

2016 ANNUAL REPORT

Crime

Victims

Compensation

Fund

Court of Claims

Cheryle M. Hall, Clerk

2016

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

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

February 16, 2017

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

TABLE OF CONTENTS

Summary of program.....	1
Administrative costs.....	2
Funding	3
Fee sources.....	4
Federal grants.....	5
Claims:	
Age.....	15
Appeals.....	19
Award percentage by type.....	11
Awards.....	9
Awards by type.....	10
Awards by county (map).....	6
Denials.....	17
Domestic violence.....	14
Claims filed per FFY.....	7
Filed by county.....	12
Claims awarded by gender/race/ethnicity.....	16
Numbers of orders issued.....	8
Paid by types of crimes.....	13
Summary of benefits.....	18

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

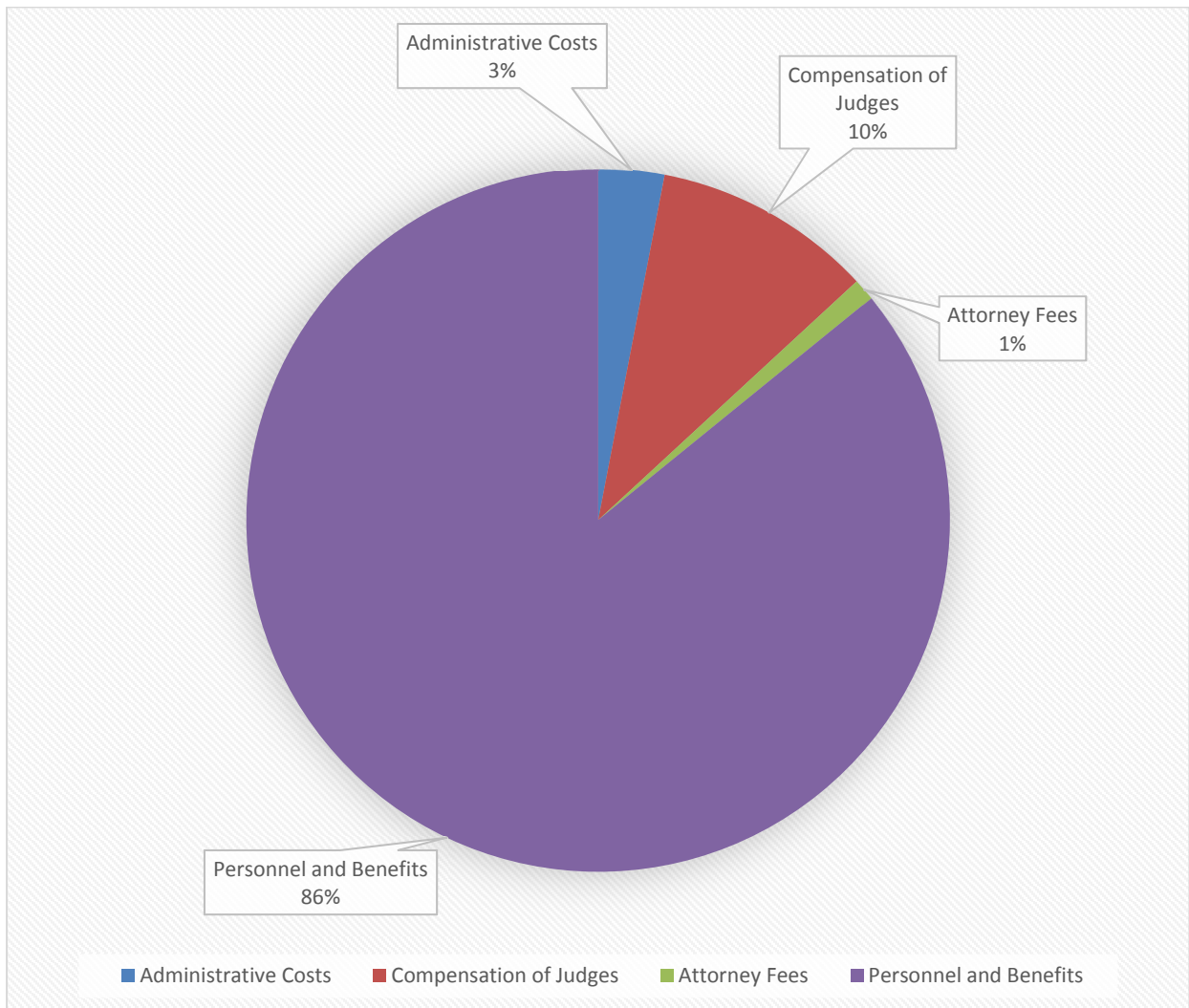
Compensable expenses:

