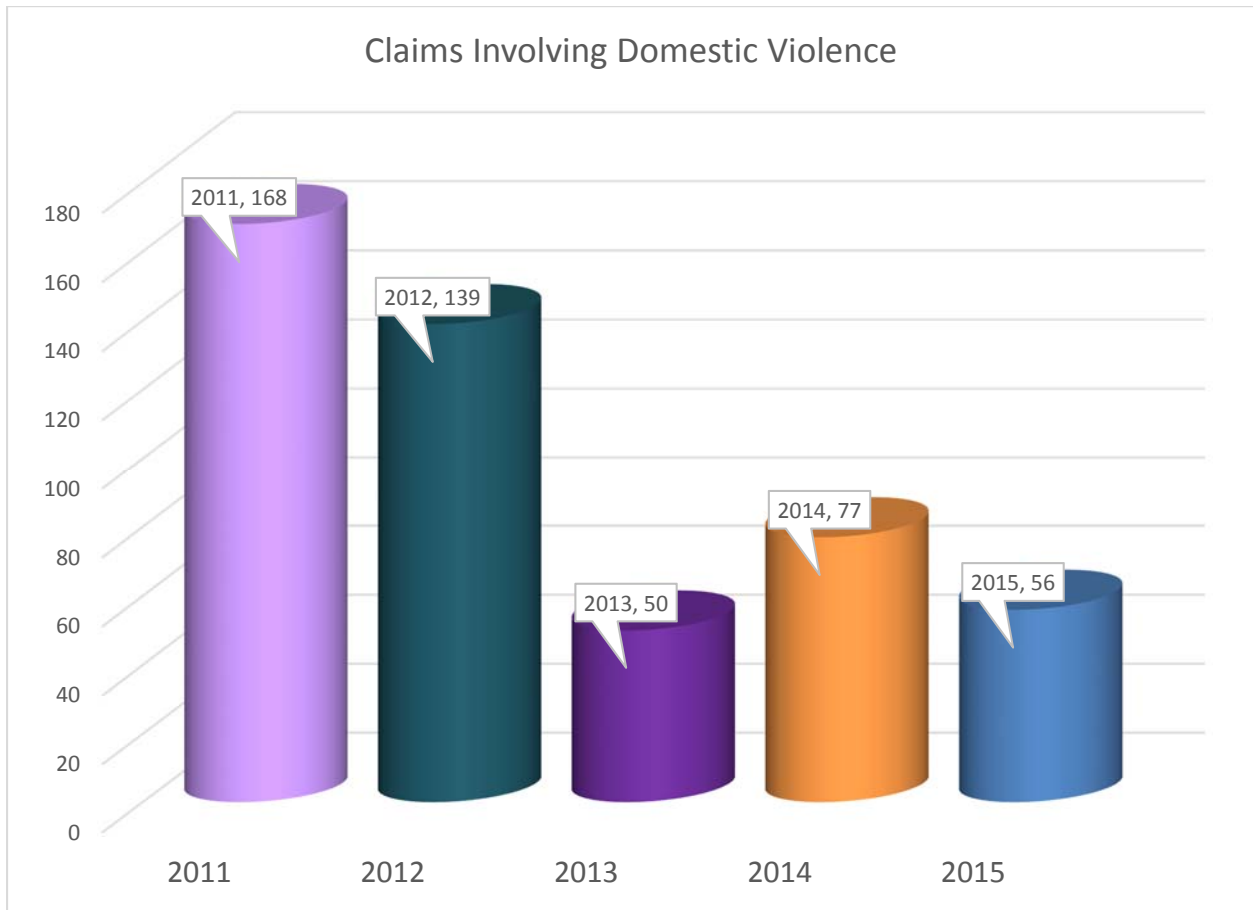
Crime Victims Compensation Fund



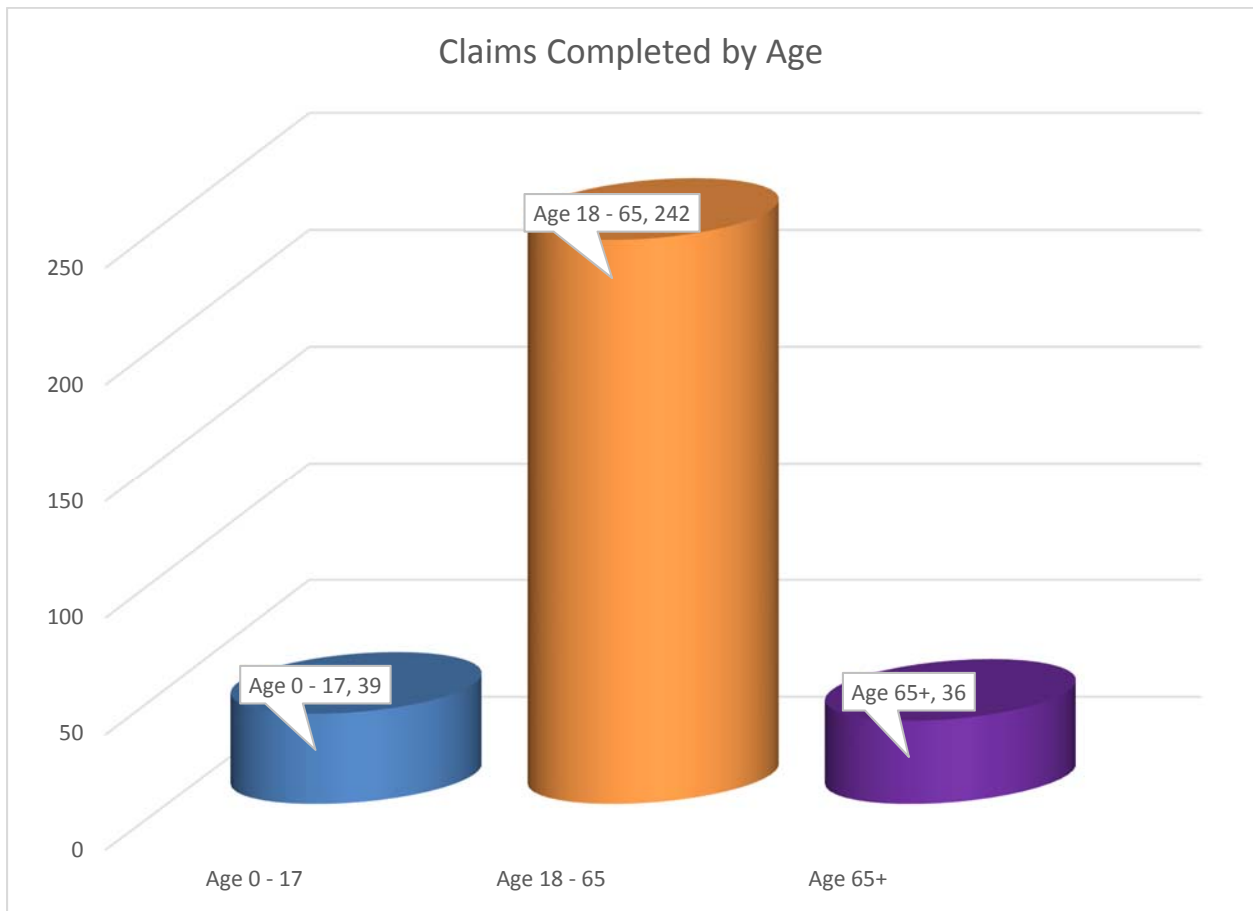
Total Claims Paid - 221

- Includes: harboring a vicious animal – arson – hunting accident – road rage – meth labs

