

2018

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 Leslie R. Roberts, Business Manager

TABLE OF CONTENTS

Summary of program.....	1
Administrative costs	2
Funding	3
Fee sources	4
Federal grants	5
Claims:	
Awards by County (state map)	6
Claims Filed per FFY	7
Orders Issued by Commission	8
Awards.....	9
Total Awards by Type	10
Percentage of Total Awards.....	11
Filed by County	12
Claims Paid by Type of Crime	13
Claims Involving Domestic Violence.....	14
Claims Filed by Age	15
Claims awarded by gender/race/ethnicity.....	16
Denied Claims	17
Summary of Benefits	18
Overview of Appealed Claims.....	19

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:

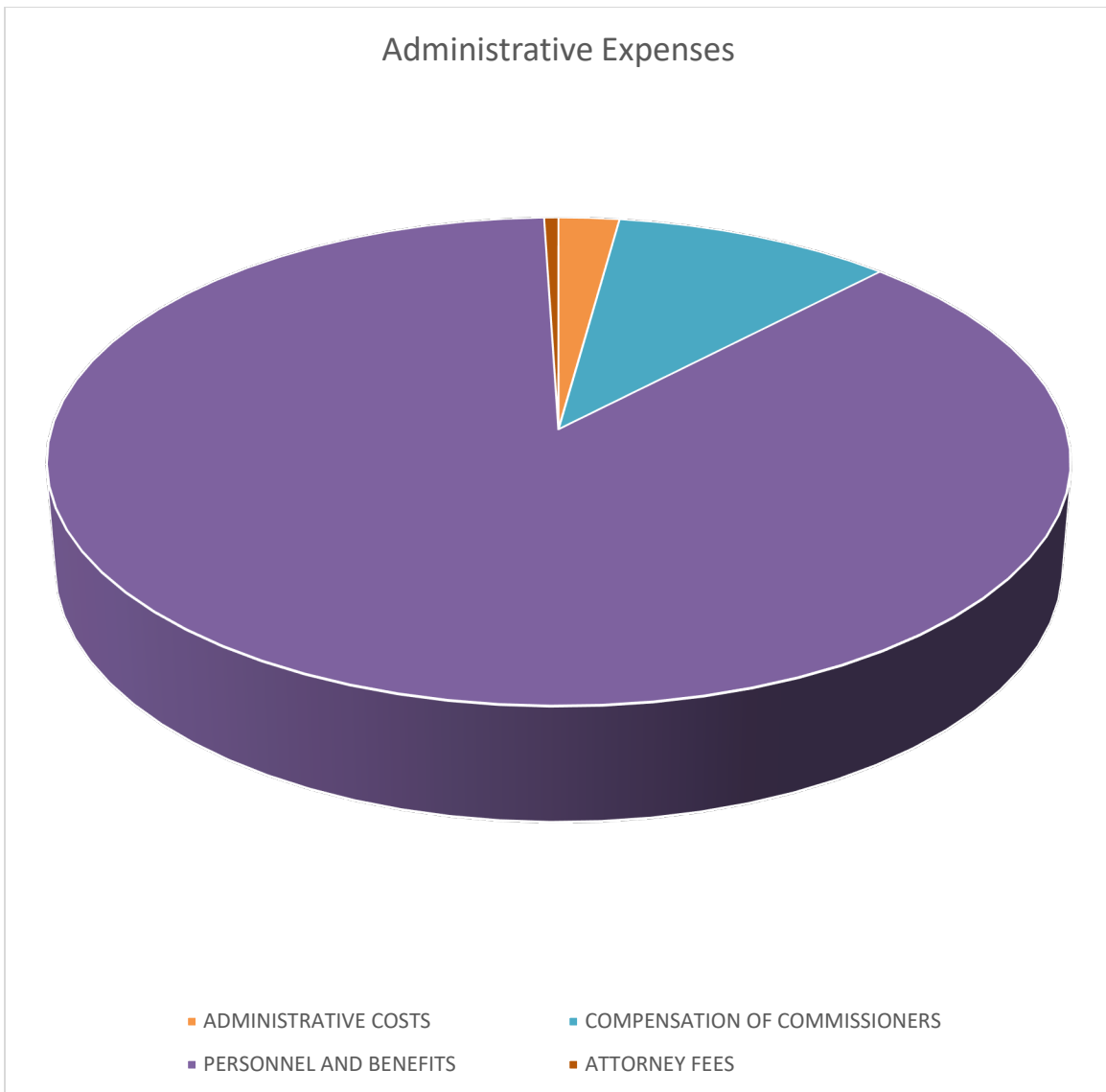
- Medical expenses
- Mental health counseling
- Mental health counseling for secondary victims up to \$1,000
- Lost earnings/support expenses
- Funeral/burial expenses up to \$10,000
- Relocation up to \$2,500
- Travel to medical treatment facility
- Travel to criminal proceeding up to \$1,000
- Travel 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