- 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

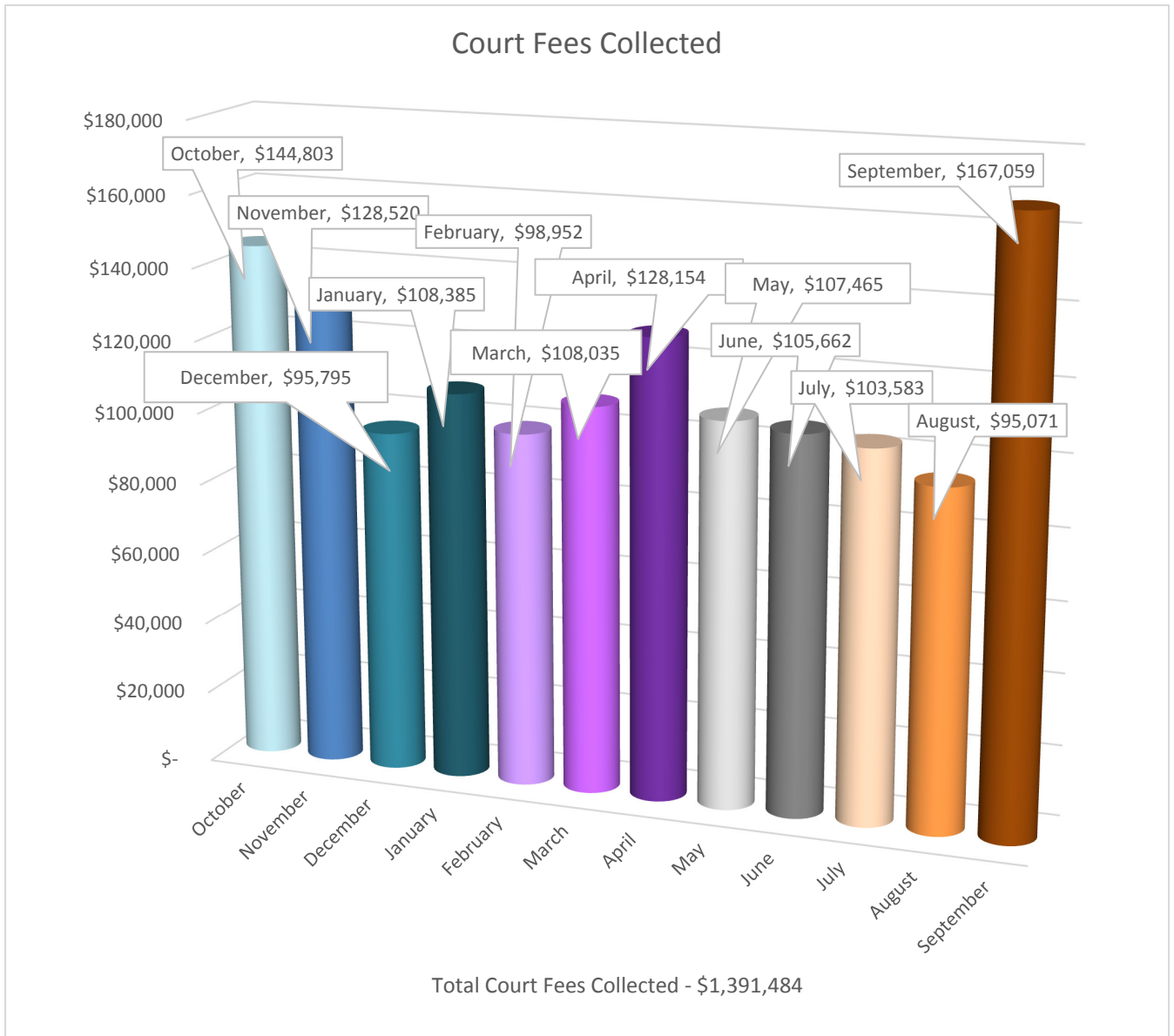
October 1 – September 30



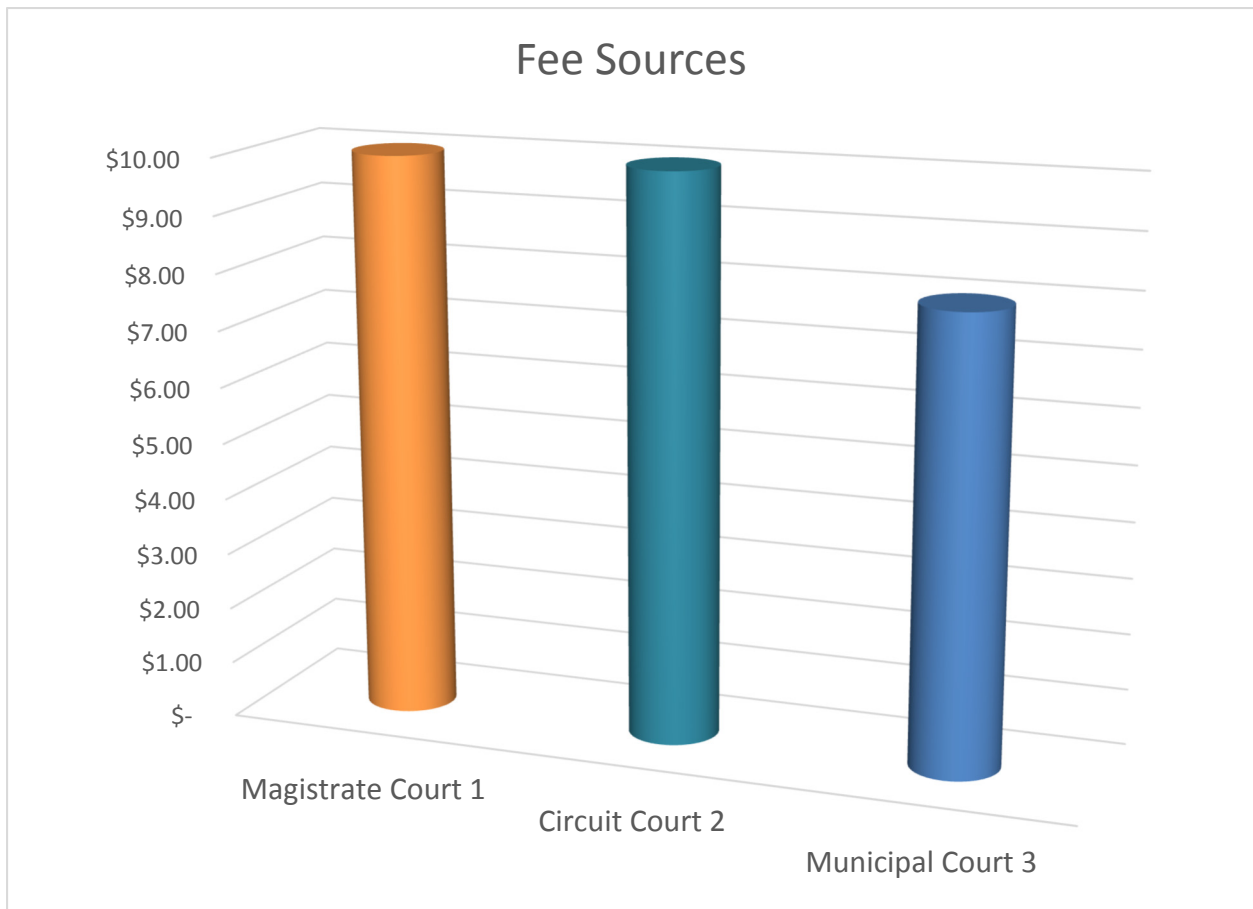
Crime Victims Compensation Fund

State Funds Collected by Month

Federal Fiscal Year 2016 (October 1 – September 30)



Crime Victims Compensation Fund



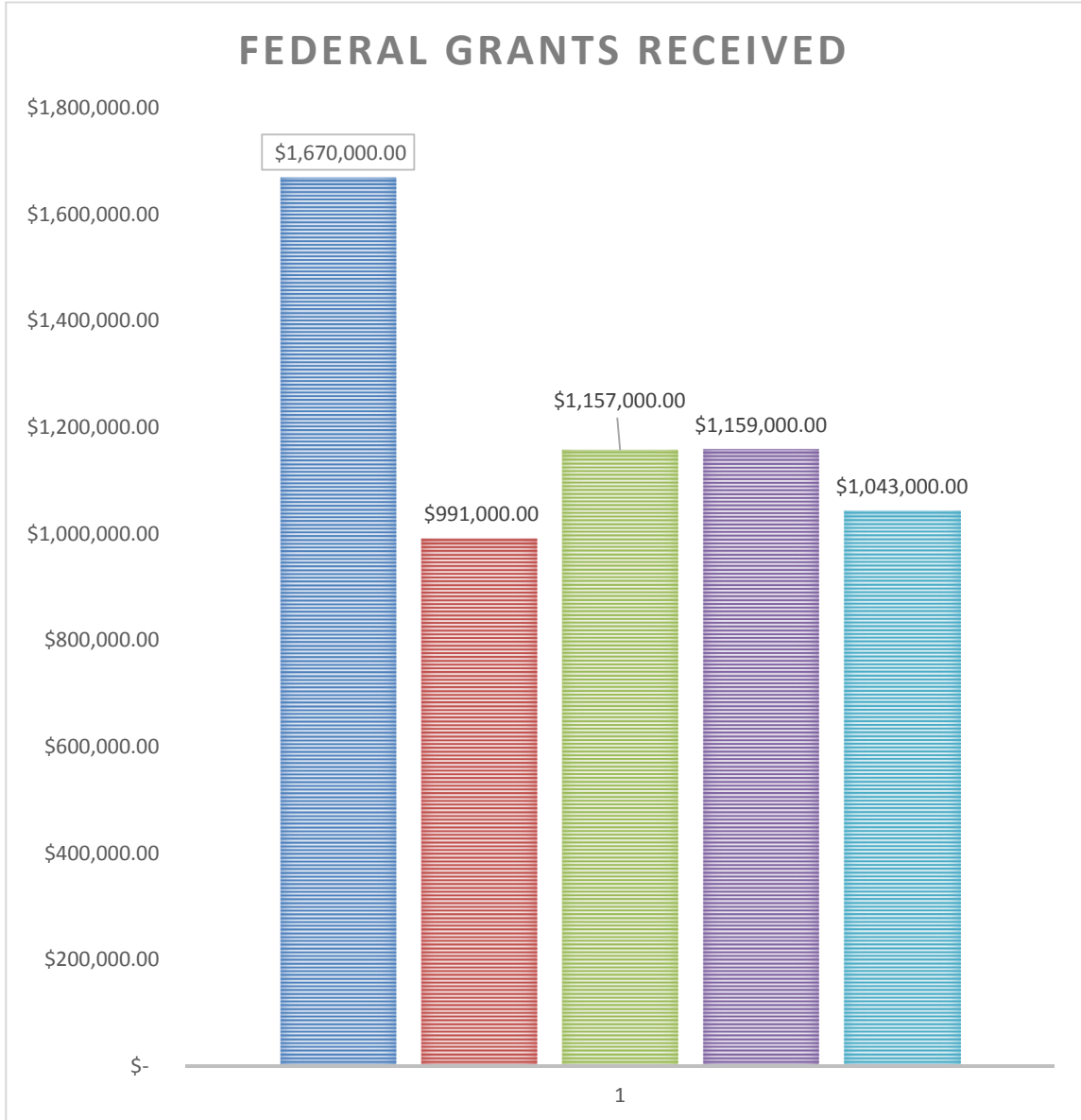
- 1 Plus 20% of DUI fines
- 2 Plus 20% of DUI fines & \$50 for each felony conviction
- 3 Plus 20% of DUI fines – only moving violations

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.

