

2017

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

Presiding Commissioner

The Honorable J. David Cecil

Commissioners

The Honorable J. Rudy Martin

The Honorable George F. Fordham

Janet N. Kawash, Clerk

Becky A. Ofiesh, Chief Deputy Clerk

Prepared by Matthew J. Dayhaw, Business Manager



**West Virginia
CRIME VICTIMS
COMPENSATION FUND**

Preceding Commissioners
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Commissioners
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J. Rudy Martin

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Janet N. Kawash
Clerk
Becky A. Ofiesh
Chief Deputy Clerk

February 2, 2018

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 2017.

Very truly yours,

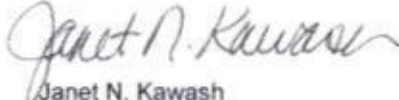

Janet N. Kawash
Clerk

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Summary of Program

Created in 1981, and effective January 1, 1982, the West Virginia Crime Victims Compensation Fund is administered by the West Virginia Legislative Claims Commission¹.

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 Legislative Claims Commission. 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 commissioner will review the file and issue an order to award or deny compensation.

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

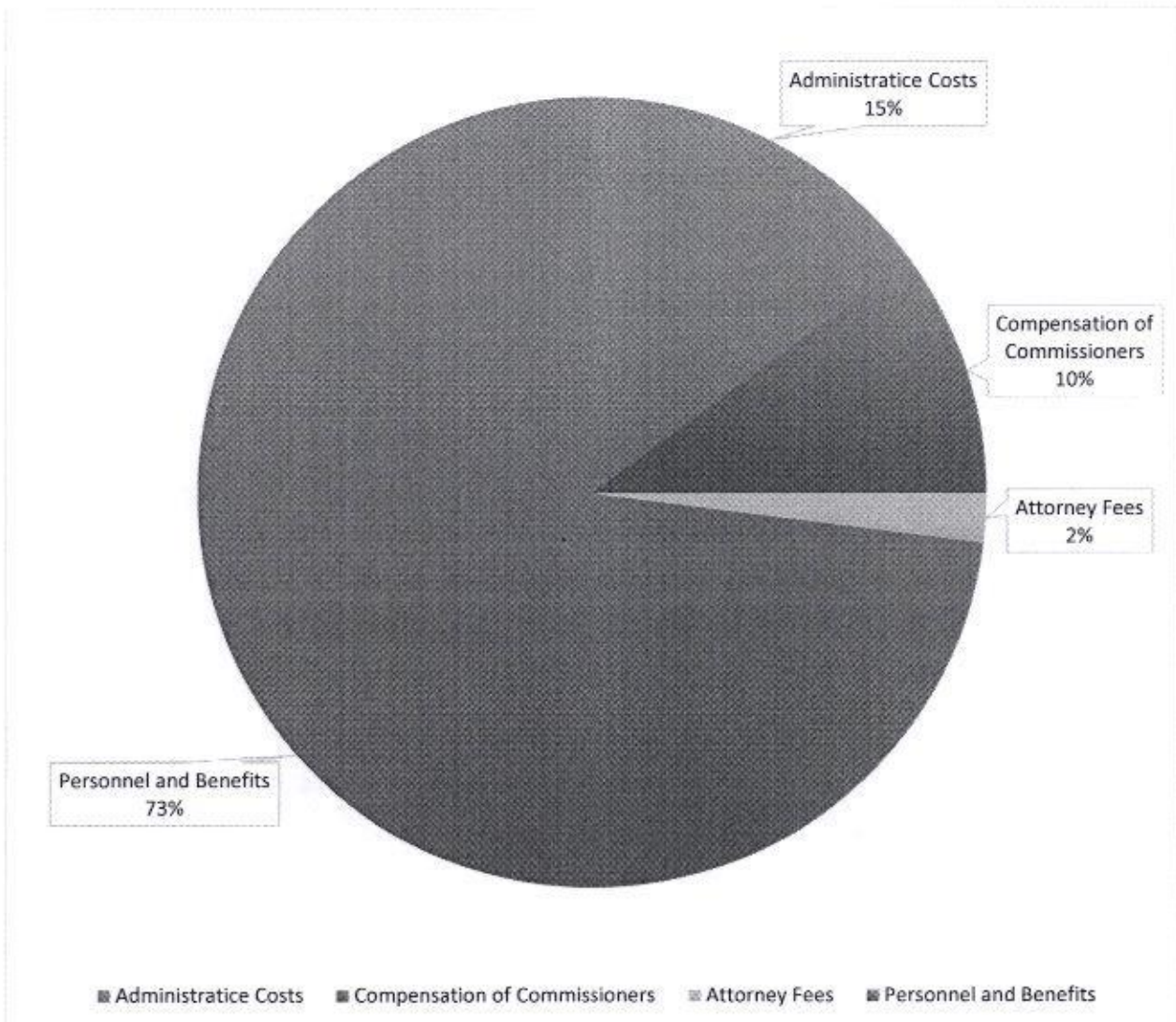
- Medical expenses
- Mental health counseling
- Mental health counseling for secondary victims up to \$1,000
- Lost earnings/support expenses
- Funeral/burial expenses up to \$10,000
- Relocation up to \$2,500
- Travel to medical treatment facility
- Travel to criminal proceeding up to \$1,000
- Travel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

¹ The West Virginia Court of Claims changed its name to the West Virginia Legislative Claims Commission effective July 1, 2017. The term Commission is inclusive of all decisions made by either the Court or Commission.