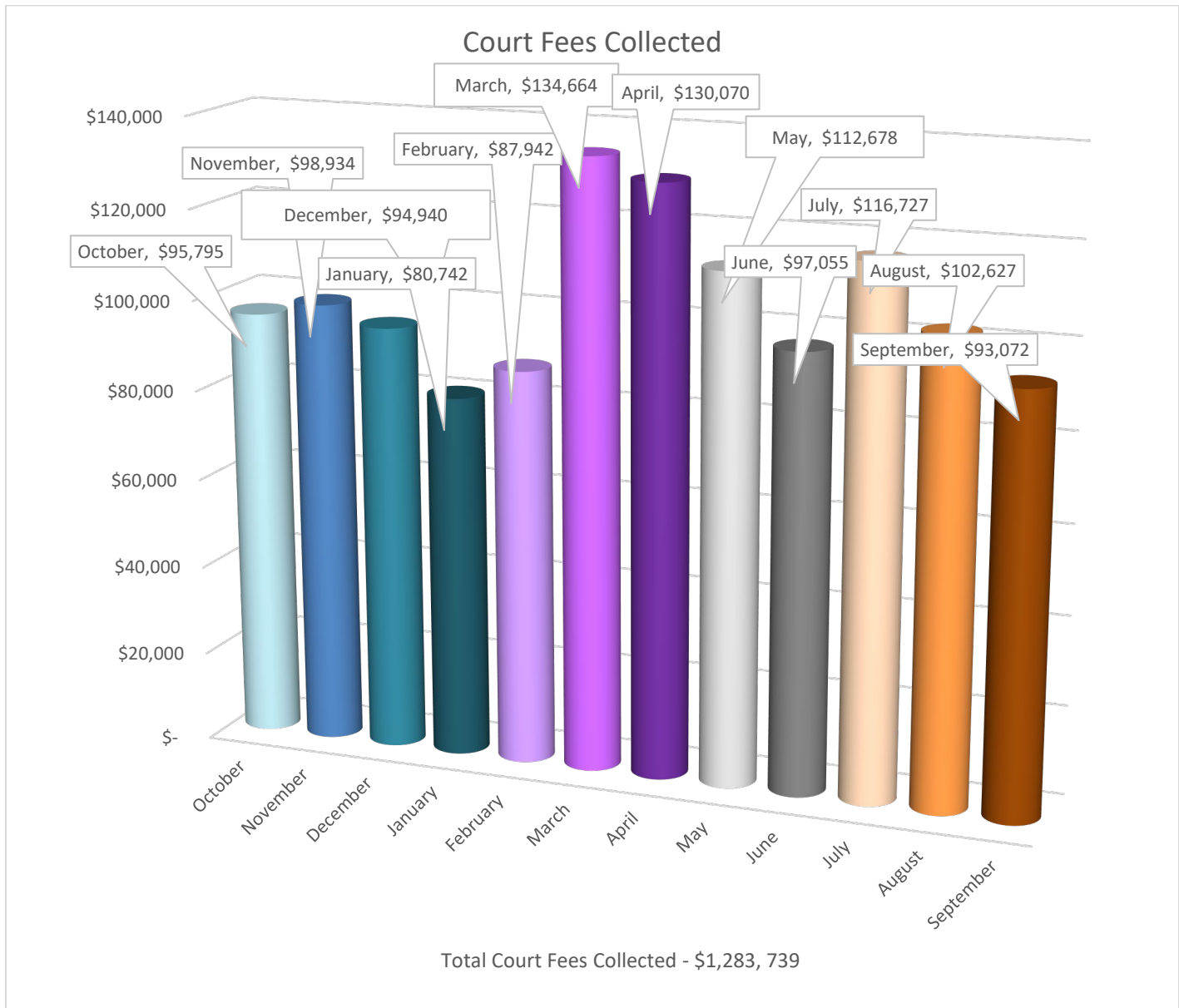
October 1, 2017 – September 30, 2018



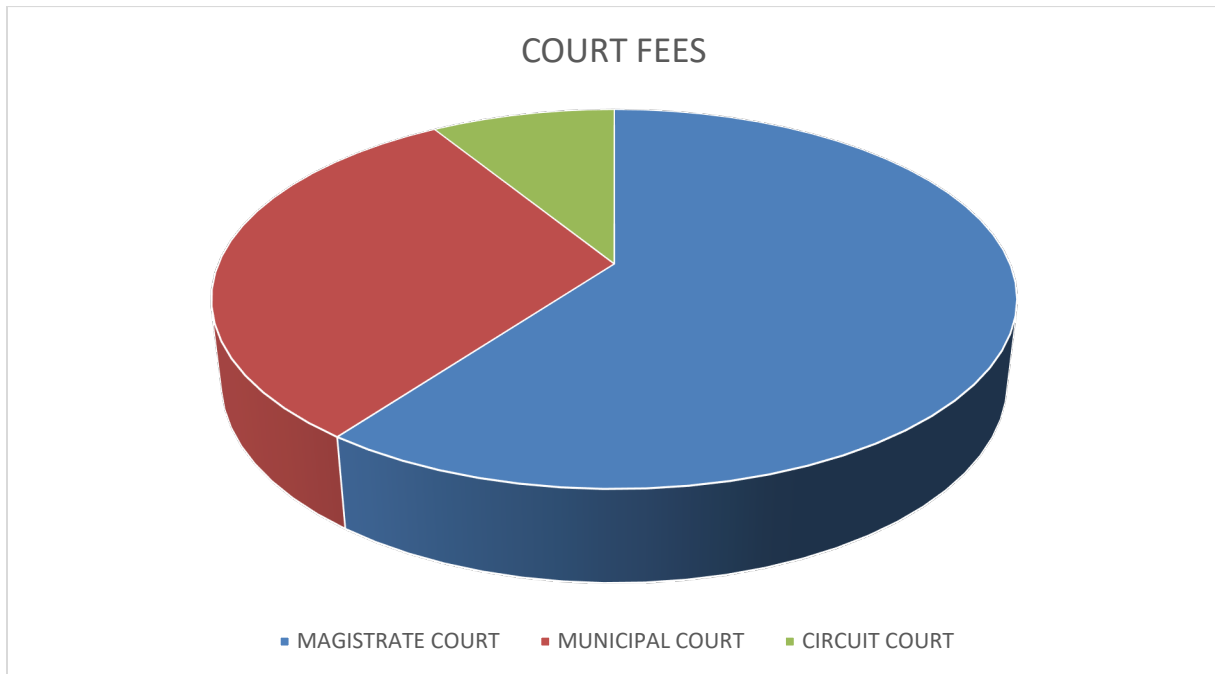
Crime Victims Compensation Fund

State Funds Collected by Month

Federal Fiscal Year 2018 (October 1 – September 30)



Crime Victims Compensation Fund



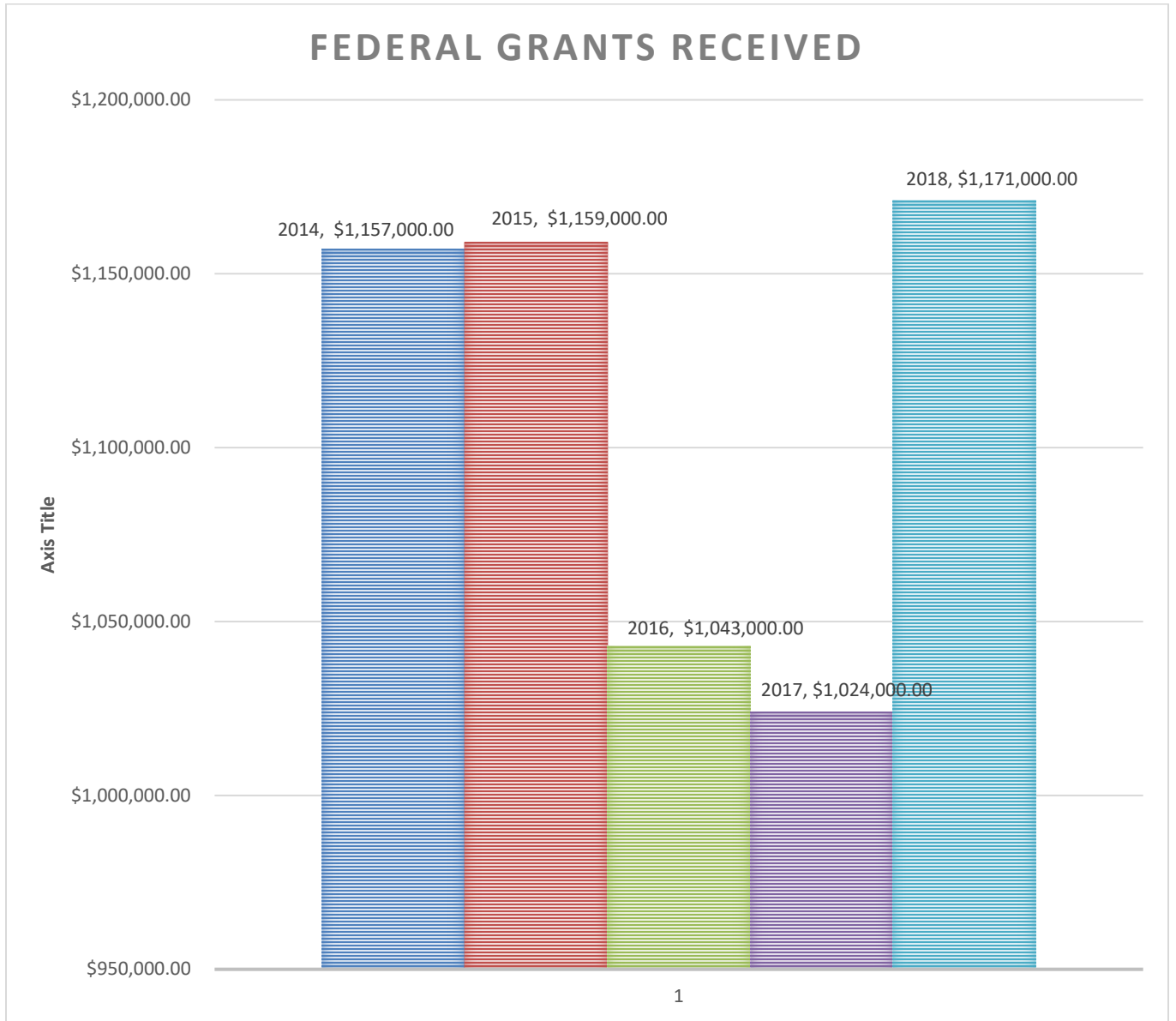
- 1 Plus 20% of DUI fines
- 2 Plus 20% of DUI fines & \$50 for each felony conviction
- 3 Plus 20% of DUI fines – only moving violations

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.