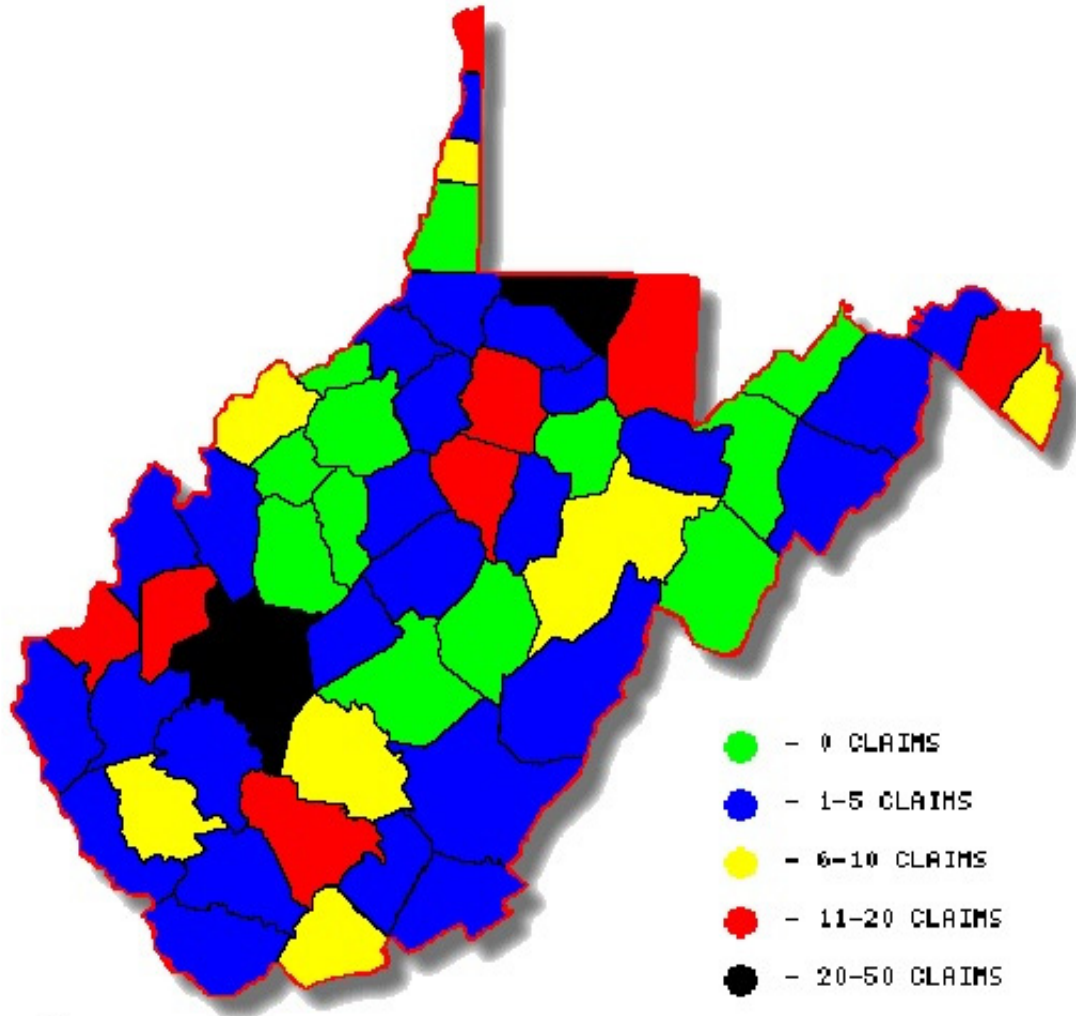
Crime Victims Compensation Fund



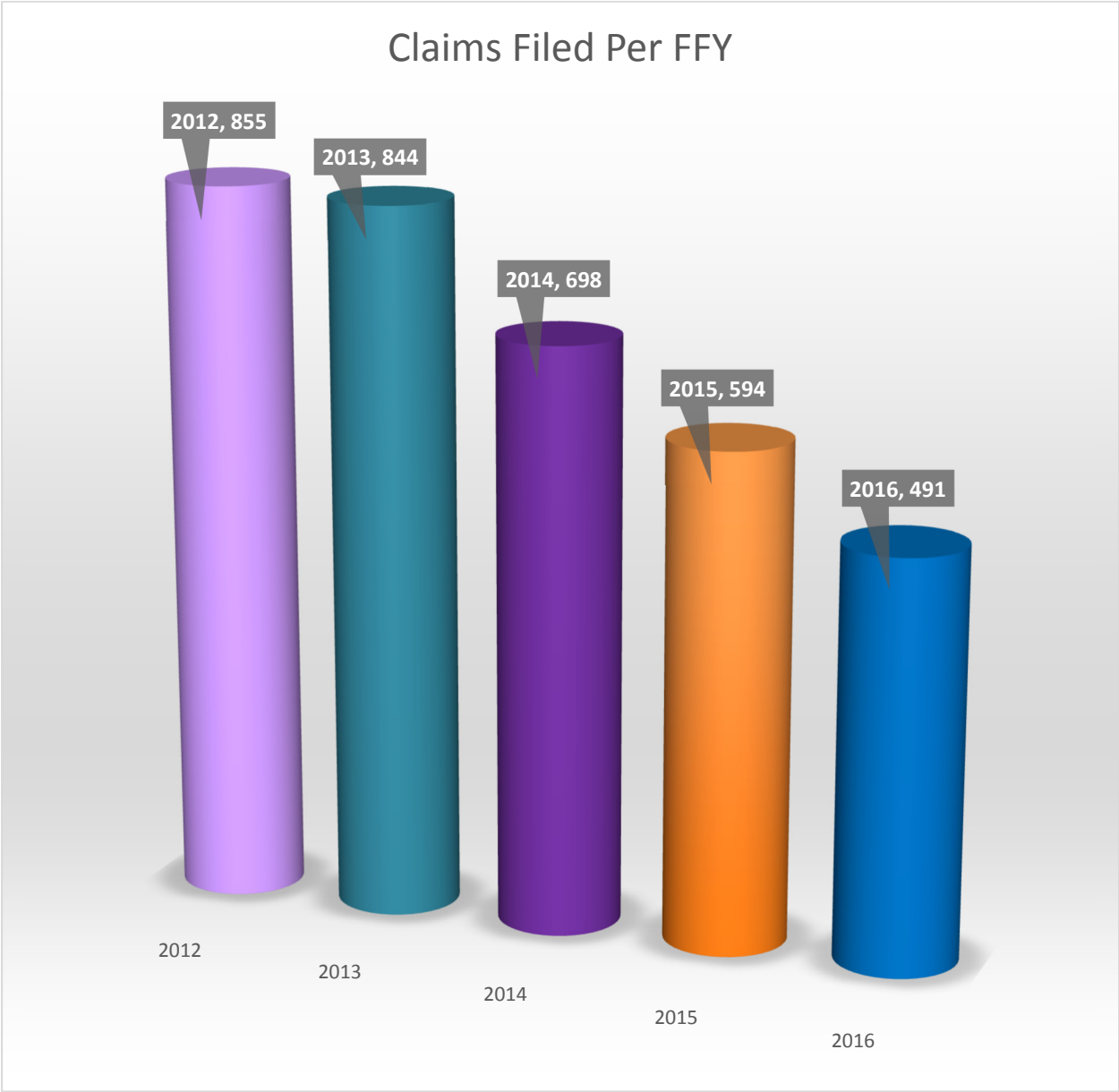
West Virginia has received a total of \$22,455,230 in federal funds for its compensation program since 1986 (the first grant year).