Crime Victims Compensation Fund

Administrative Funds

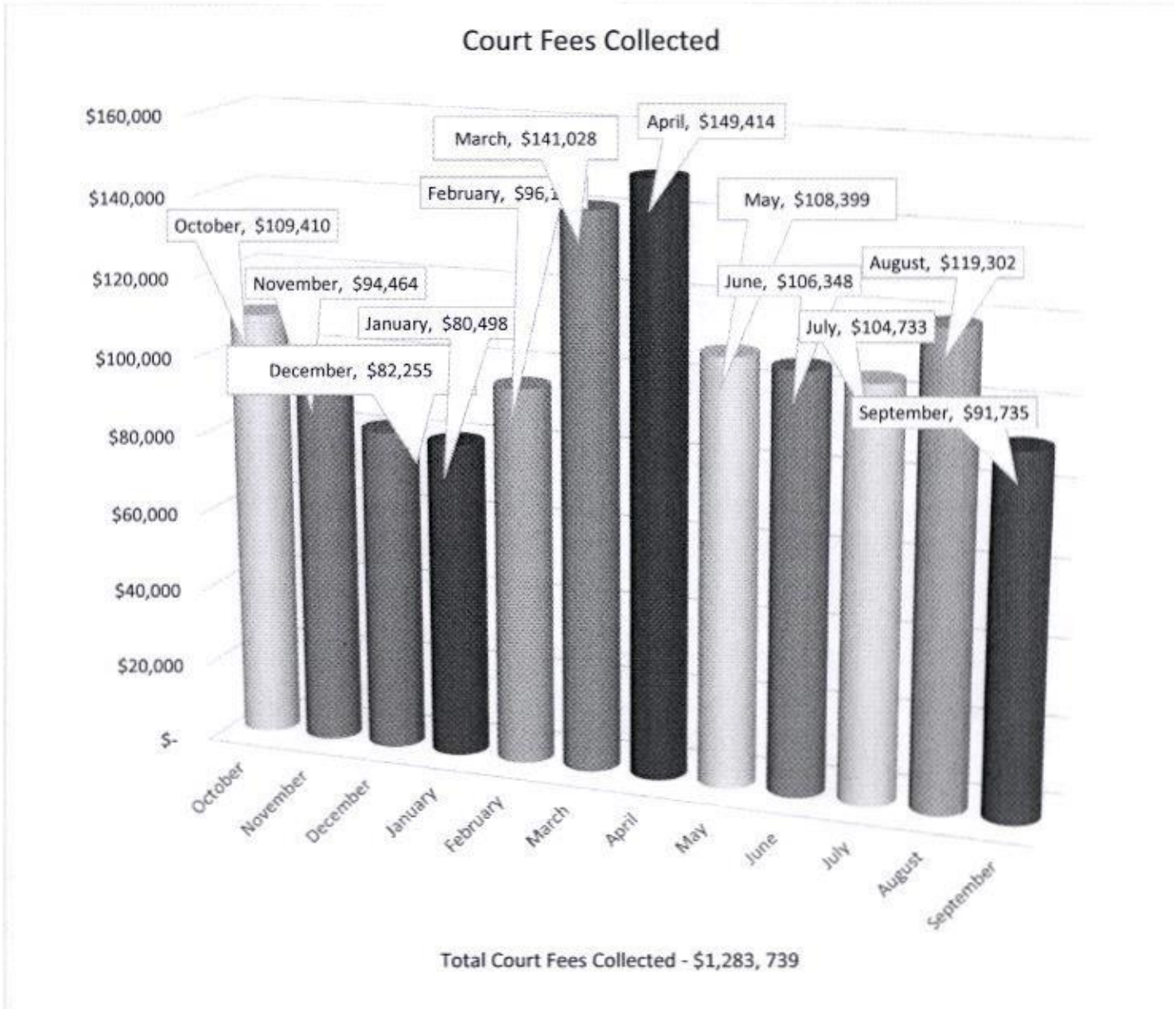
October 1, 2016 – September 30, 2017



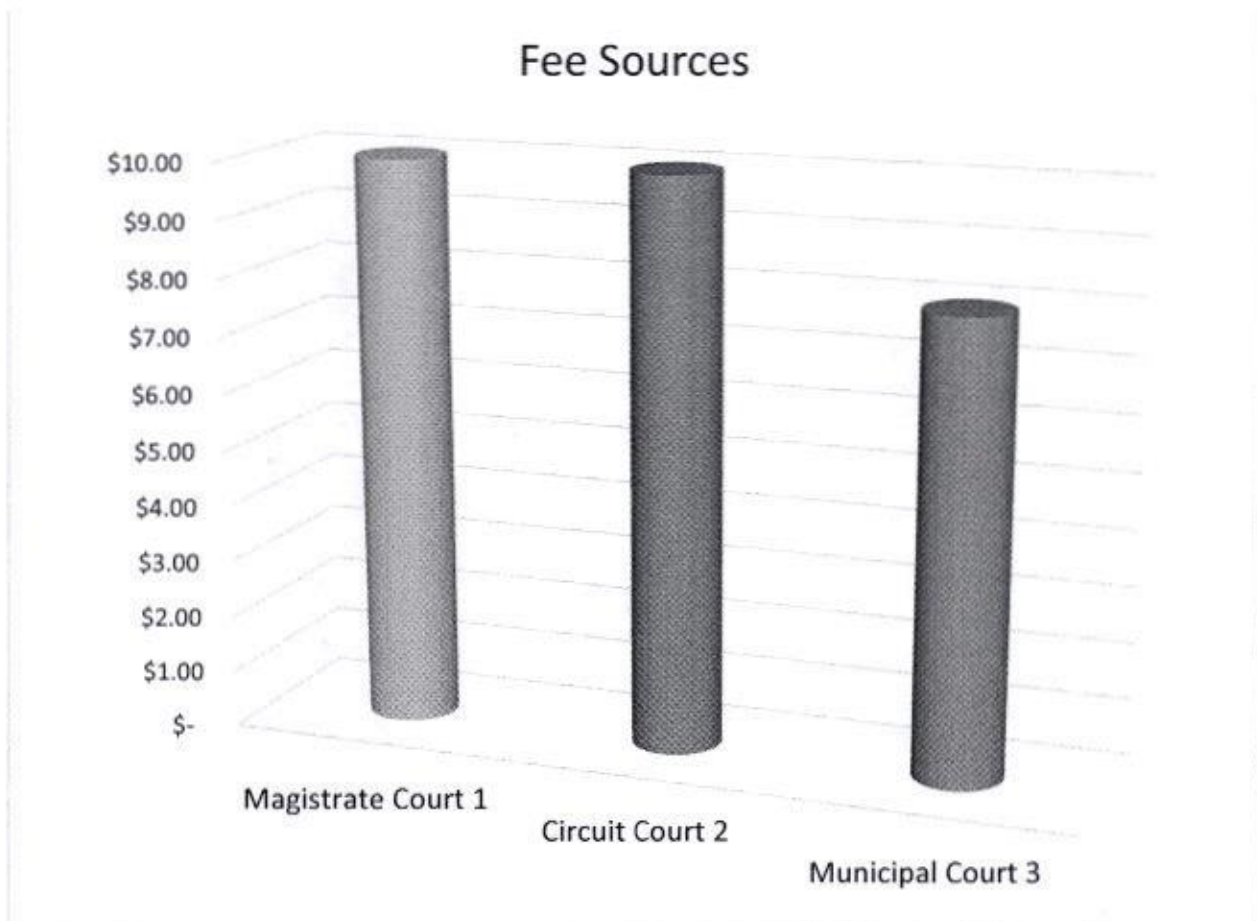
Crime Victims Compensation Fund

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

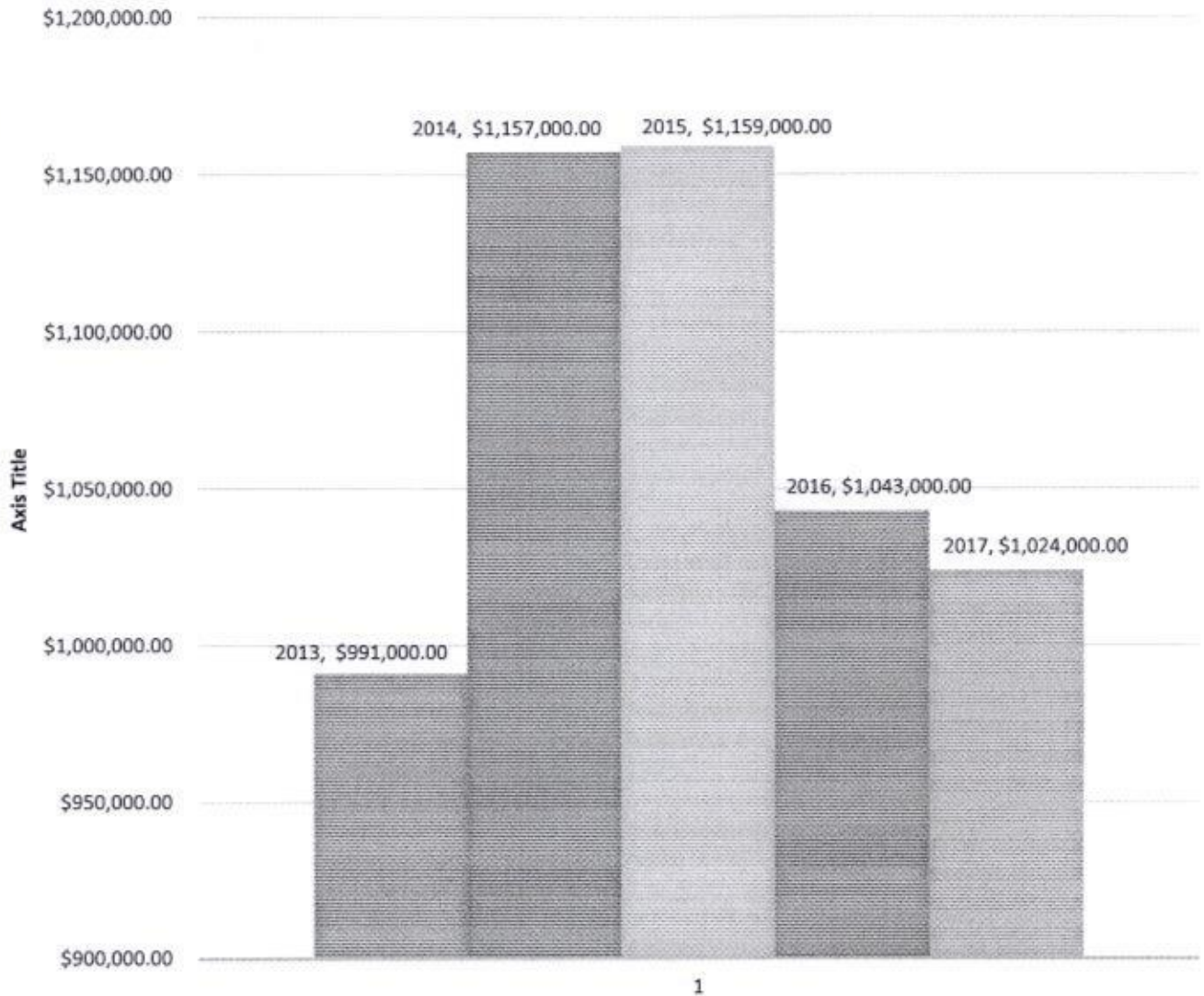
Under the Federal Victims of Crime Act (VOCA) of 1984, federal monies became available to state compensation programs and victim assistance programs.