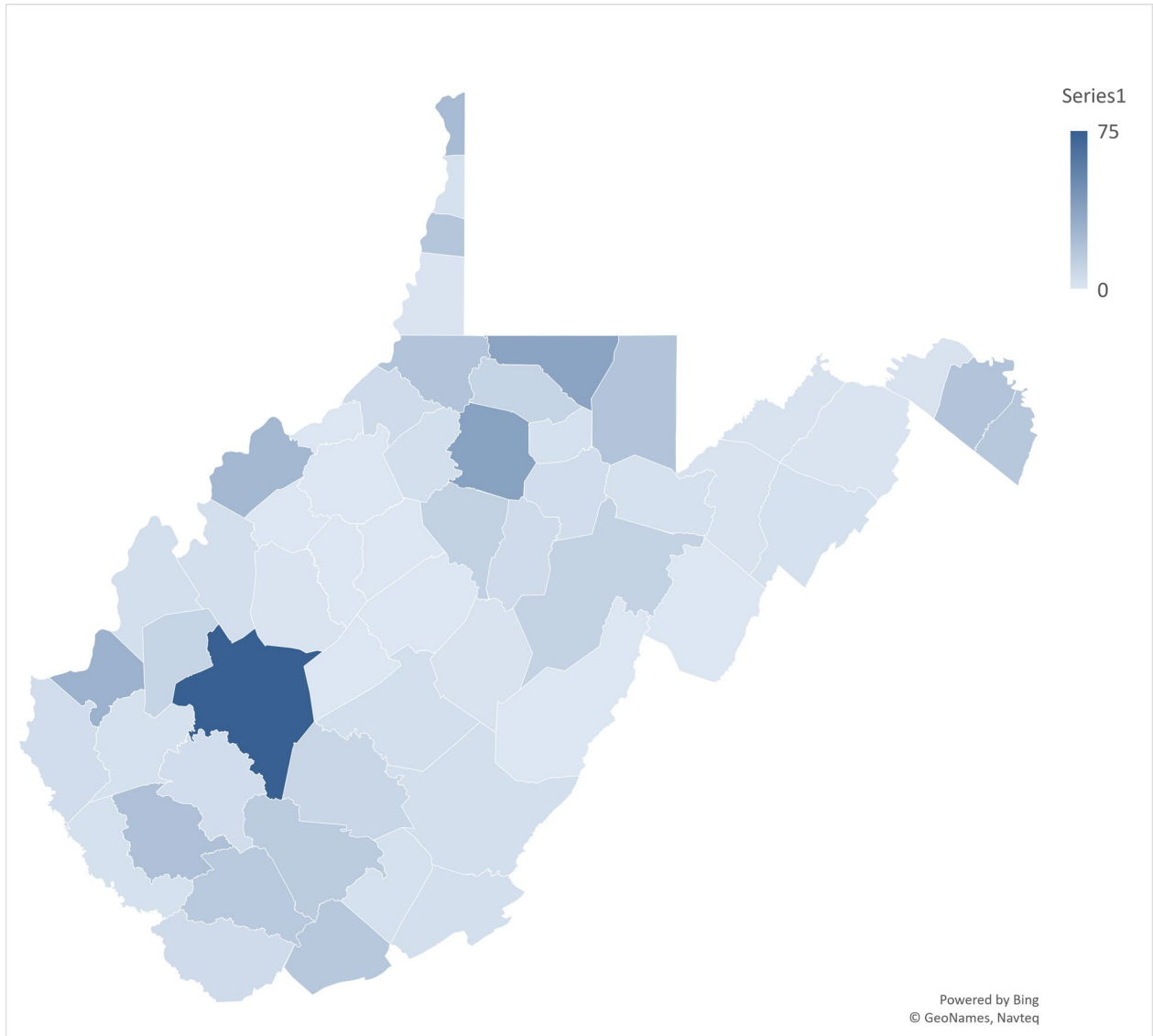
Crime Victims Compensation Fund



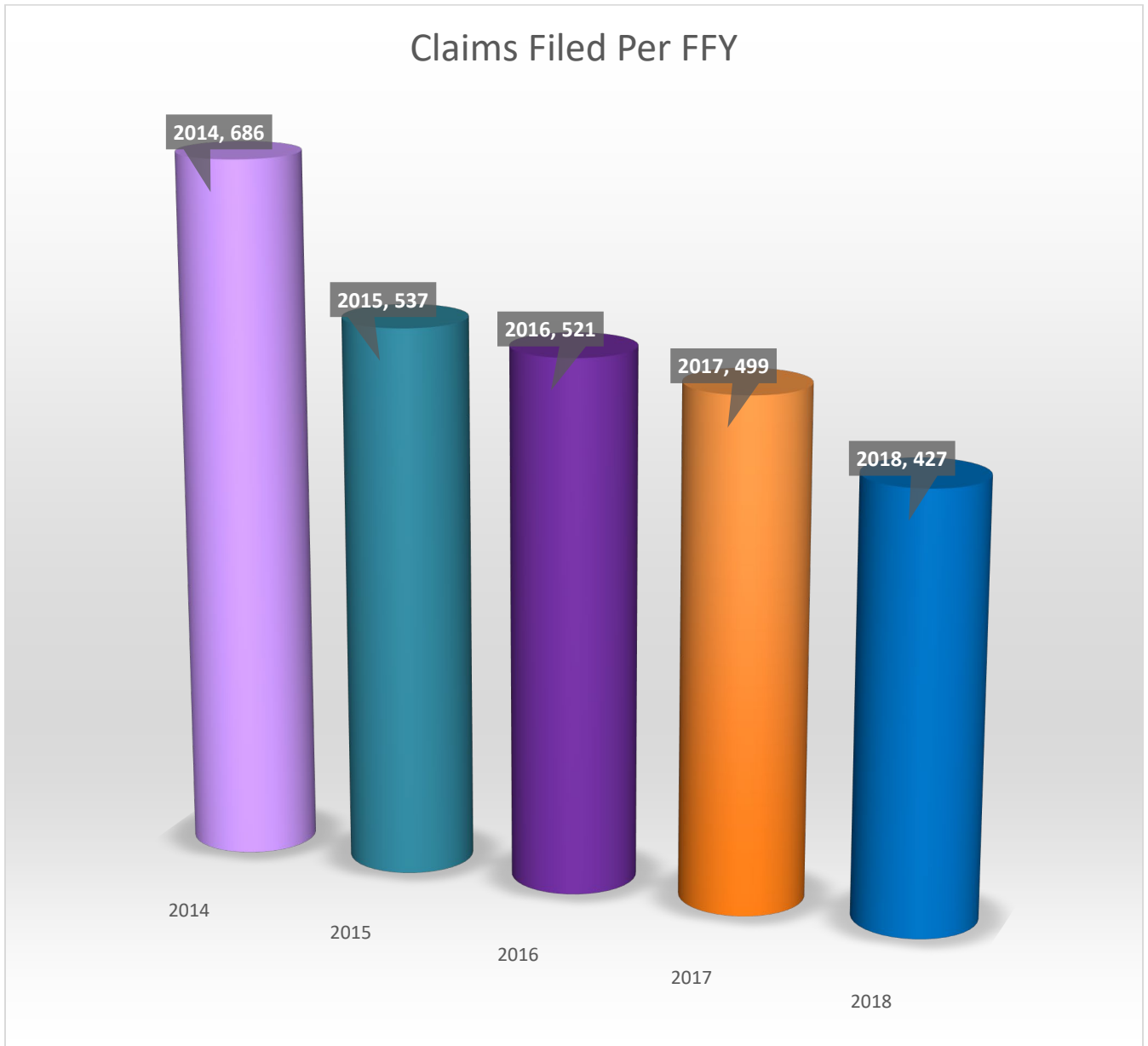
West Virginia has received a total of \$24,650,230 in federal funds for its compensation program since 1986 (the first grant year).