Crime Victims Compensation Fund

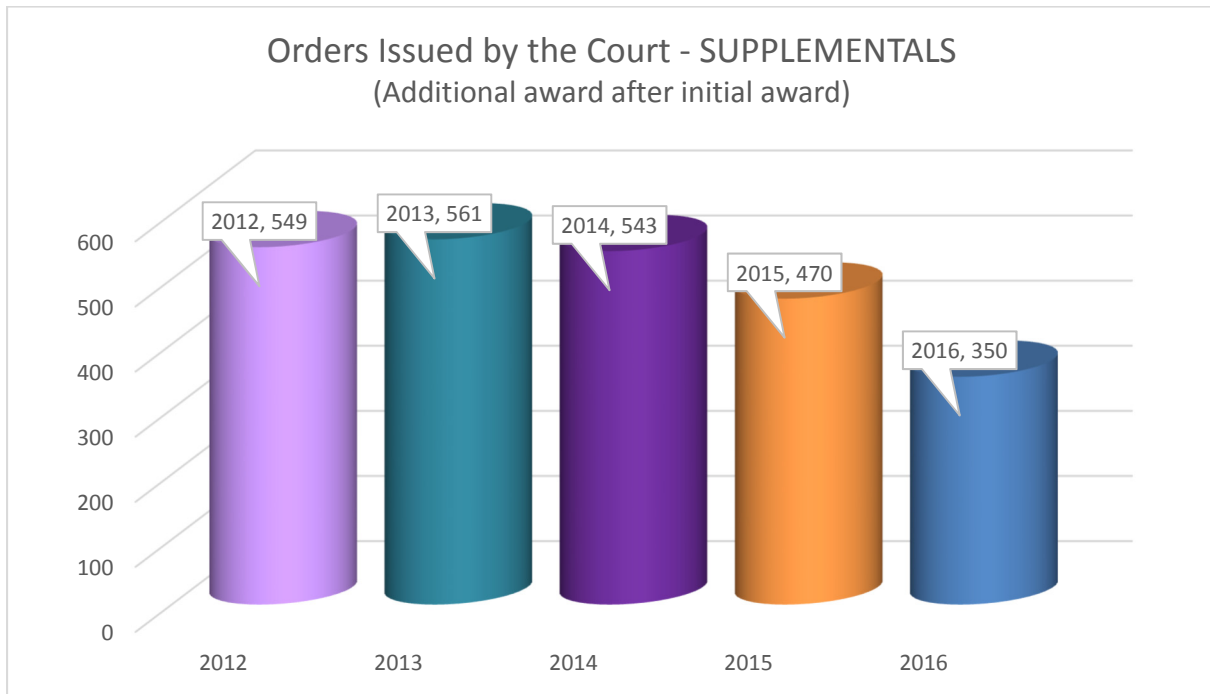
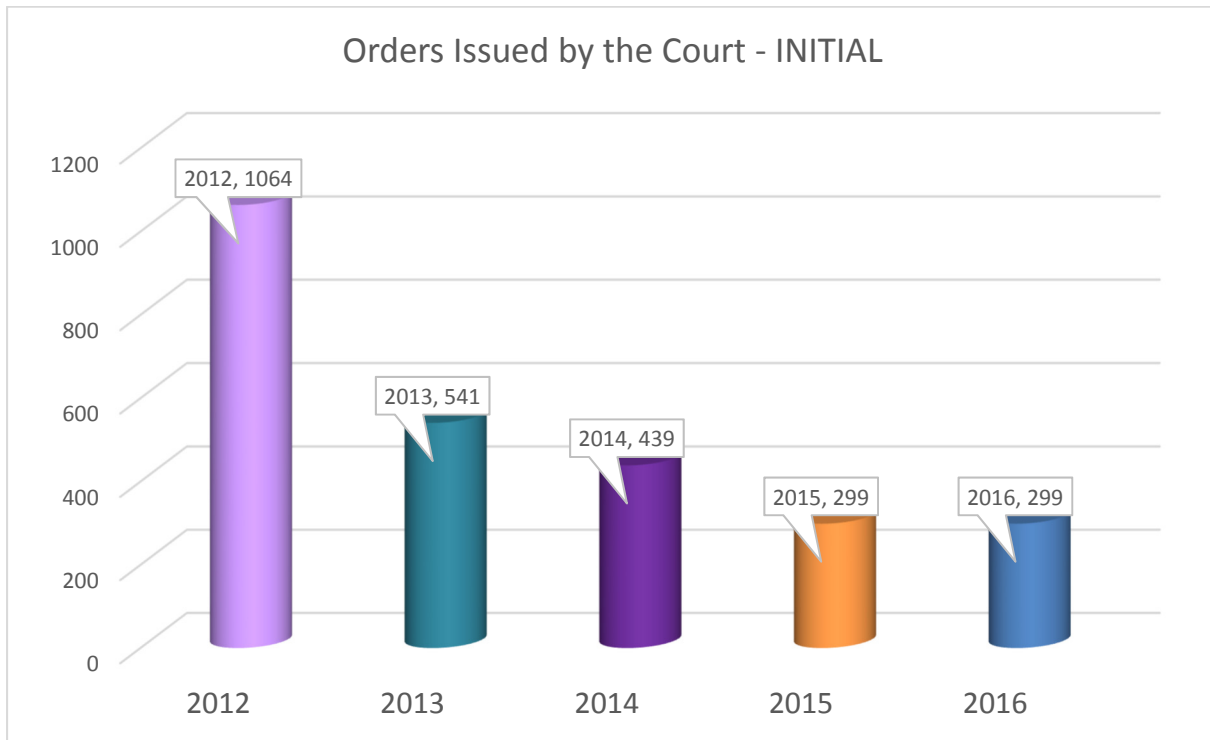
Awards by County Federal Fiscal Year 2016