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

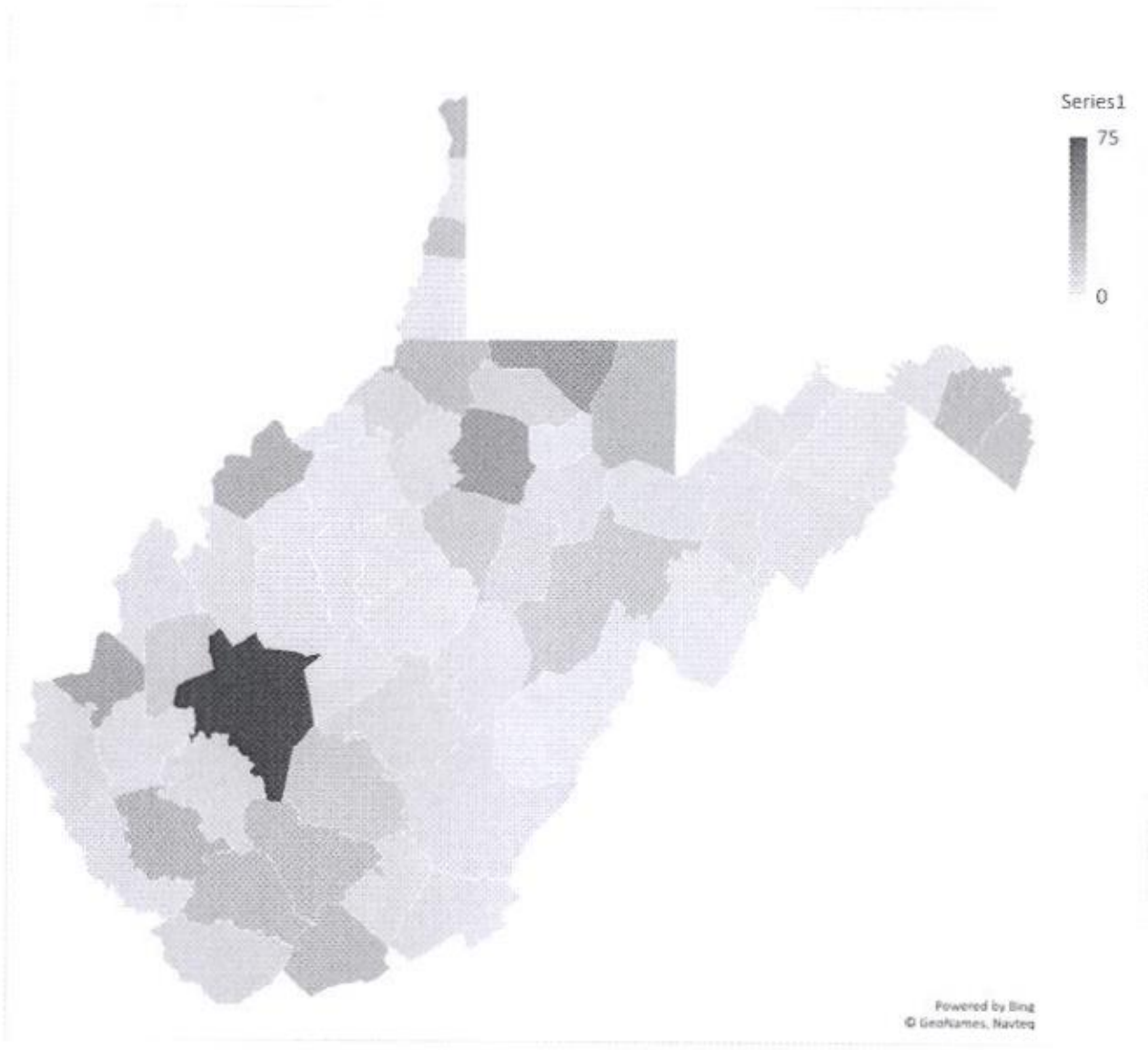
FEDERAL GRANTS RECEIVED



West Virginia has received a total of \$23,479,230 in federal funds for its compensation program since 1986 (the first grant year).