Crime Victims Compensation Fund

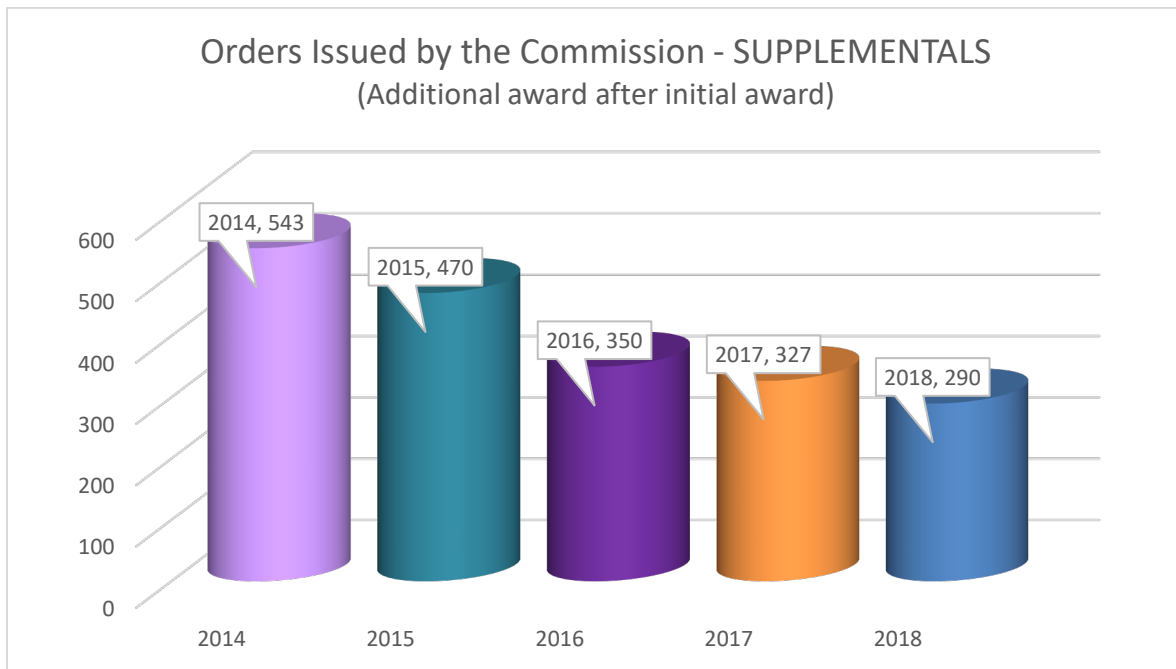
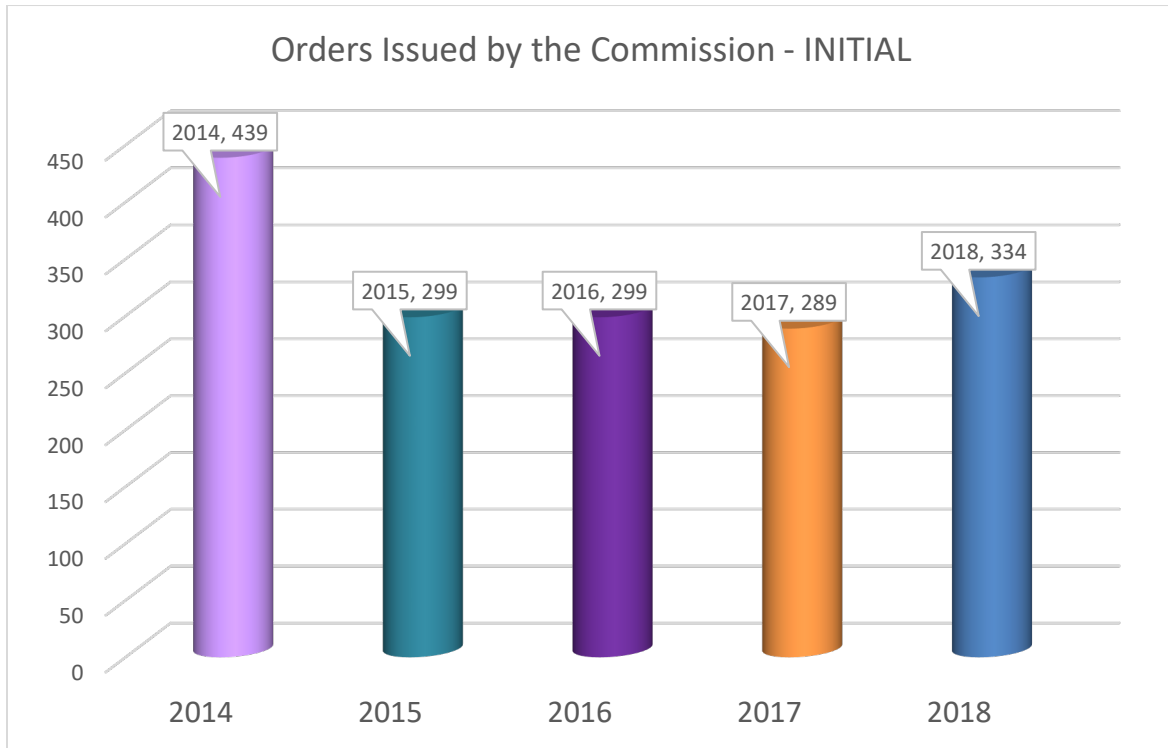
Awards by County Federal Fiscal Year 2018



Crime Victims Compensation Fund

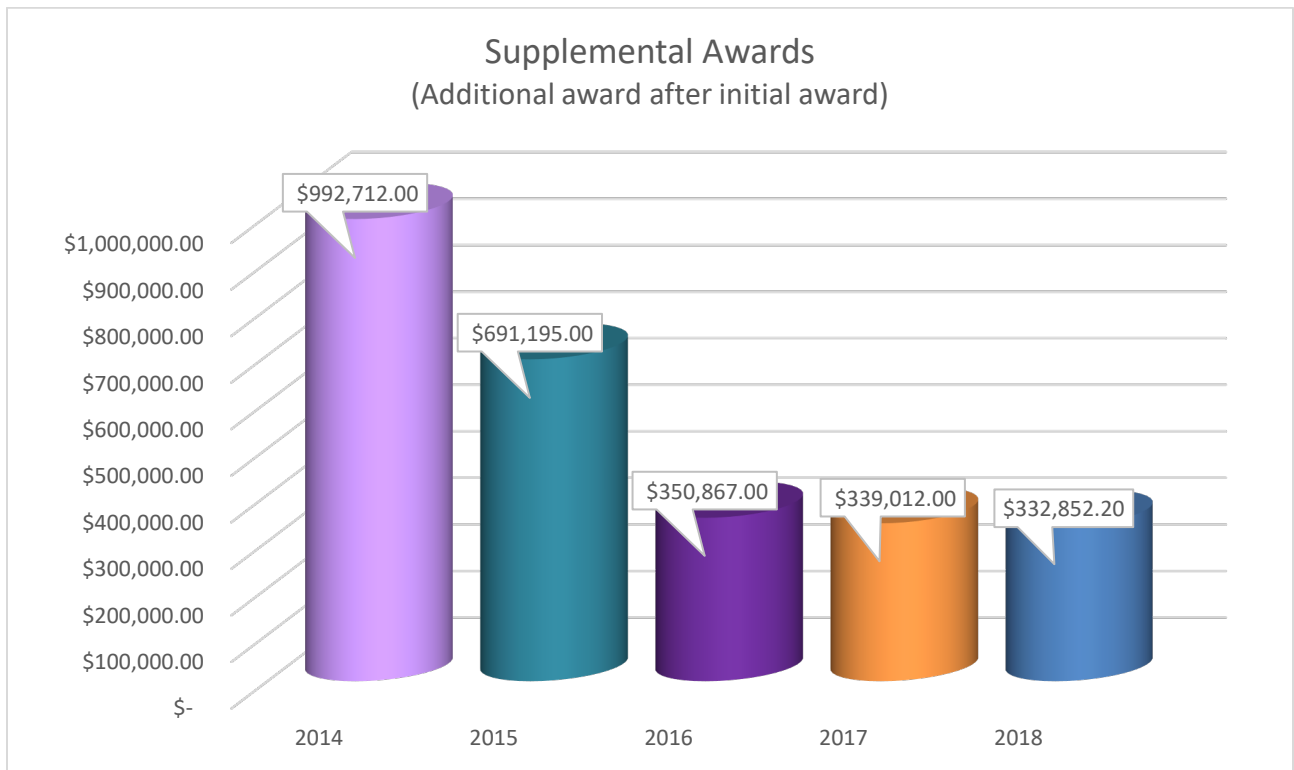
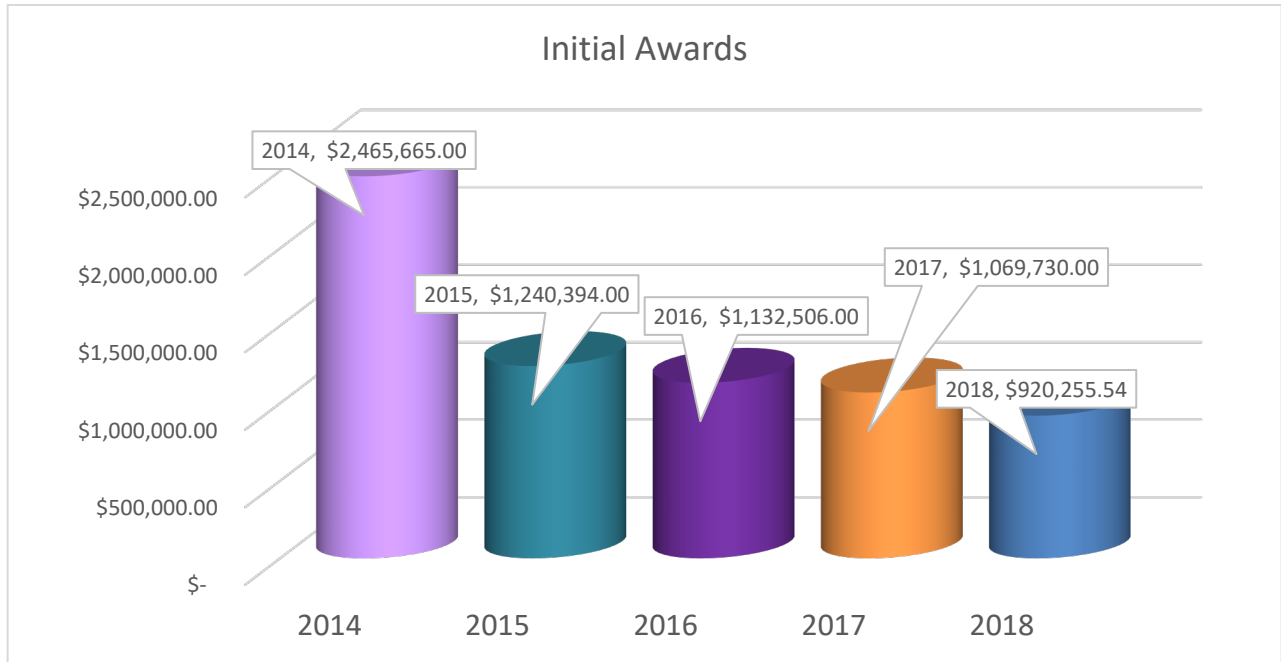