Crime Victims Compensation Fund

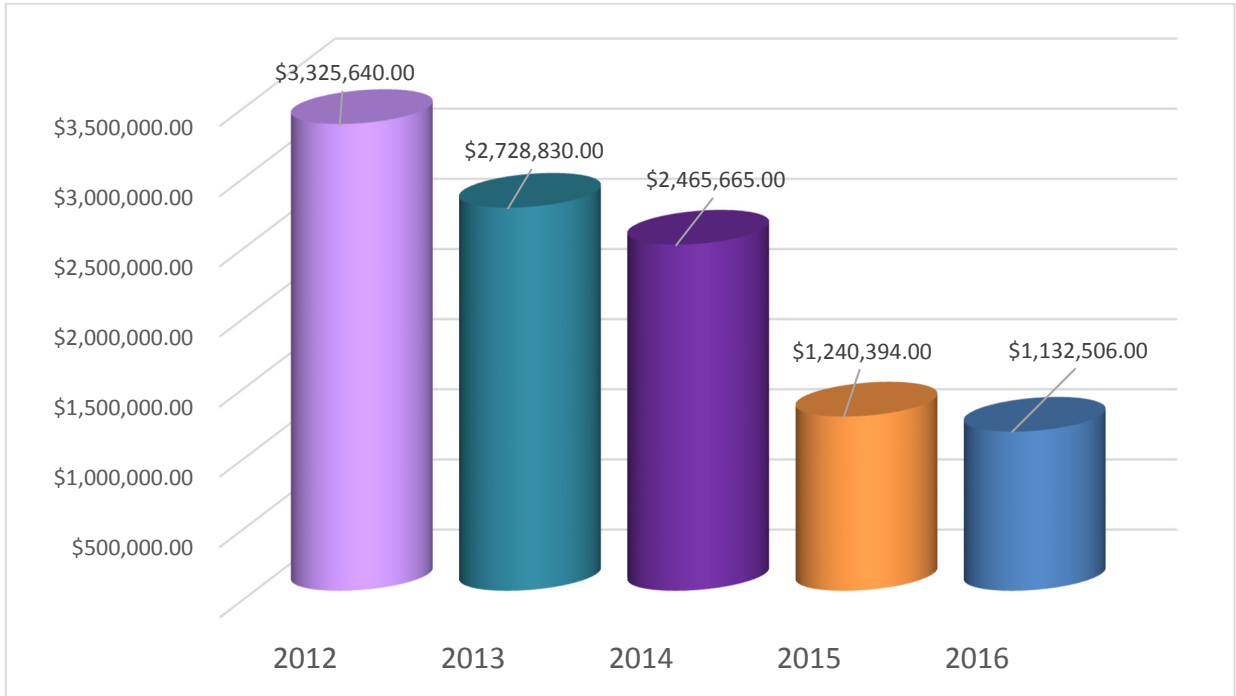


Crime Victims Compensation Fund

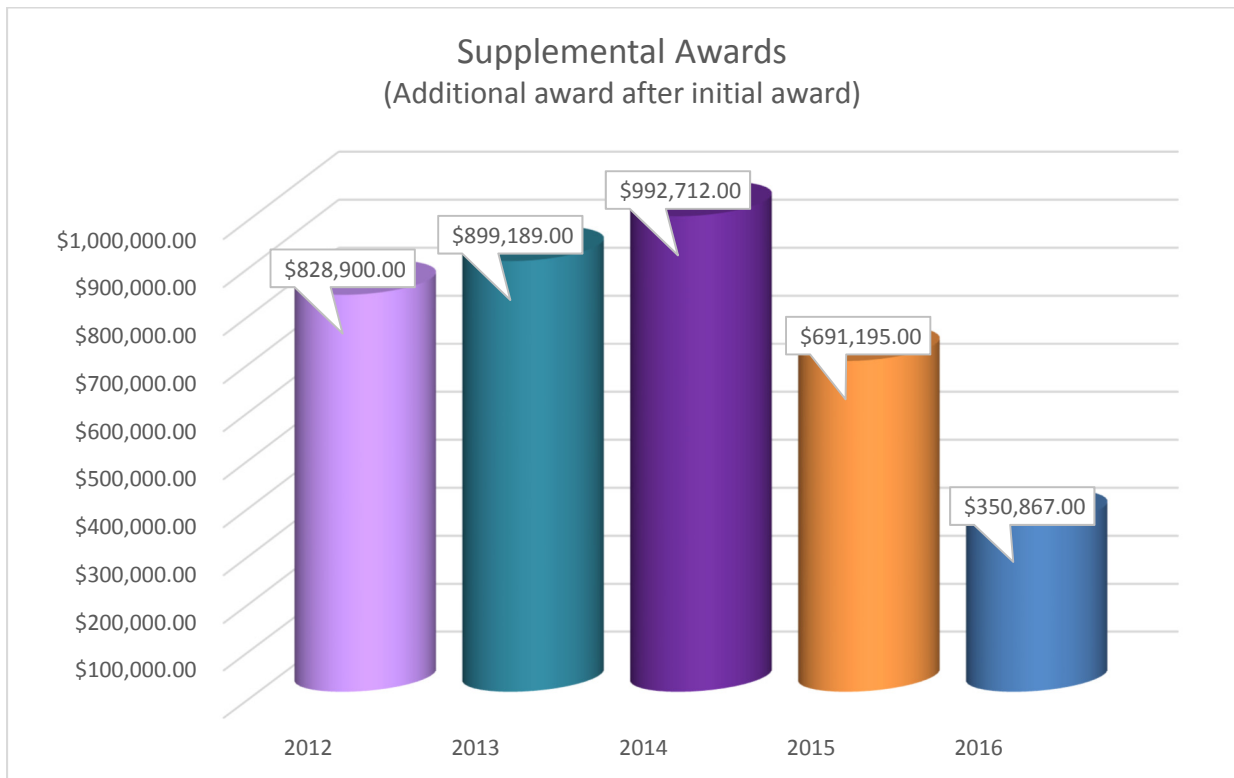


Crime Victims Compensation Fund

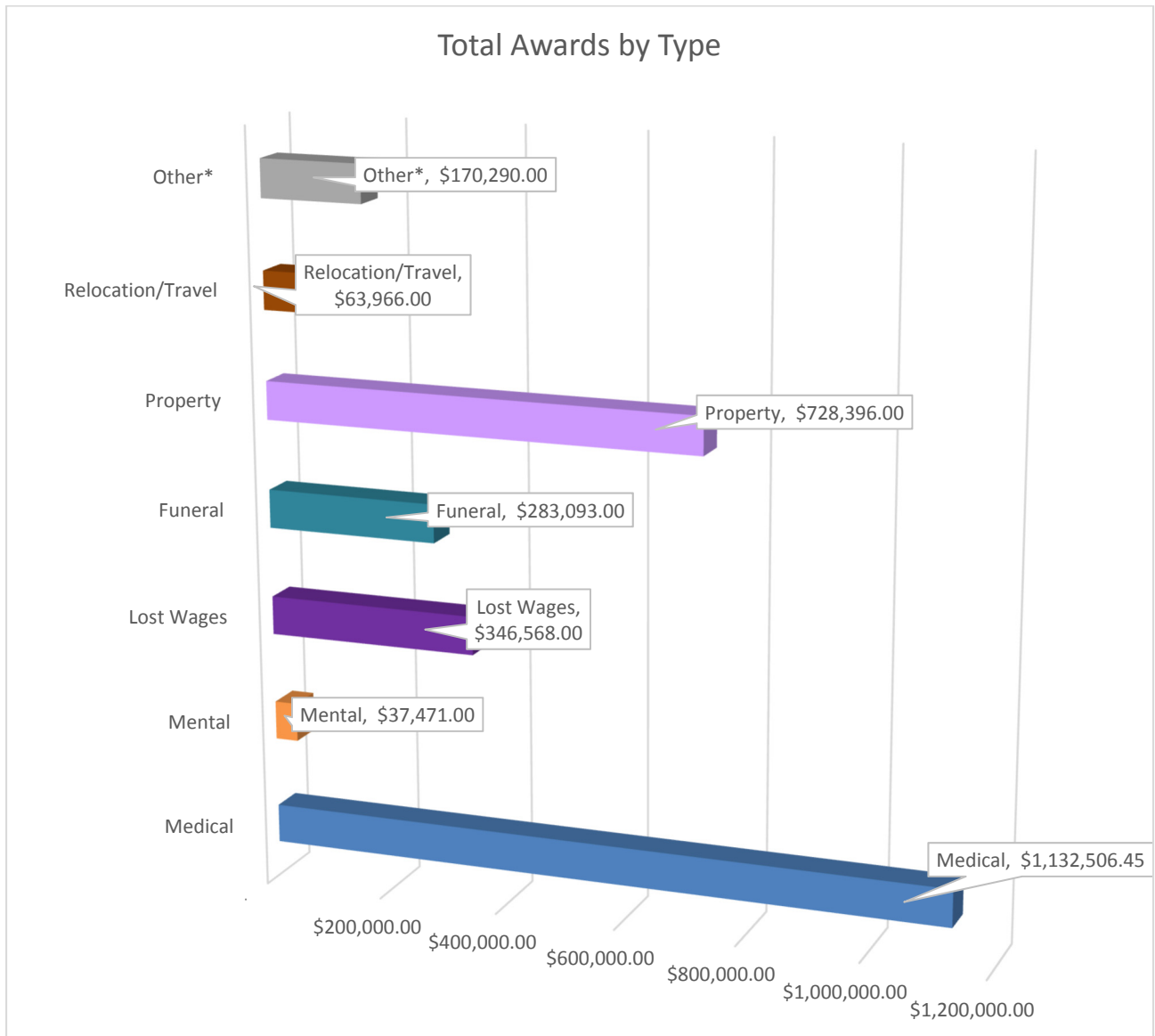
Initial Awards



Supplemental Awards (Additional award after initial award)



Crime Victims Compensation Fund

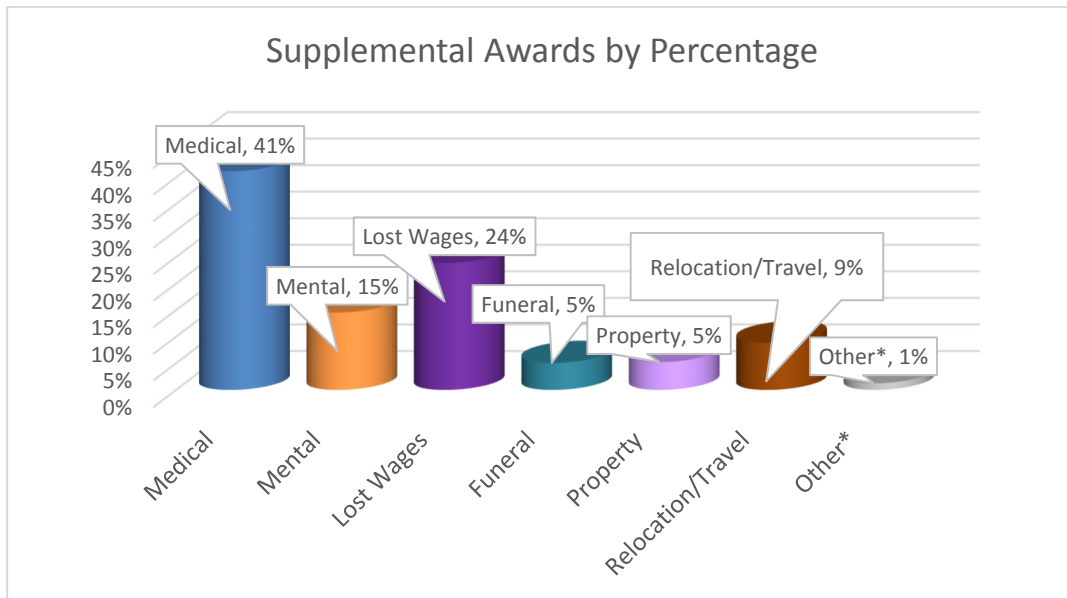
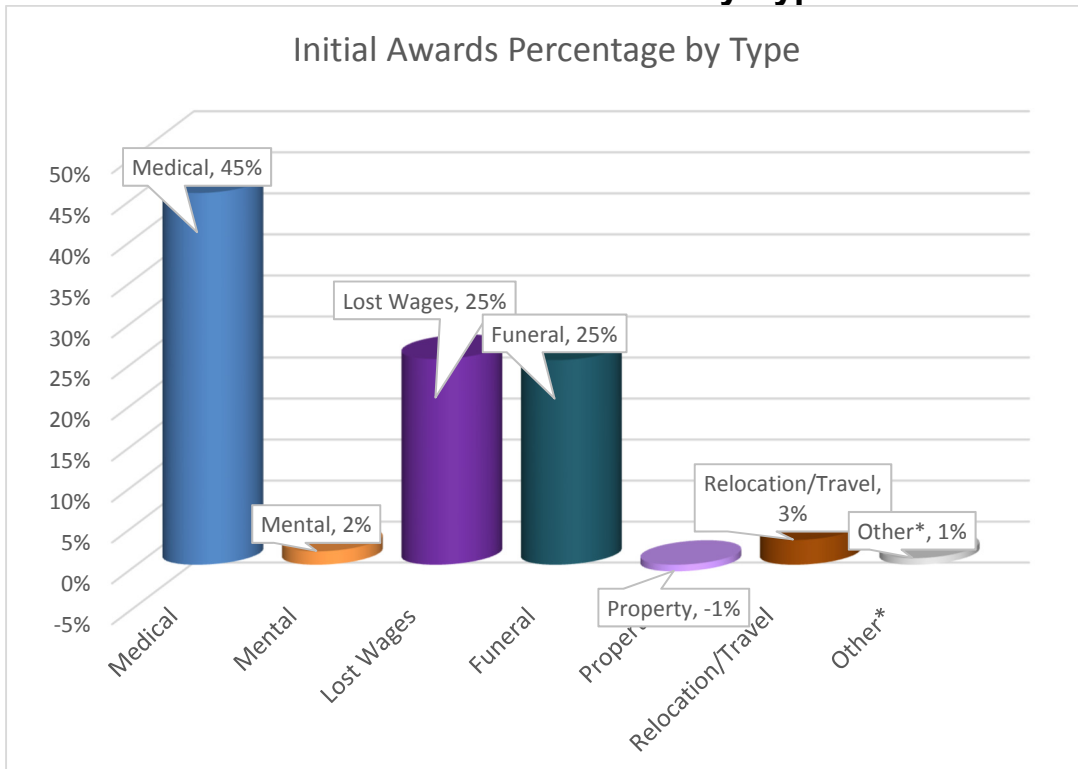