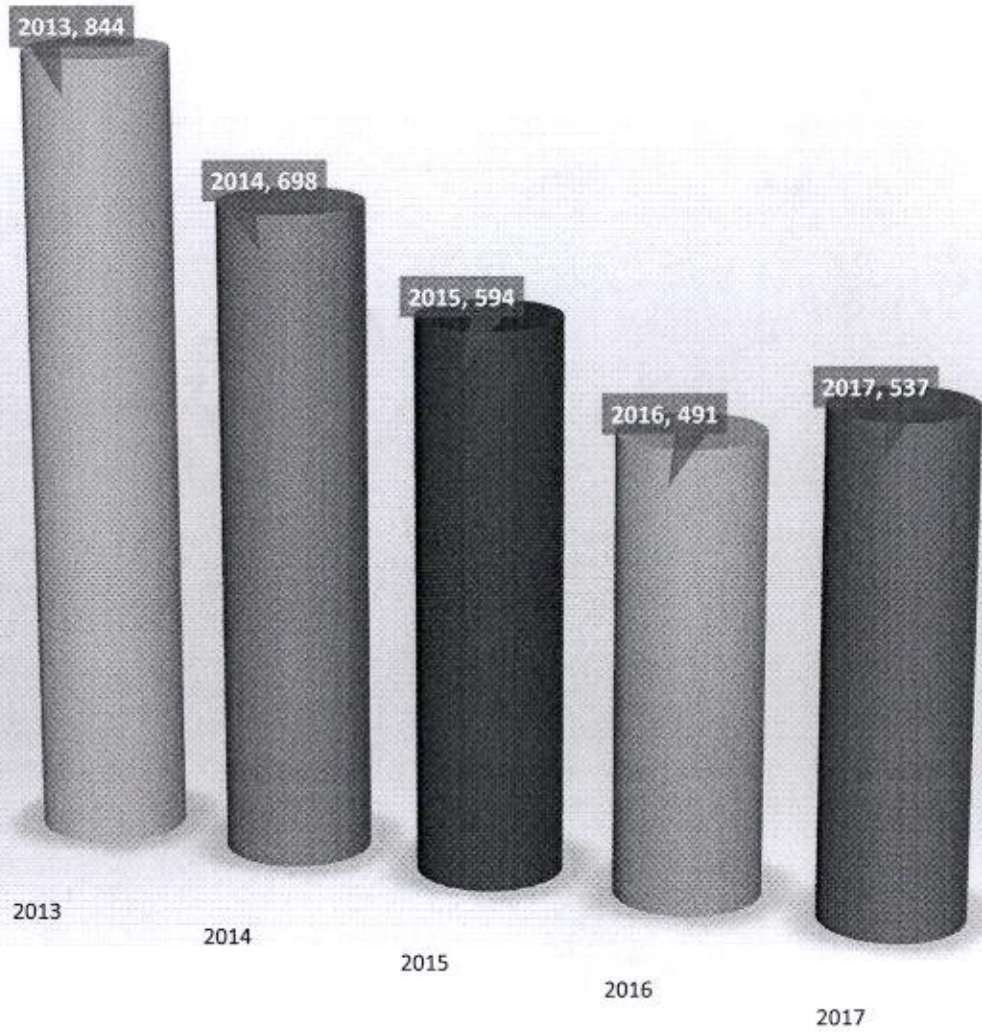
Crime Victims Compensation Fund

Awards by County Federal Fiscal Year 2017



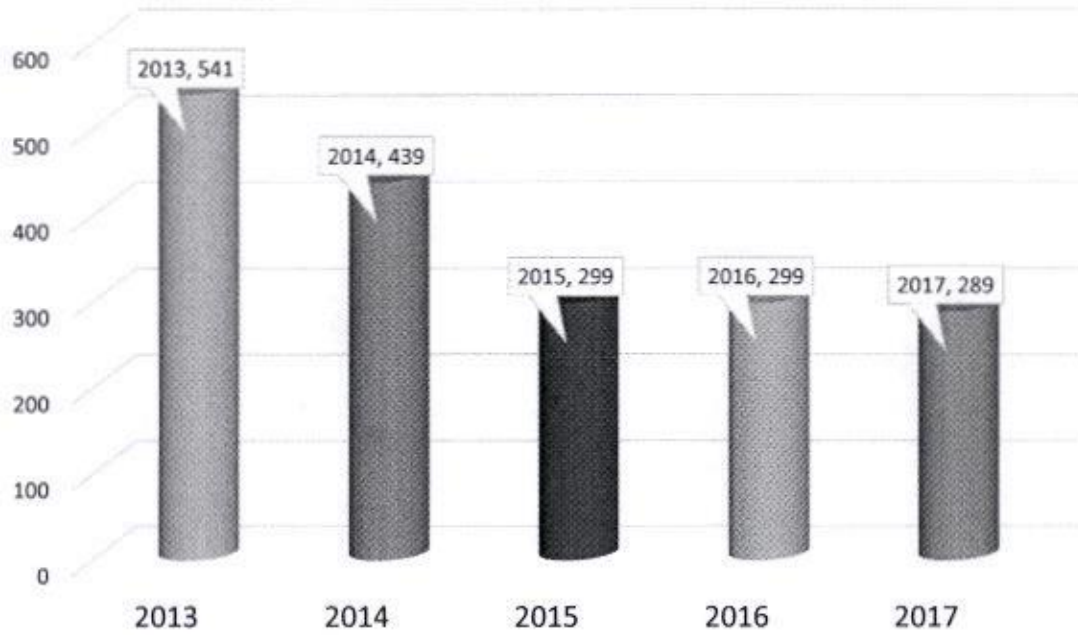
Crime Victims Compensation Fund

Claims Filed Per FFY

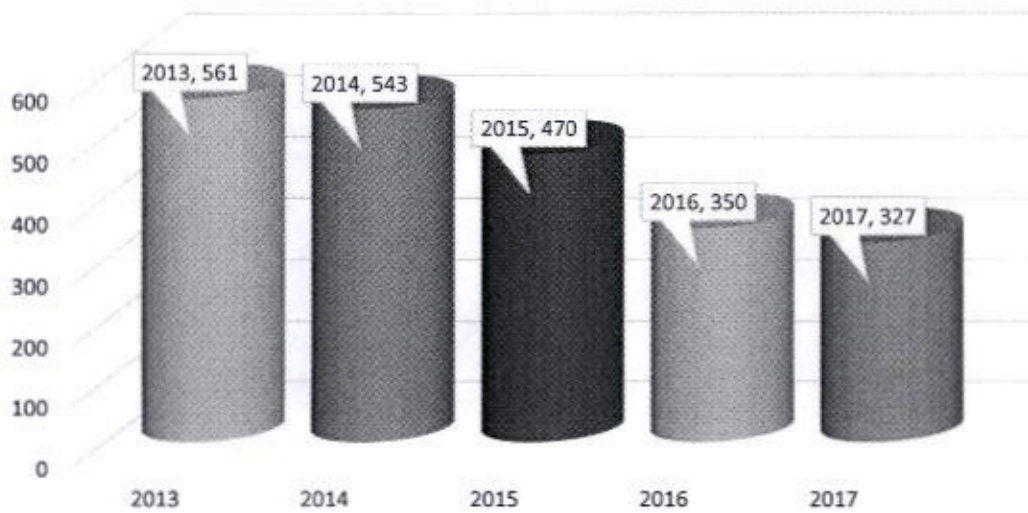


Crime Victims Compensation Fund

Orders Issued by the Commission - INITIAL

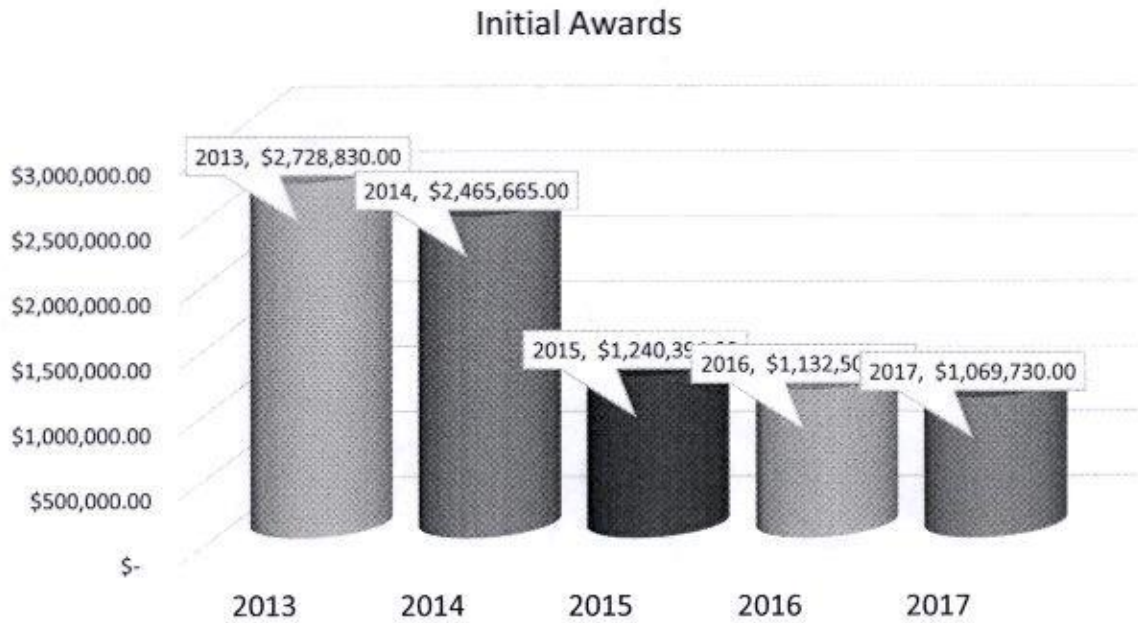


Orders Issued by the Commission - SUPPLEMENTALS (Additional award after initial award)