Crime Victims Compensation Fund

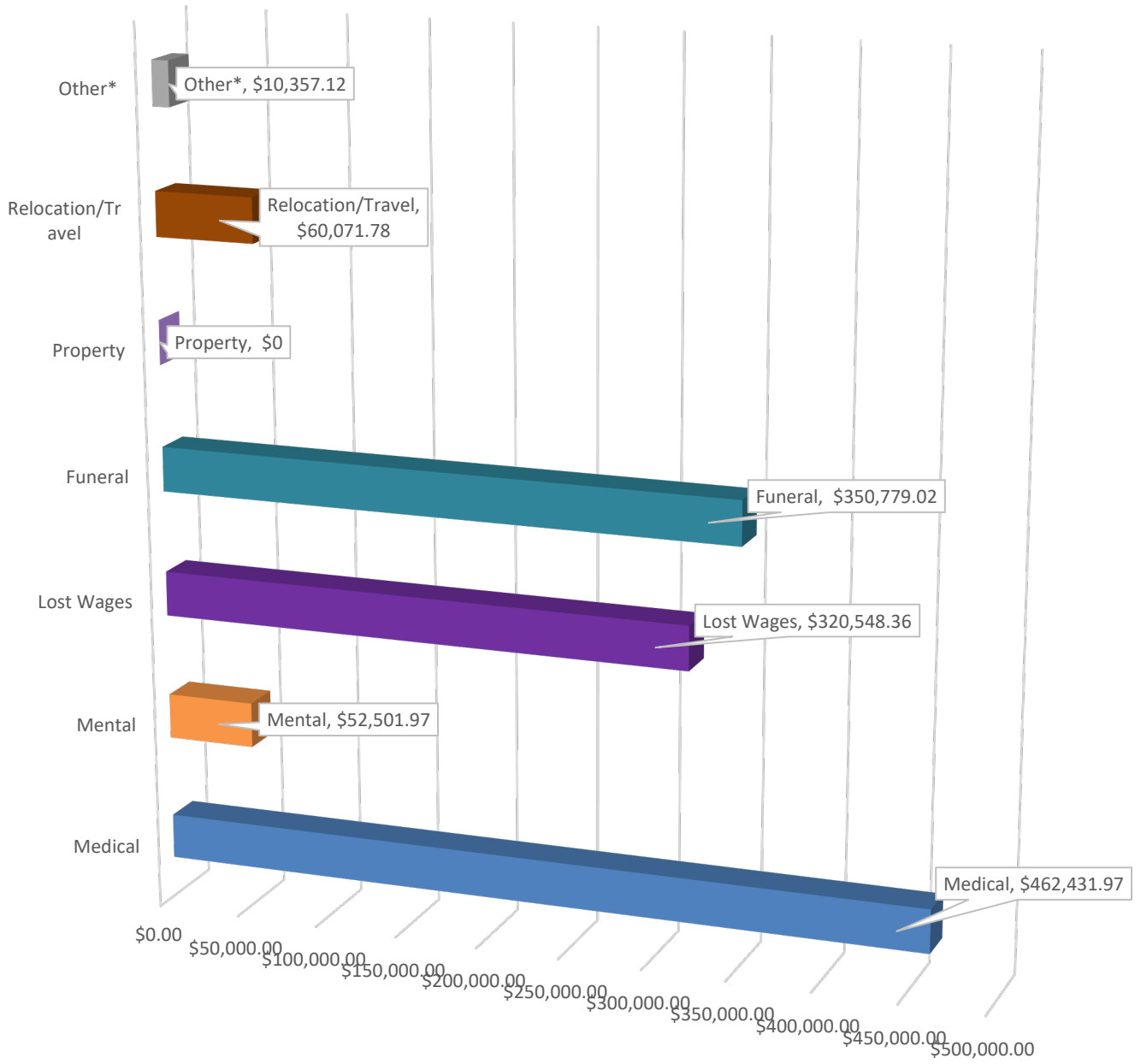


Crime Victims Compensation Fund

Initial Awards



Total Awards by Type

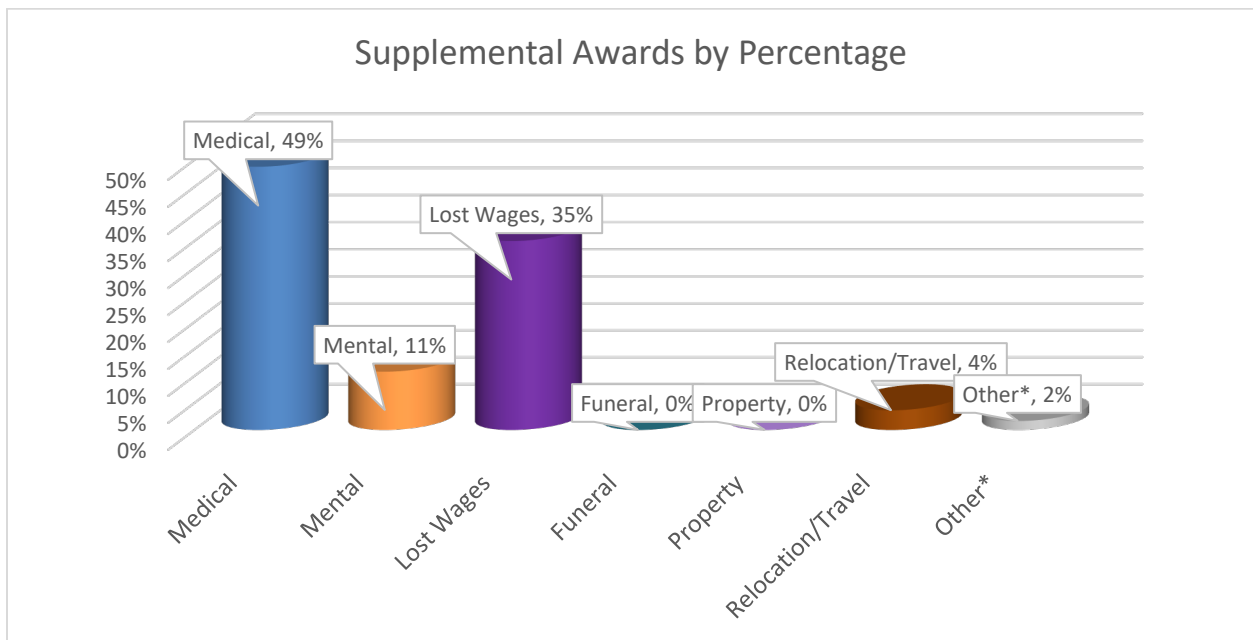
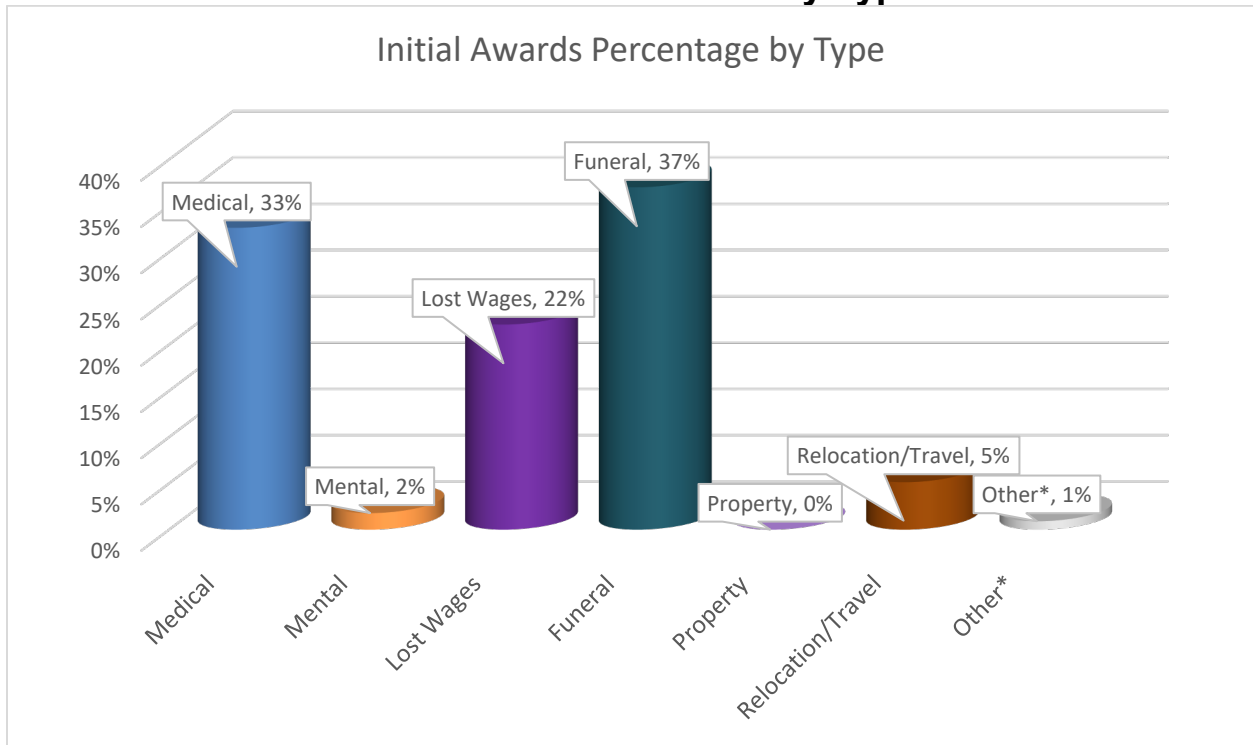


Total paid – \$ 1,256,690.22

*Includes: Replacement Services Loss, Dependent's Care Loss and Dependent's Economic Loss