Total paid – \$ 1,480,316.00

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

Crime Victims Compensation Fund

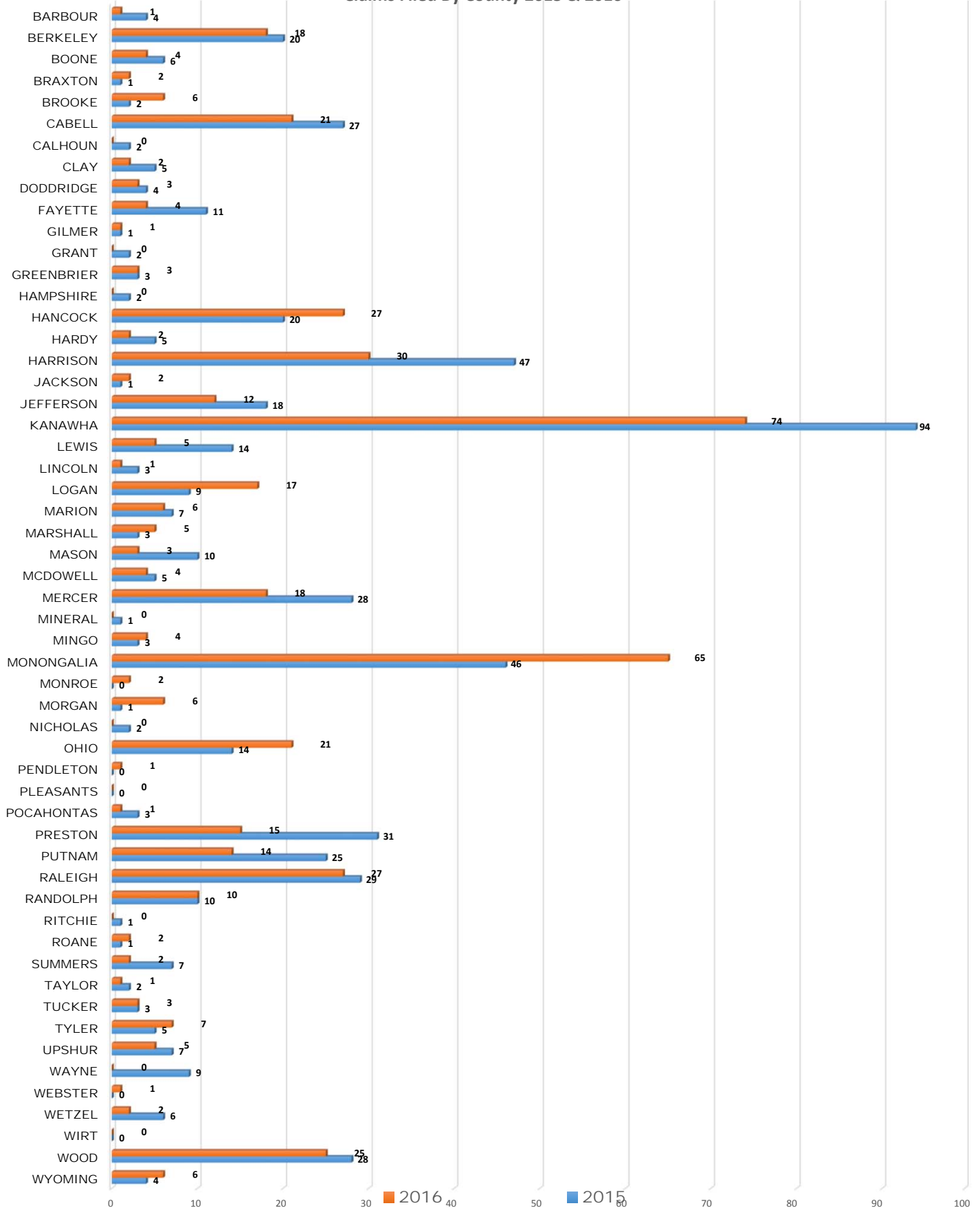
Percent of Total Awards by Type



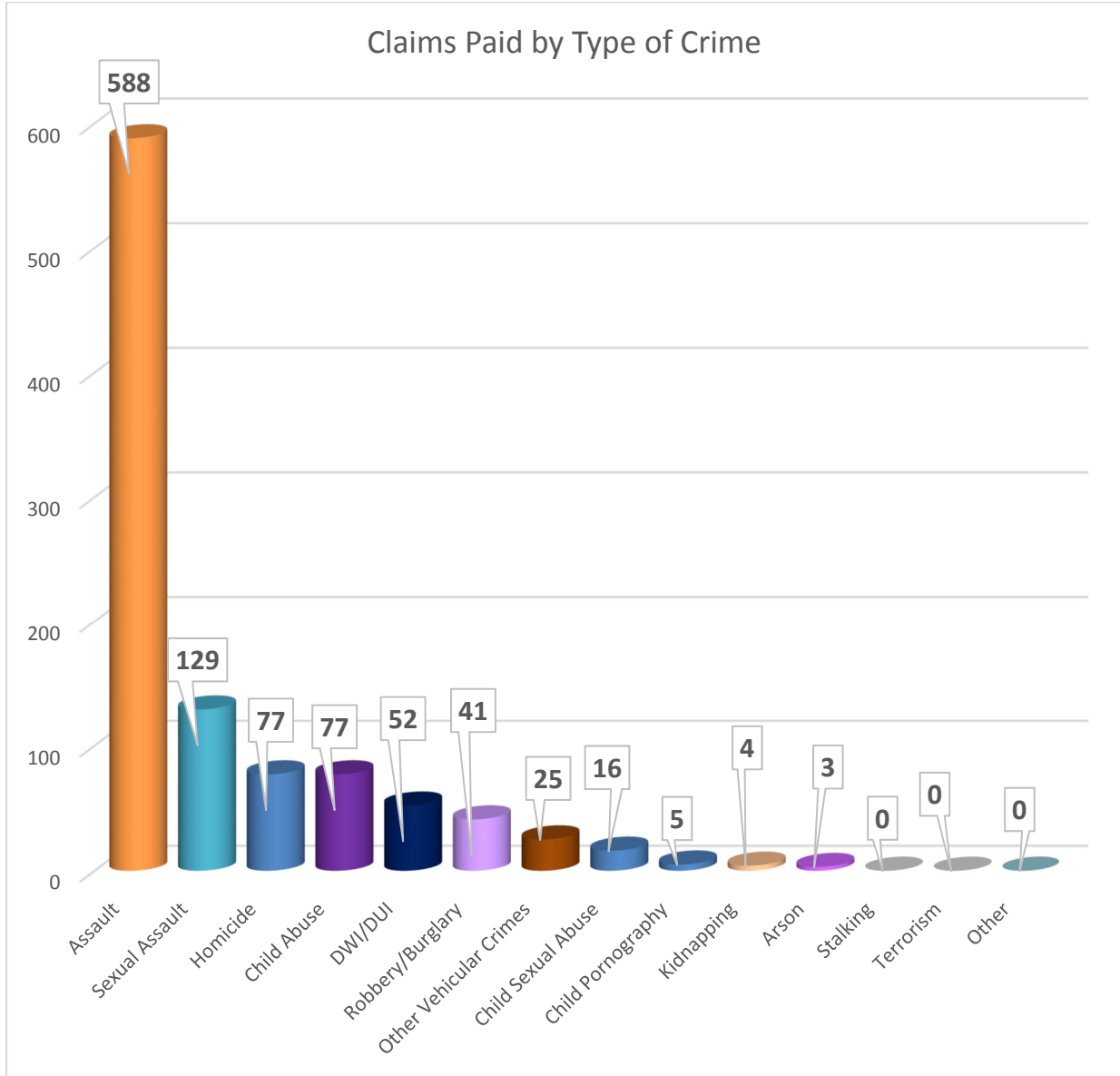
*Includes: Replacement Services Loss, Dependent's Economic Loss, and Lost Scholarships.