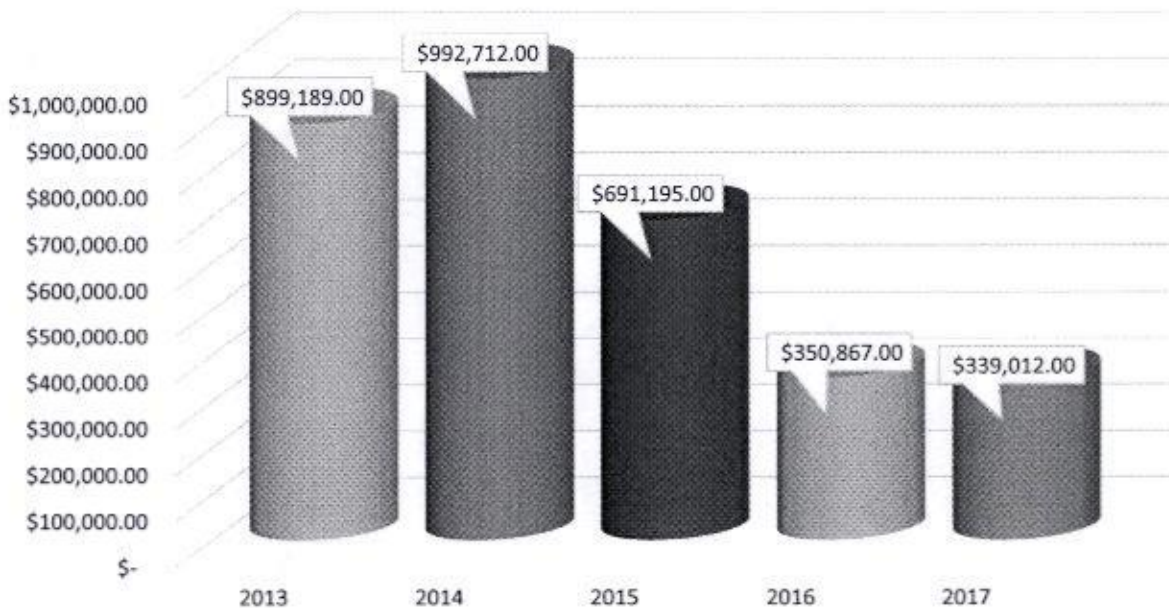


Crime Victims Compensation Fund

Initial Awards

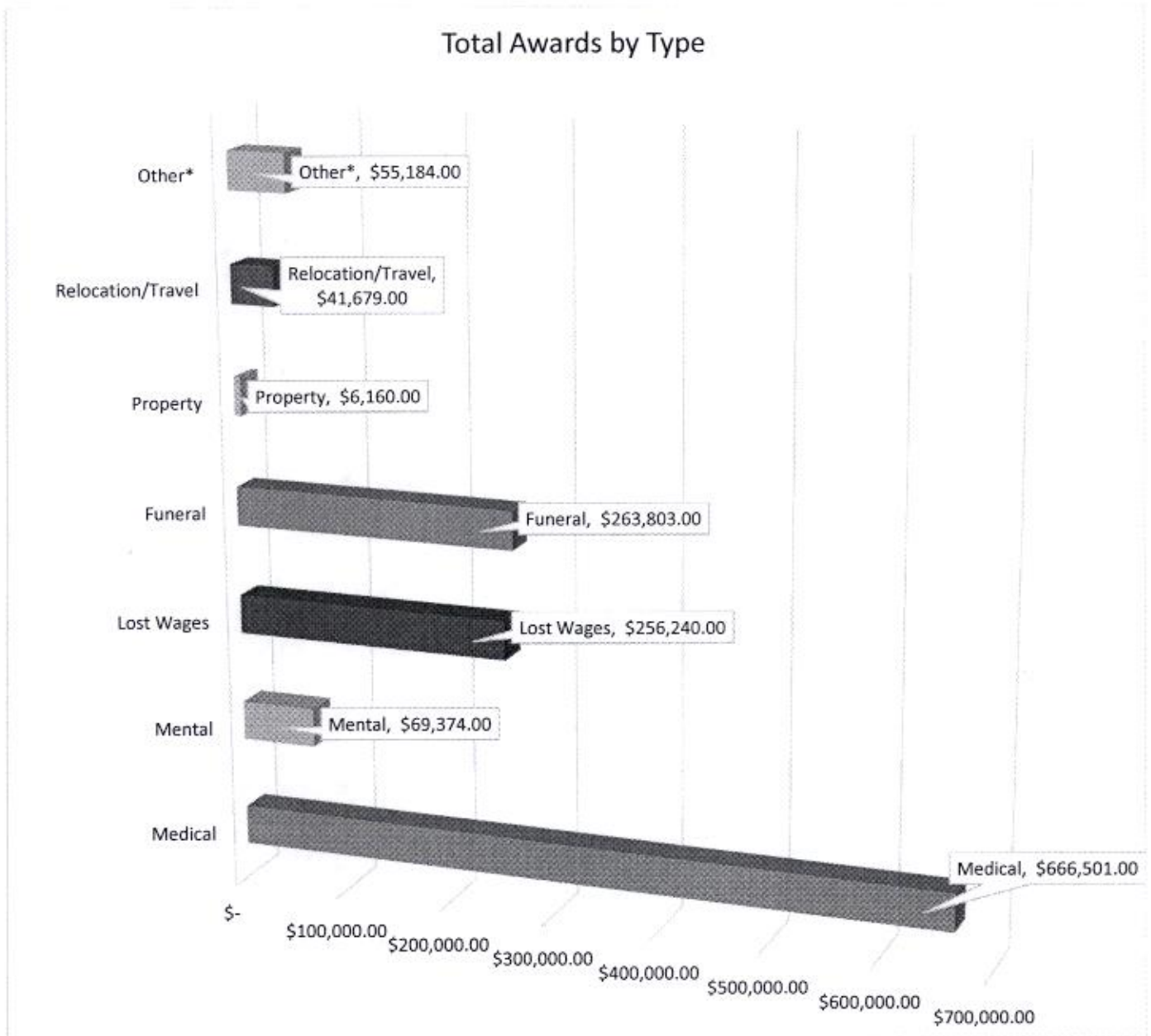


Supplemental Awards (Additional award after initial award)