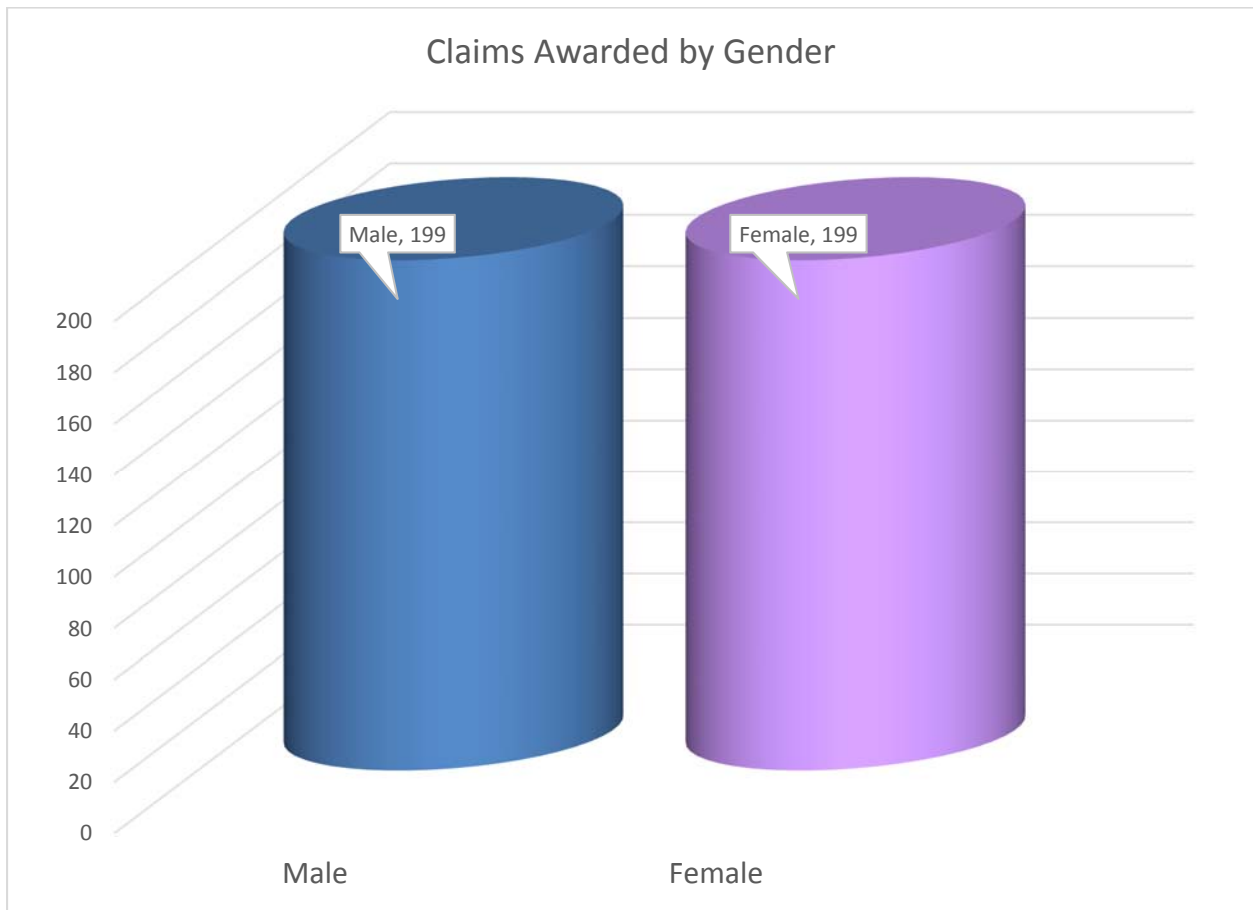
Crime Victims Compensation Fund



Crime Victims Compensation Fund



Crime Victims Compensation Fund



Crime Victims Compensation Fund

Denied Claims

October 1, 2014 - September 30, 2015

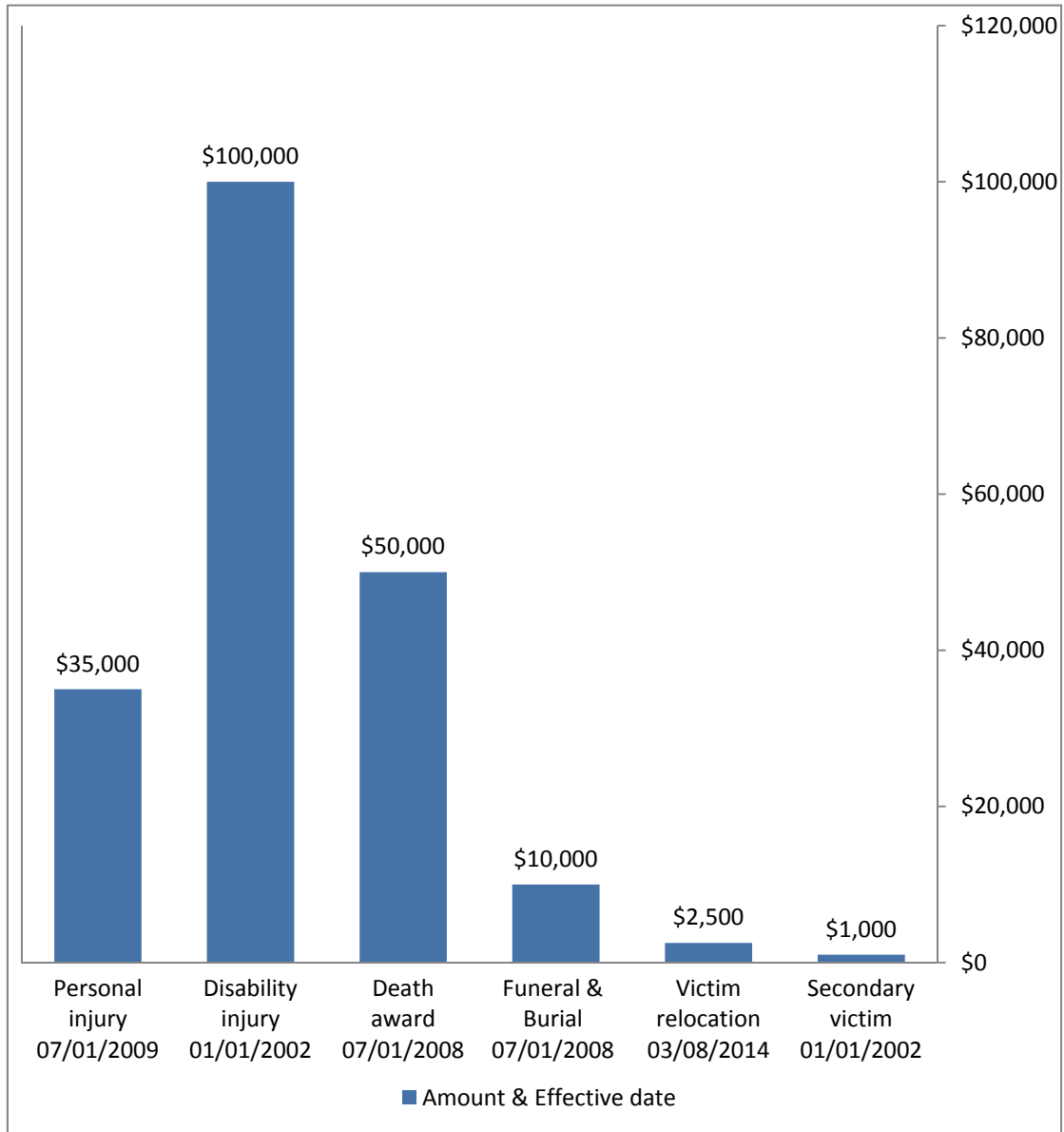
The Court denied 253 claims for various reasons which include:

No Economic Loss*	125
Incomplete Information	30
Contributory Misconduct	23
Failed to Cooperate	20
No Criminal Conduct	17
Not Filed Within 2 Years	10
Undetermined Conduct	7
Crime Outside WV	6
Not Reported Timely	5
Unjustly Benefits Offender	4
Duplicate Claim	3
Claim Withdrawn	1
Crime Within Penal Institution	1
Further Awards Denied	1

* These claims were denied because no economic loss was established at the time. However, if at a later date the victims suffer an economic loss, the Court may make an award.

Crime Victims Compensation Fund

Summary of Available Benefits by Statute



*

West Virginia Crime Victims Compensation Fund

Reference to Opinions

- COLLATERAL SOURCE BENEFITS
- CONTRIBUTORY MISCONDUCT
- METHAMPHETAMINE LAB CLEANUP (No longer compensable as of March 8, 2014)

COLLATERAL SOURCE BENEFITS

CV-09-0742 R.H.

Claimant's daughter was the victim of homicide in Huntington, Cabell County. As a result, the claimant received insurance proceeds in excess of the out-of-pocket expenses. The initial denial of an award of compensation was therefore upheld upon appeal.

CONTRIBUTORY MISCONDUCT

CV-08-0052 D.S.

The claimant's husband was fatally injured in a motor vehicle accident in Mingo County. He was riding as a passenger driven by an intoxicated driver who lost control and struck an embankment. The offender pleaded guilty to DUI causing death. The claim was initially denied on the basis of the victim's contributory misconduct in accepting a ride with an impaired driver. Upon appeal, the first ruling was confirmed, with the added finding that collateral source benefits were available resulting in no economic loss.

METHAMPHETAMINE LAB CLEANUP

CV-13-0402 T.E.

The claimant owned property upon which methamphetamine-making materials were discovered in Barbour County. A confidential informant made a controlled purchase of methamphetamine from the claimant's son, who was arrested and charged. The materials were found in his vehicle and inside his mother's home. The claim was initially denied on the basis that the claimant was aware of the production of the illegal substance. Upon appeal, the claimant testified that she worked long hours and was home only on weekends and late evenings. She stated that she had no reason to believe that her son, an adult, was producing methamphetamine in her home. Upon appeal, the first ruling was reversed, and an award for the remediation of her property was granted.