Crime Victims Compensation Fund

Claims Filed By County 2015 & 2016

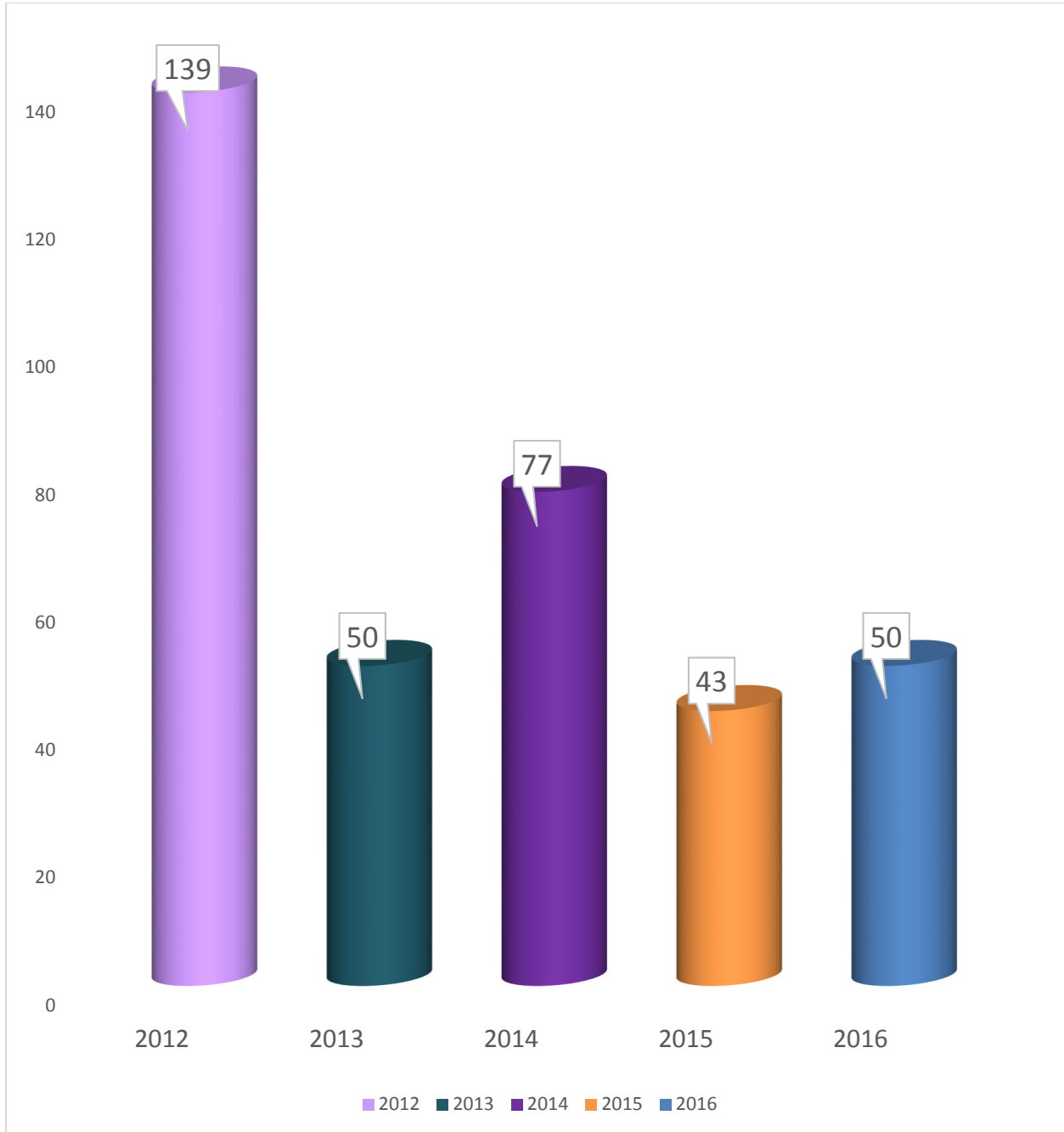


Crime Victims Compensation Fund

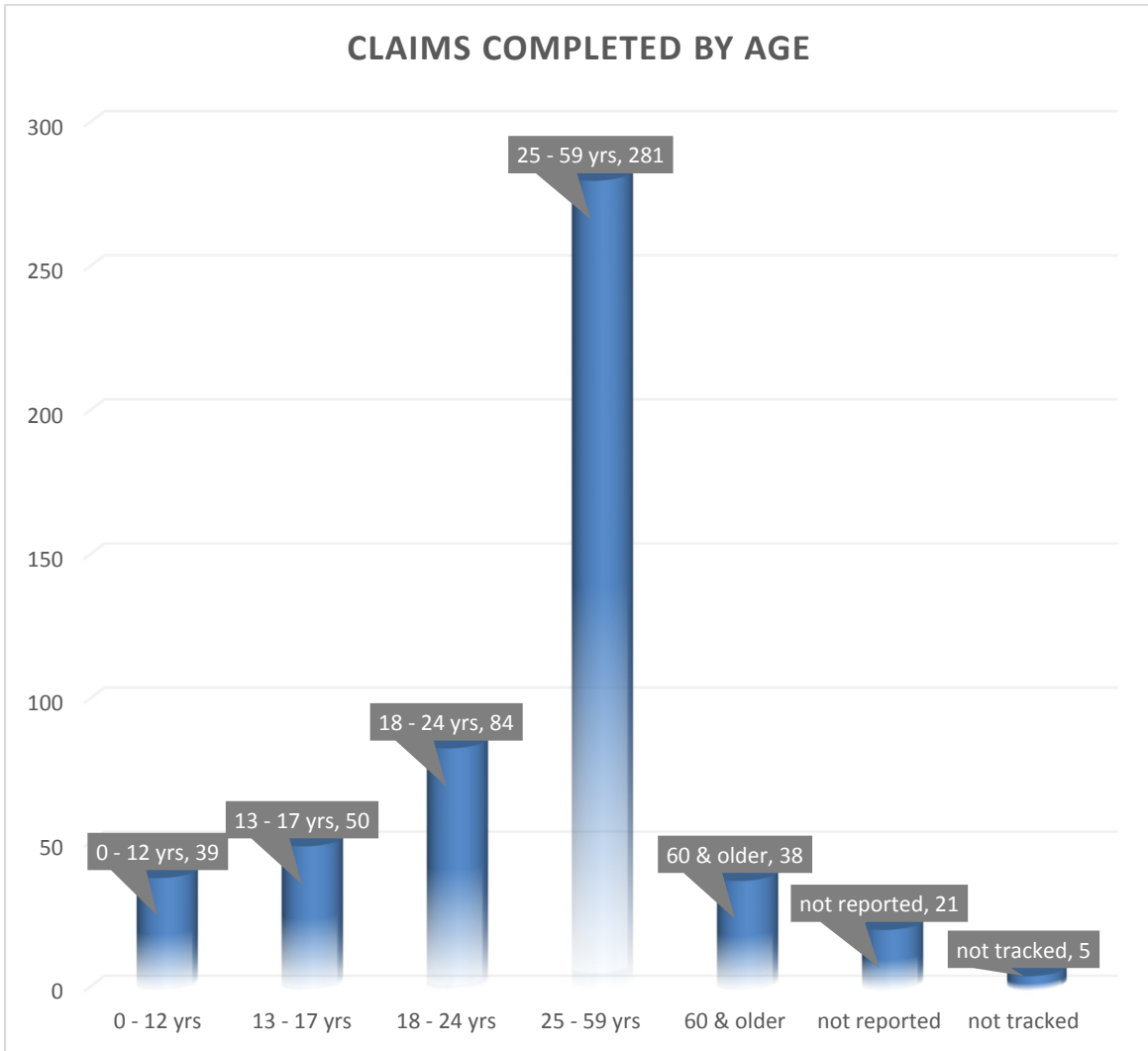


Crime Victims Compensation Fund

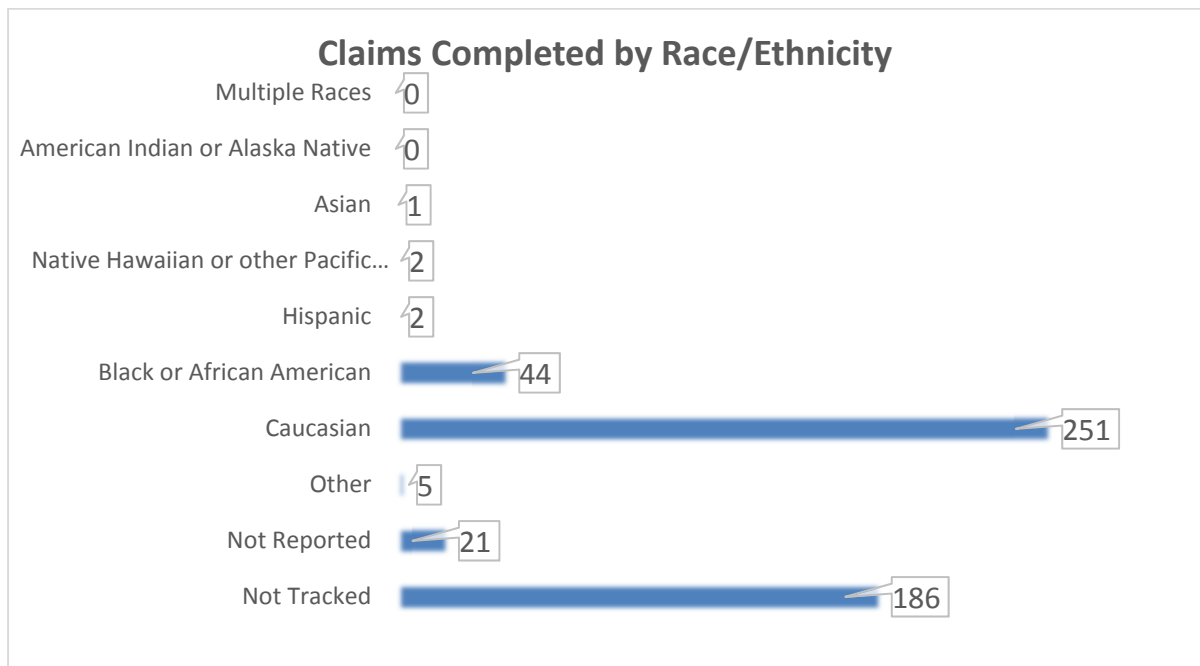
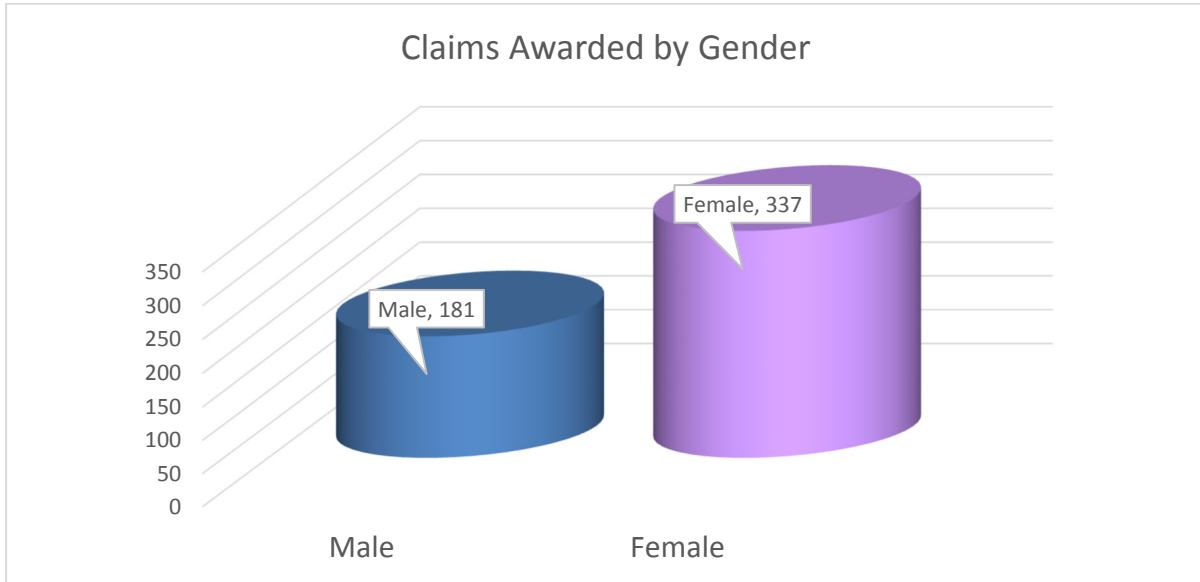
Claims Involving Domestic Violence



Crime Victims Compensation Fund



Crime Victims Compensation Fund



Race/Ethnicity is a new grant reporting field. During this period, we had old forms in circulation that did not ask race/ethnicity. The forms have been revised and we should not have any in the Not Tracked in the future.

Crime Victims Compensation Fund

Denied Claims

October 1, 2015 - September 30, 2016

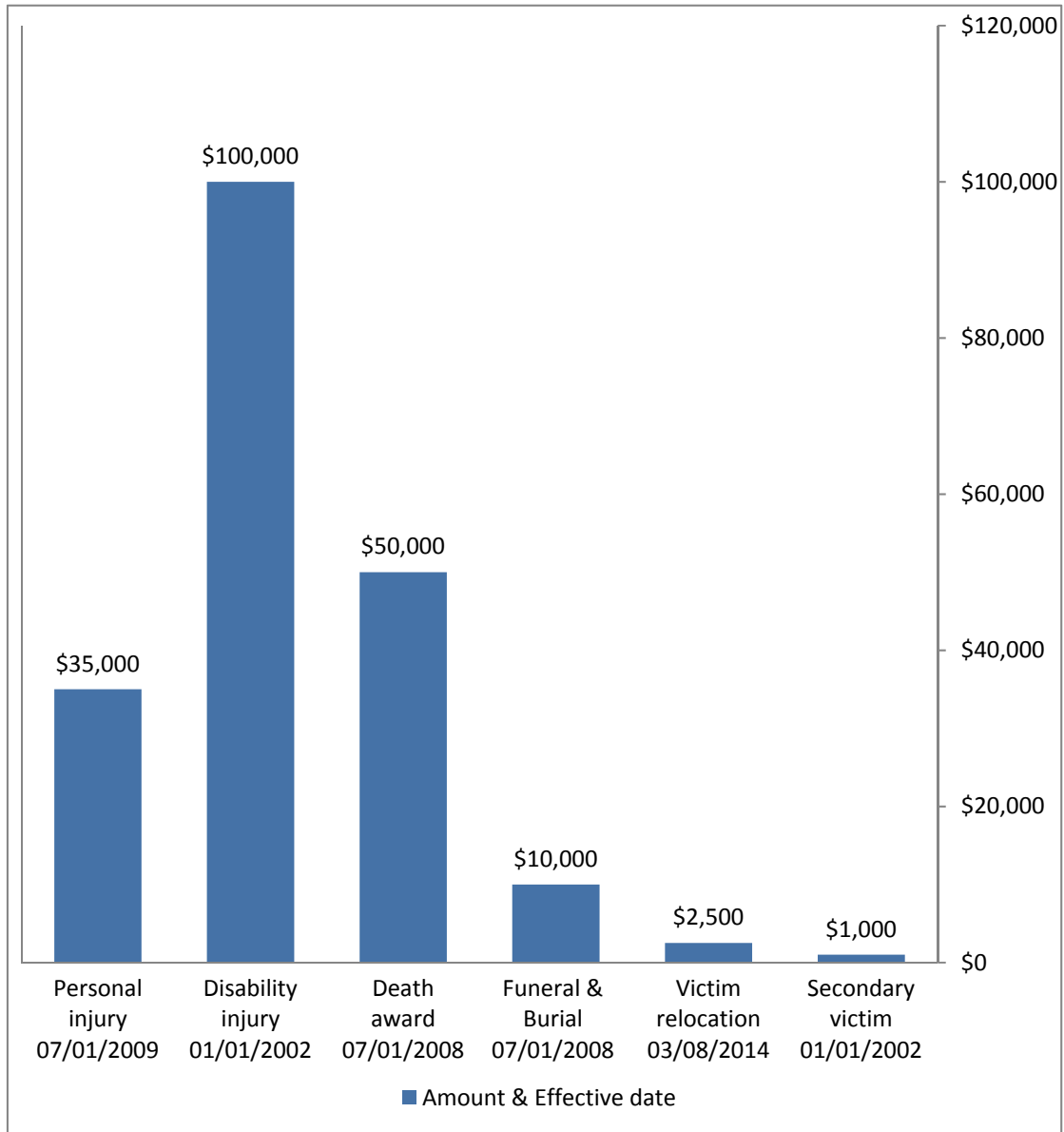
The Court denied 259 claims for various reasons which include:

No Economic Loss*	158
Incomplete Information	5
Contributory Misconduct	30
Failed to Cooperate	20
No Criminal Conduct	19
Not Filed Within 2 Years	8
Undetermined Conduct	6
Crime Outside WV	1
Not Reported Timely	7
Duplicate Claim	5

* 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 Maximum Benefits by Statute



Crime Victims Compensation Fund

PROPERTY LOSS

CV-14-0481 E.R.

While he and his wife were away, the claimant's home was broken into and money was taken. The intruder also stole the claimant's truck and severely damaged it. The claim was originally denied based on the fact that property loss is not an "allowable expense" as defined by the Crime Victims Compensation Act. Upon appeal, the first ruling was confirmed. The Court further held that, upon proper documentation, an award for travel expenses to court proceedings could be granted, if such proceedings were conducted for the prosecution of the offender.

STATUTE OF LIMITATIONS

CV-14-0393 W.F.

The claimant was brutally attacked and beaten by a family member, who was arrested and charged with malicious wounding. The claim was originally denied based on the Investigator's finding that the claimant's application was not filed within the statute's two-year period of limitation. Upon appeal, the first ruling was reversed. The Court found that calculation of the period of limitation should have begun the day after the incident, and not the day of the incident. An award was granted for the claimant's unreimbursed medical expenses.