Crime Victims Compensation Fund

Total Awards by Type



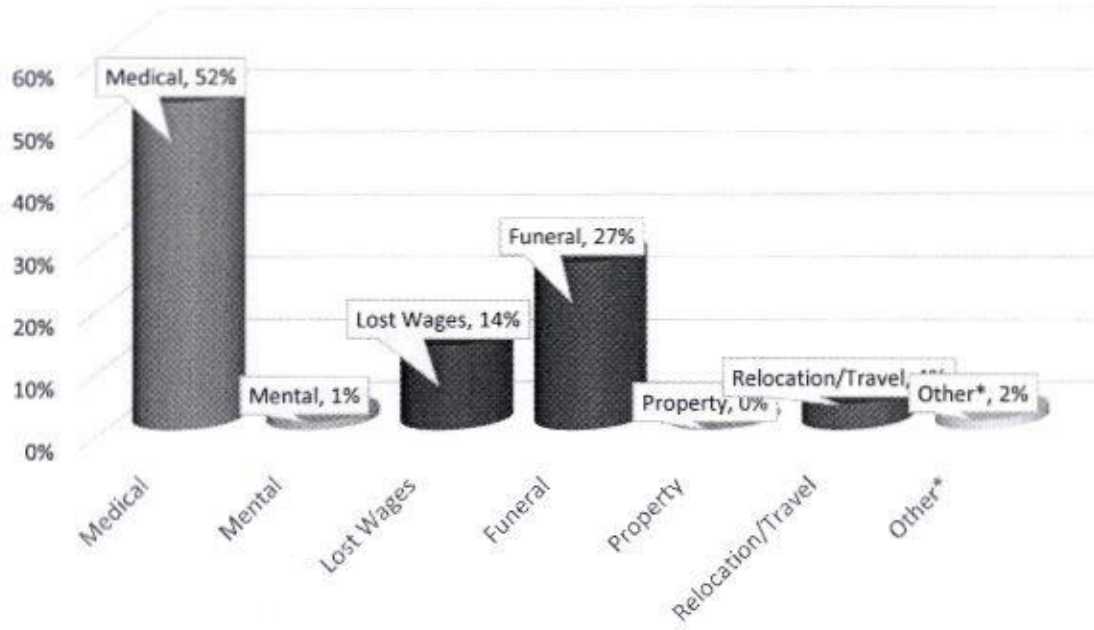
Total paid – \$ 1,358,941.00

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

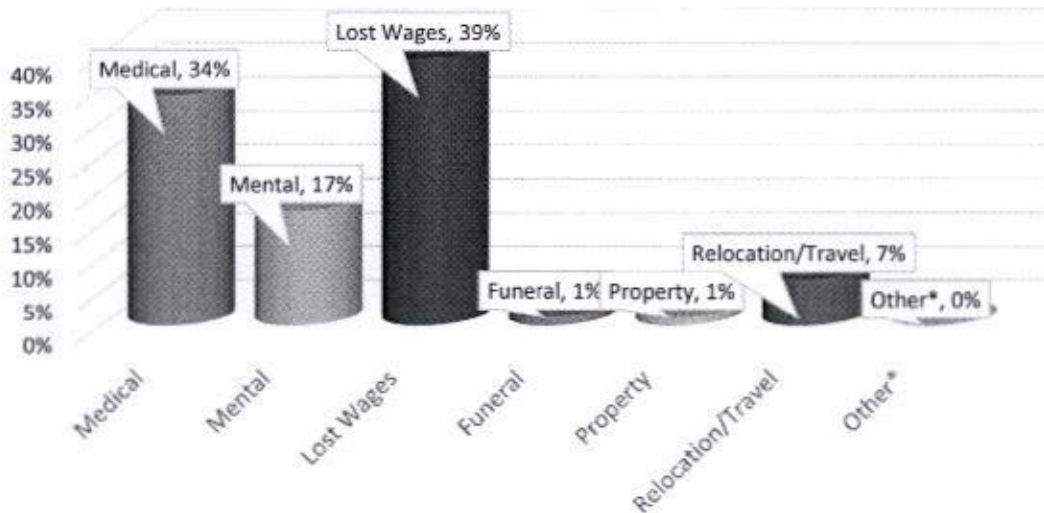
Crime Victims Compensation Fund

Percent of Total Awards by Type

Initial Awards Percentage by Type



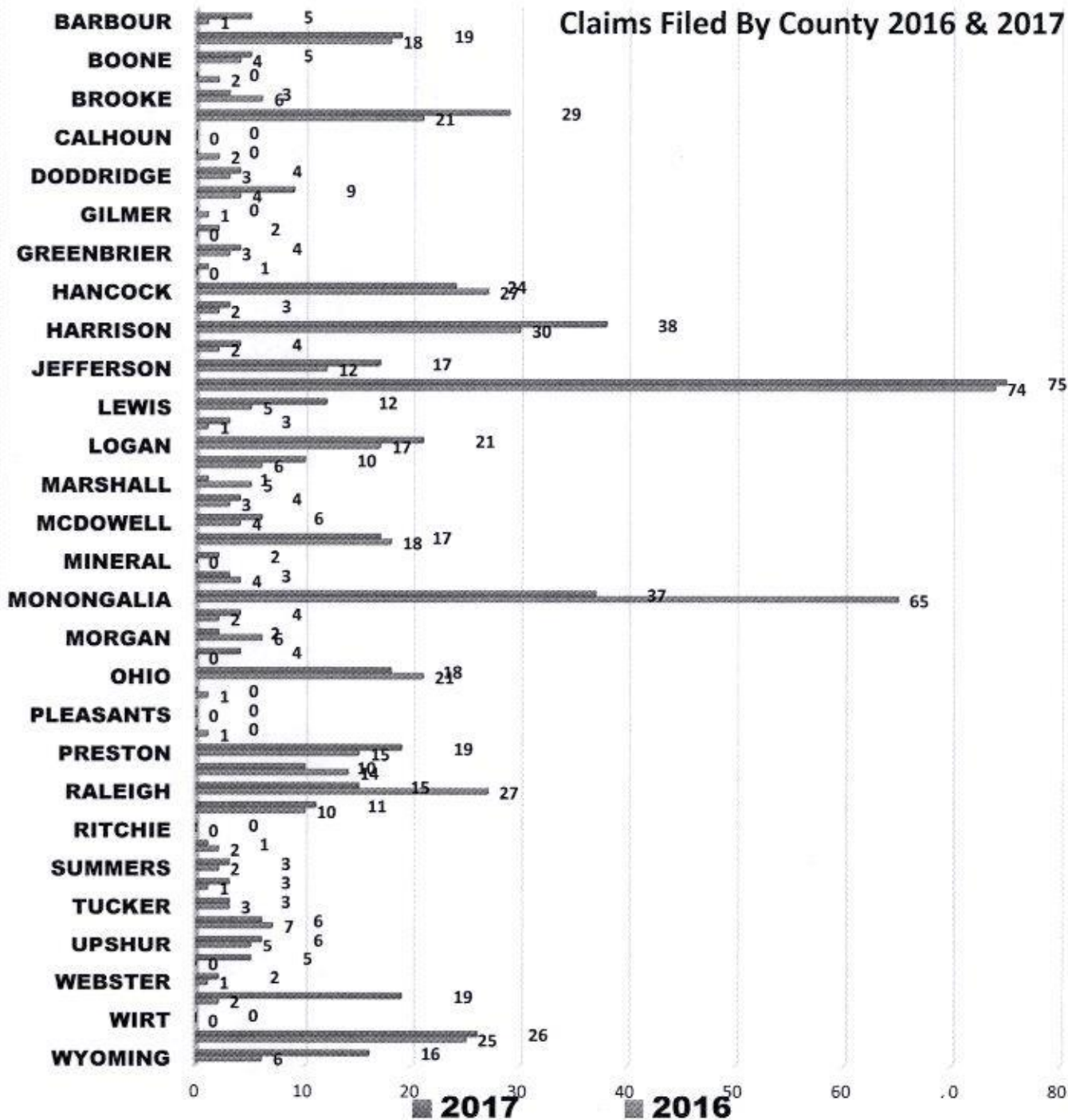
Supplemental Awards by Percentage



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

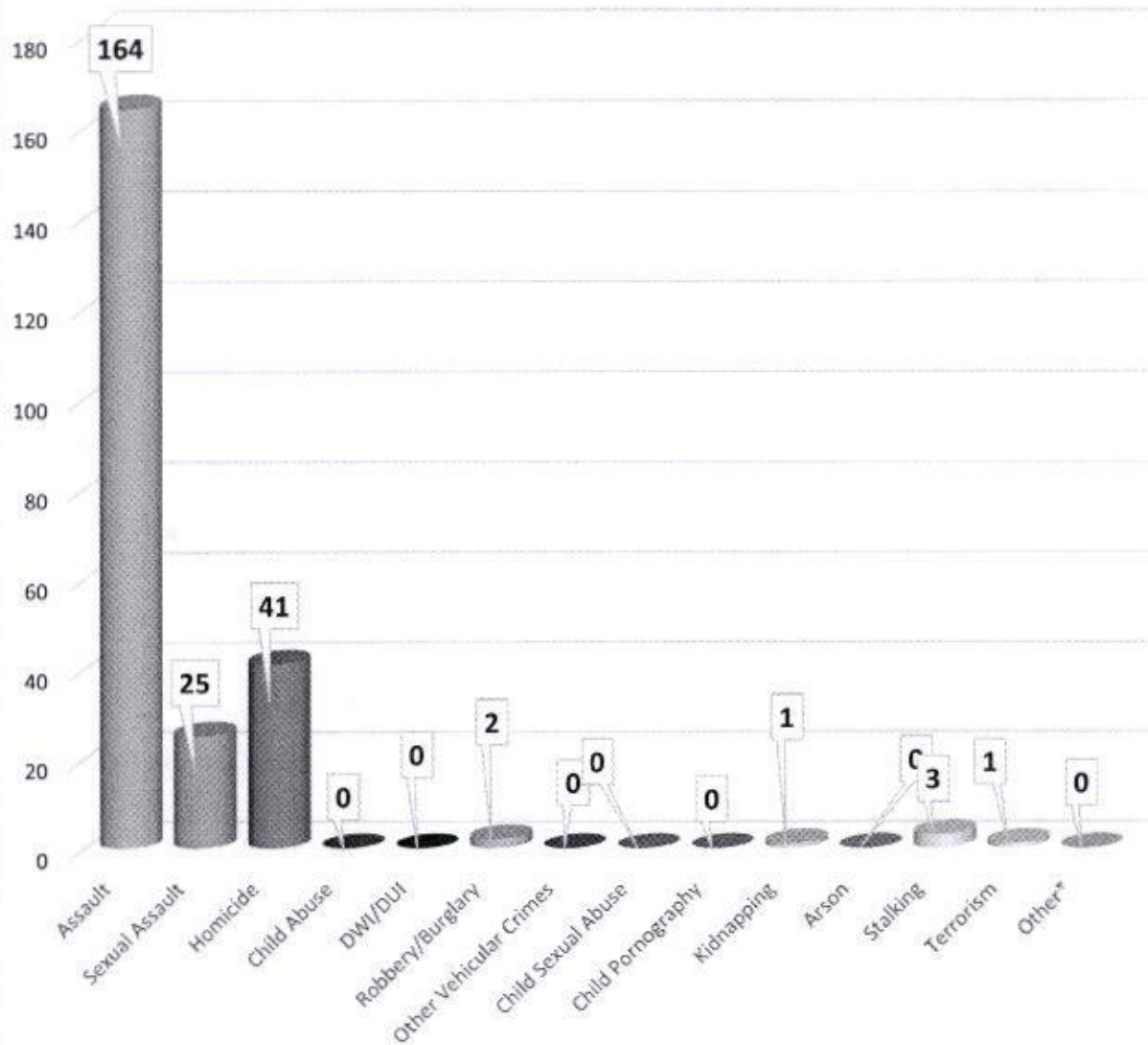
Crime Victims Compensation Fund

Claims Filed By County 2016 & 2017

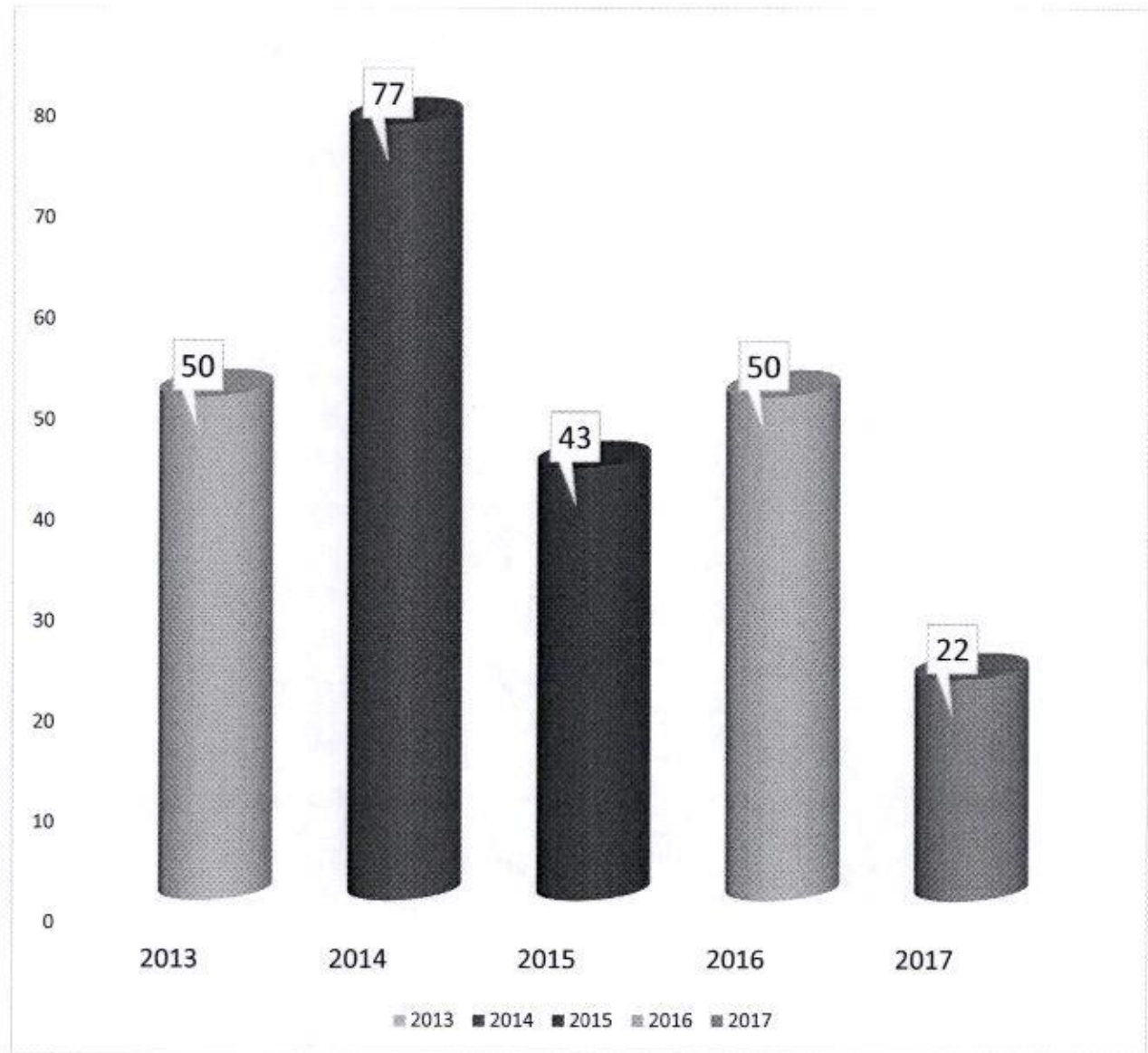


Crime Victims Compensation Fund

Claims Paid by Type of Crime



Crime Victims Compensation Fund
Claims Involving Domestic Violence

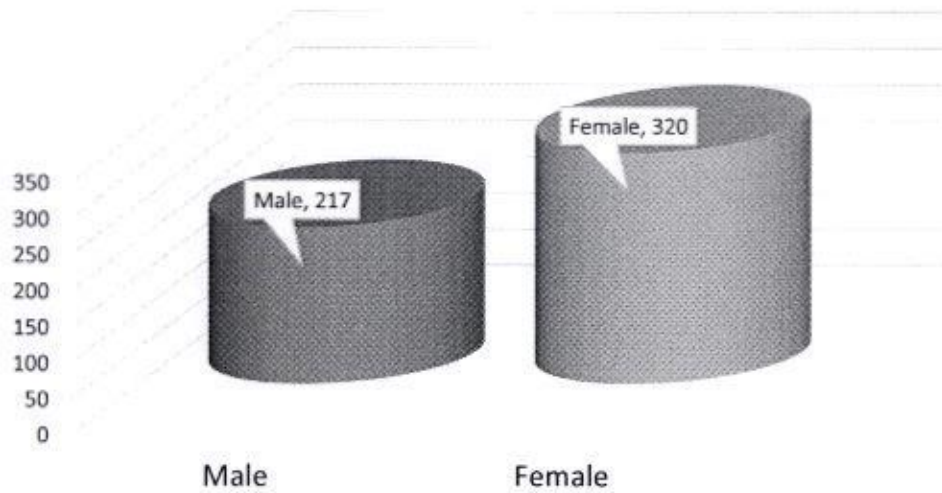


Crime Victims Compensation Fund

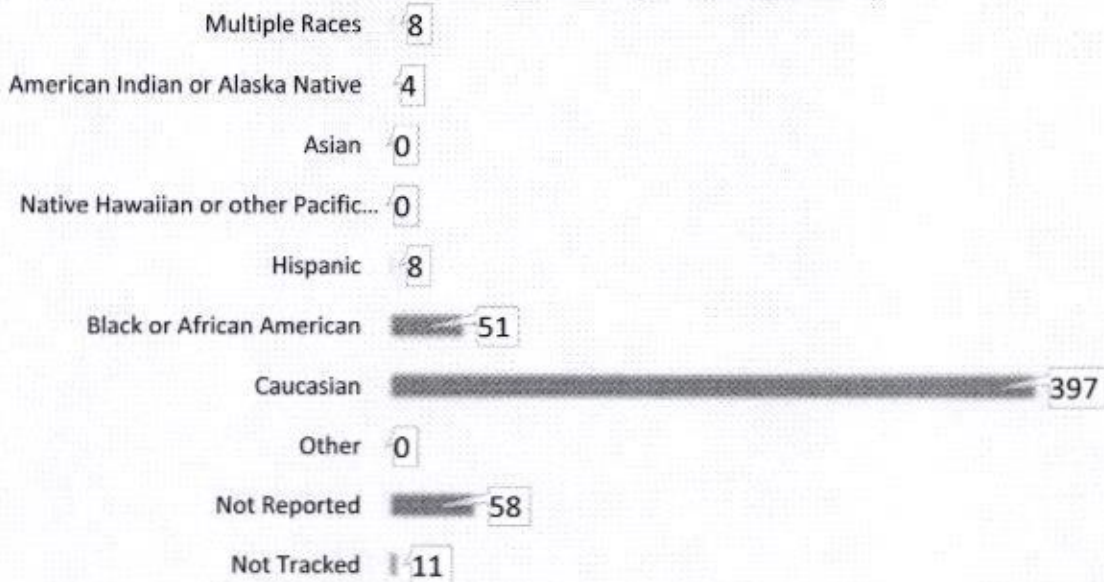


Crime Victims Compensation Fund

Claims Awarded by Gender



Claims Completed by Race/Ethnicity



"Not Tracked" refers to older claim forms that were submitted.

Crime Victims Compensation Fund

Denied Claims

October 1, 2016 - September 30, 2017

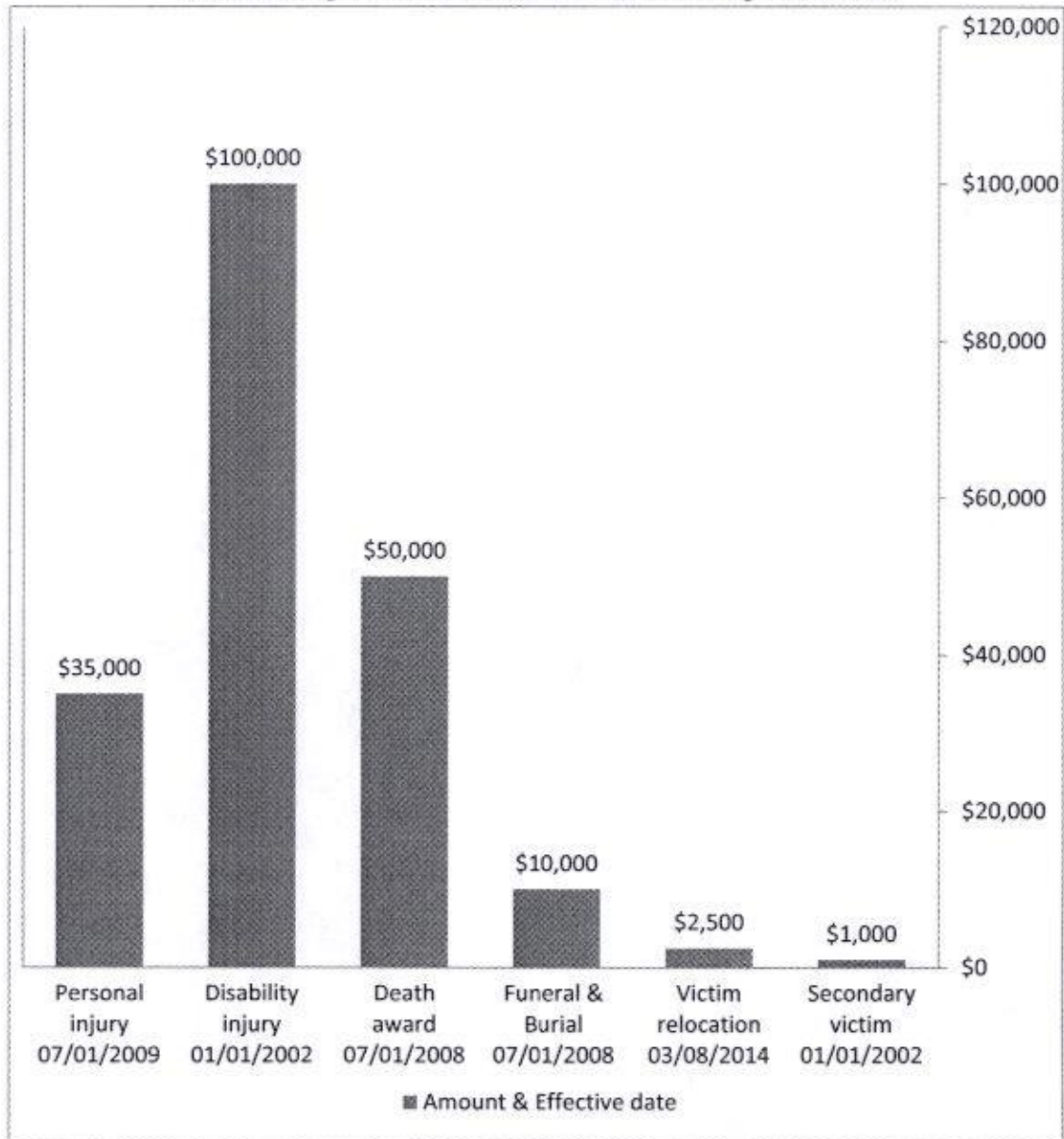
The Commission denied 276 claims for various reasons which include:

No Economic Loss*	165
Incomplete Information	4
Contributory Misconduct	55
Failed to Cooperate	23
No Criminal Conduct	12
Not Filed Within 2 Years	5
Undetermined Conduct	1
Crime Outside WV	1
Not Reported Timely	4
Unjustly Benefits Offender	1
Duplicate Claim	3
Claim Withdrawn	2

* 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 Commission may make an award.

Crime Victims Compensation Fund

Summary of Maximum Benefits by Statute



CRIME VICTIMS COMPENSATION FUND

AN OVERVIEW OF APPEALED CLAIMS

CV-08-0578 D.F.

The Claimant was assaulted and beaten at a bar. He sustained a facial laceration and multiple contusions, but his medical bills were paid by insurance. Claimant sought reimbursement only for his damaged eyeglasses. The claim was denied for two reasons: Claimant's behavior constituted contributory misconduct, and he failed to report the incident to law enforcement officials until nearly three weeks later. Upon appeal, the denial was upheld. The Claimant had been removed from the club due to his intoxicated condition, and he was harassing other patrons outside when he was attacked. Moreover, there was no showing of "good cause" for his failure to report the incident within 72 hours as required by the statute.

CV-15-0192 C.P.

The Claimant was injured in an accident involving a truck driven by the offender, with whom the Claimant had a child. He had driven to her residence to drop off the child when the Claimant approached the vehicle and stepped onto the side rail to open the door. When the offender began driving away, the Claimant fell onto the roadway and was injured. The claim was denied due to a lack of "criminally injurious conduct." Upon appeal, the initial decision was reversed. The Commission found that the offender had in fact been guilty of reckless driving and ordered that the Claimant could submit her unreimbursed allowable expenses for consideration.

CV-14-0611 A.K.

The Claimant's minor child was sexually assaulted by a distant relative and suffered psychological trauma as a result. The claim was denied because the offender was found not guilty of the charges due to the victim's confusion as to the factual matters related to the incident. Upon appeal, the initial decision was reversed. The Commission heard testimony from the investigating officer which demonstrated that the criminal act did in fact occur. The Commission granted an award for the victim's counseling.