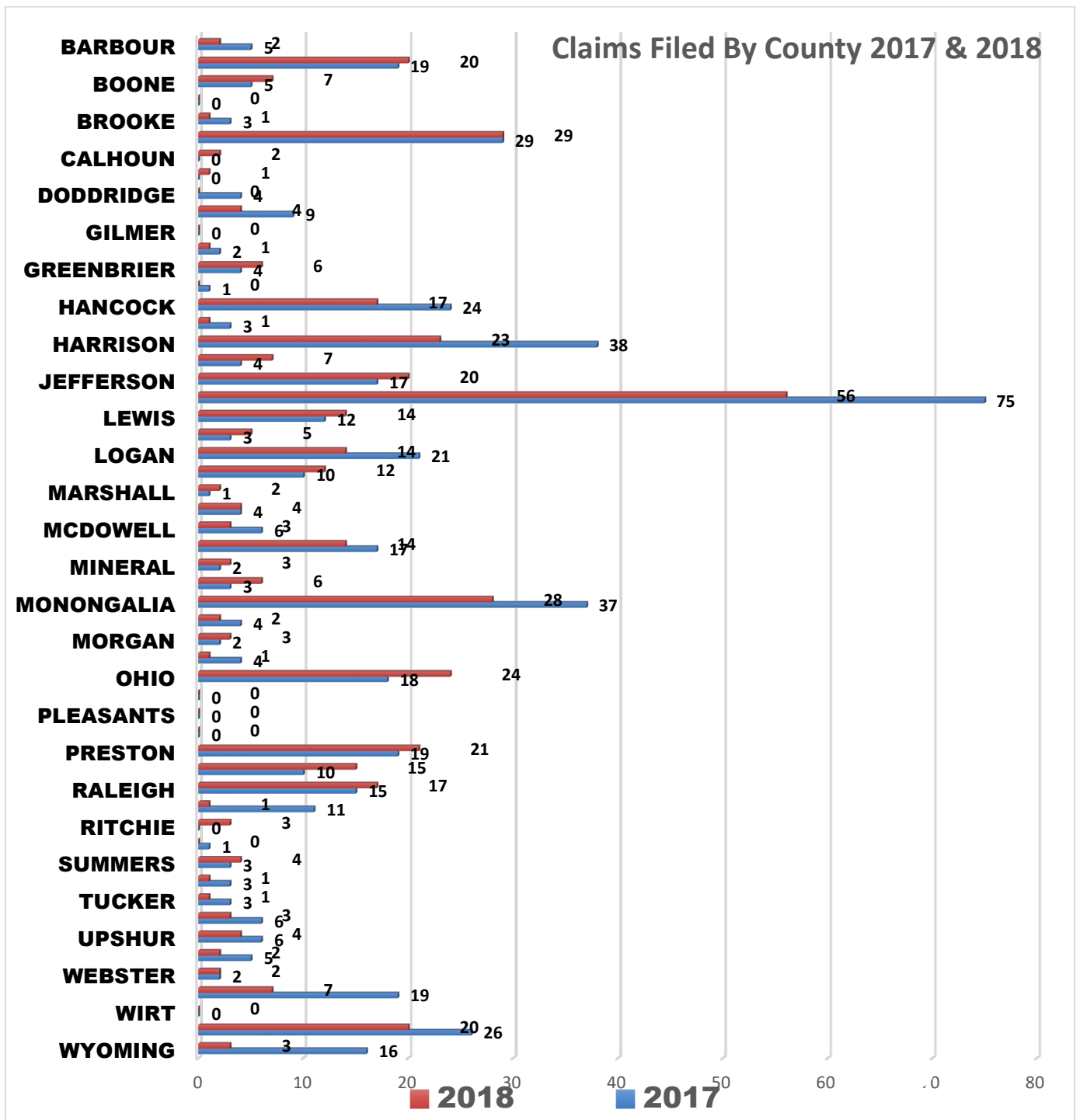
Crime Victims Compensation Fund

Percent of Total Awards by Type

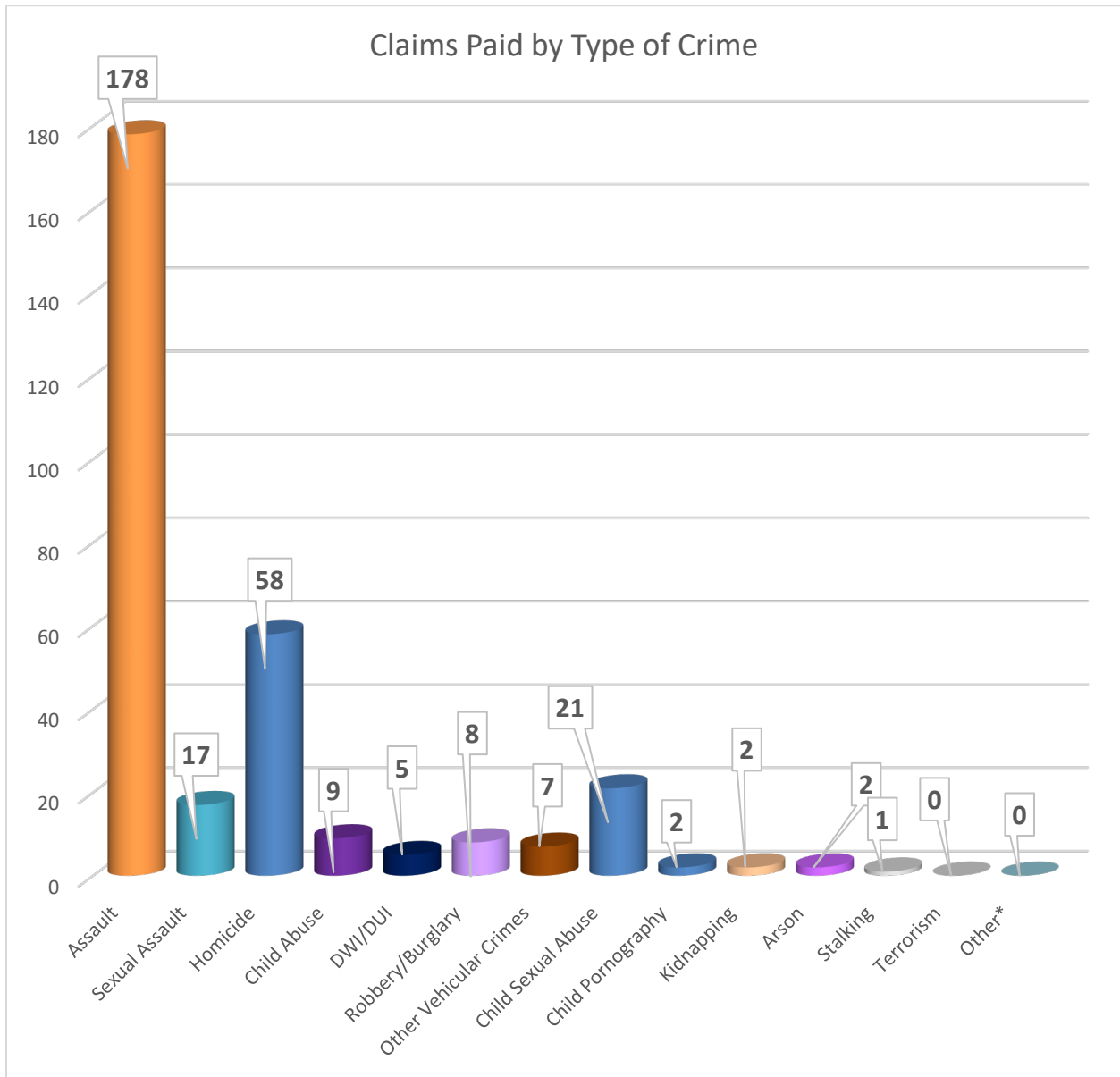


*Includes: Replacement Services Loss, Dependent's Economic Loss, and Lost Scholarships.

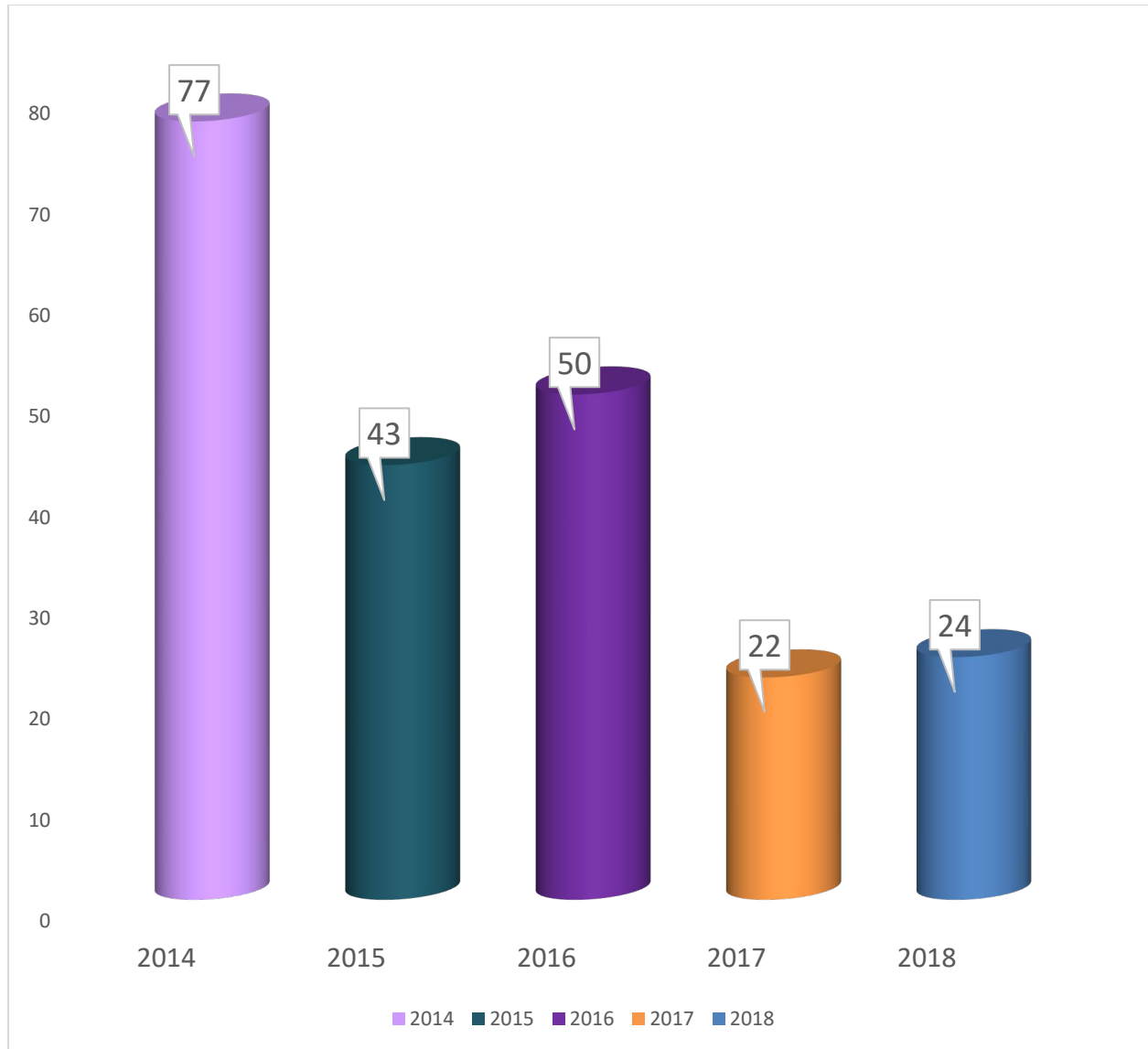
Crime Victims Compensation Fund



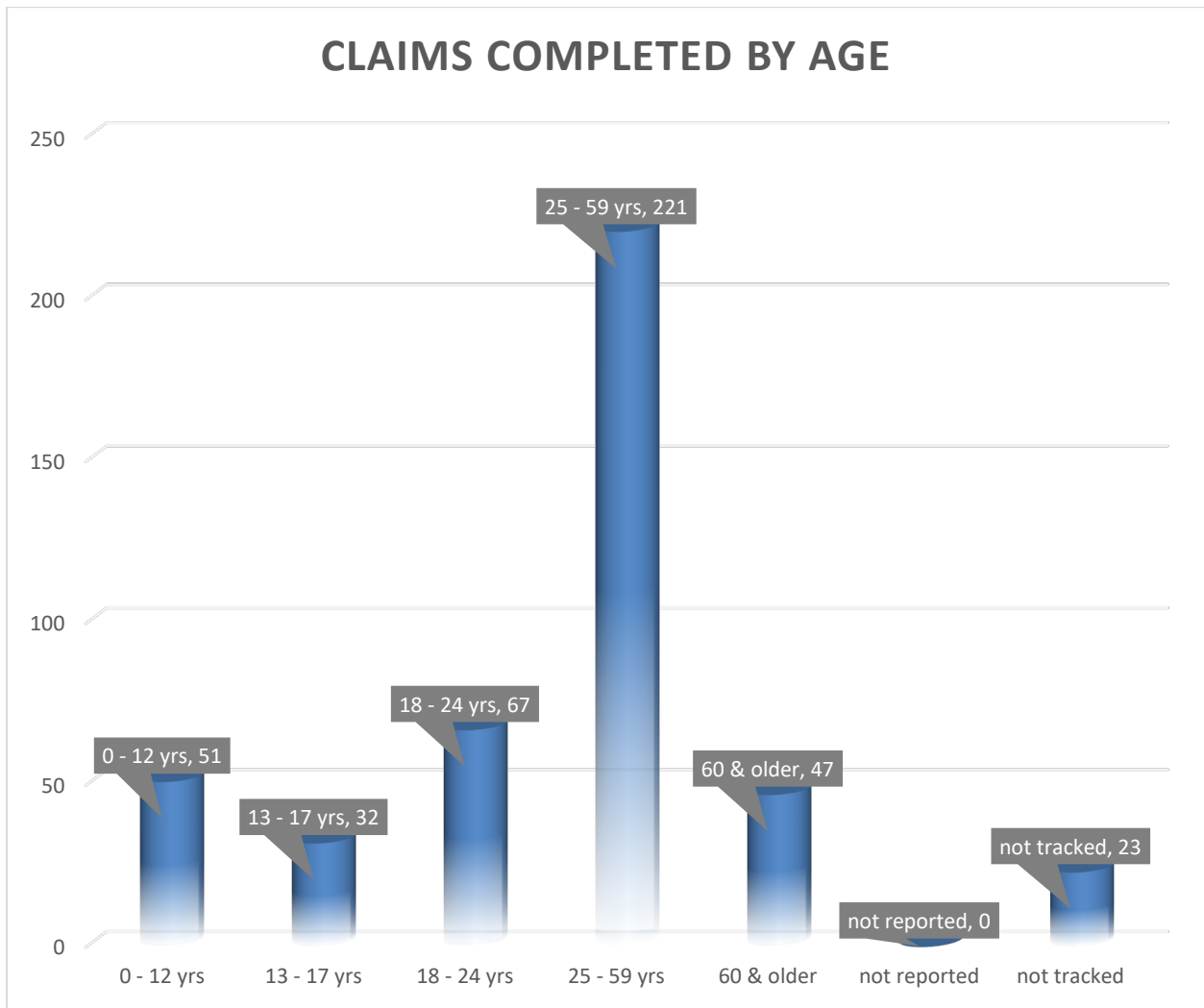
Crime Victims Compensation Fund



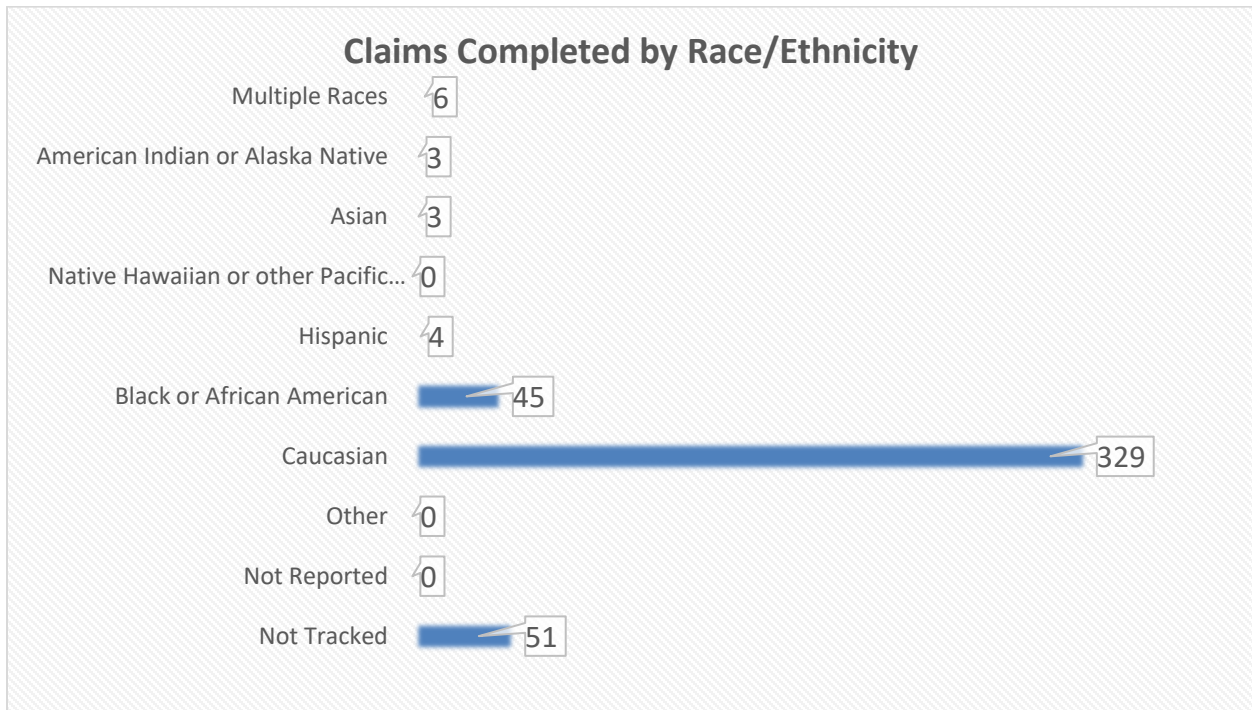
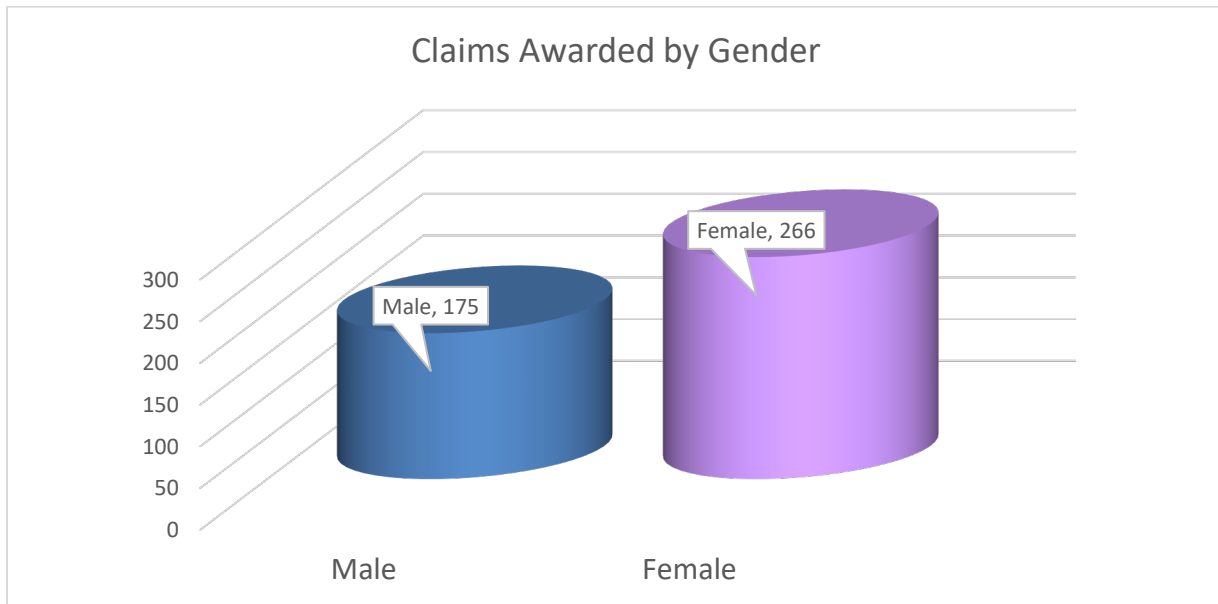
Crime Victims Compensation Fund Claims Involving Domestic Violence



Crime Victims Compensation Fund



Crime Victims Compensation Fund



“Not Tracked” refers to older claim forms that were submitted.

Crime Victims Compensation Fund

Denied Claims

October 1, 2017 - September 30, 2018

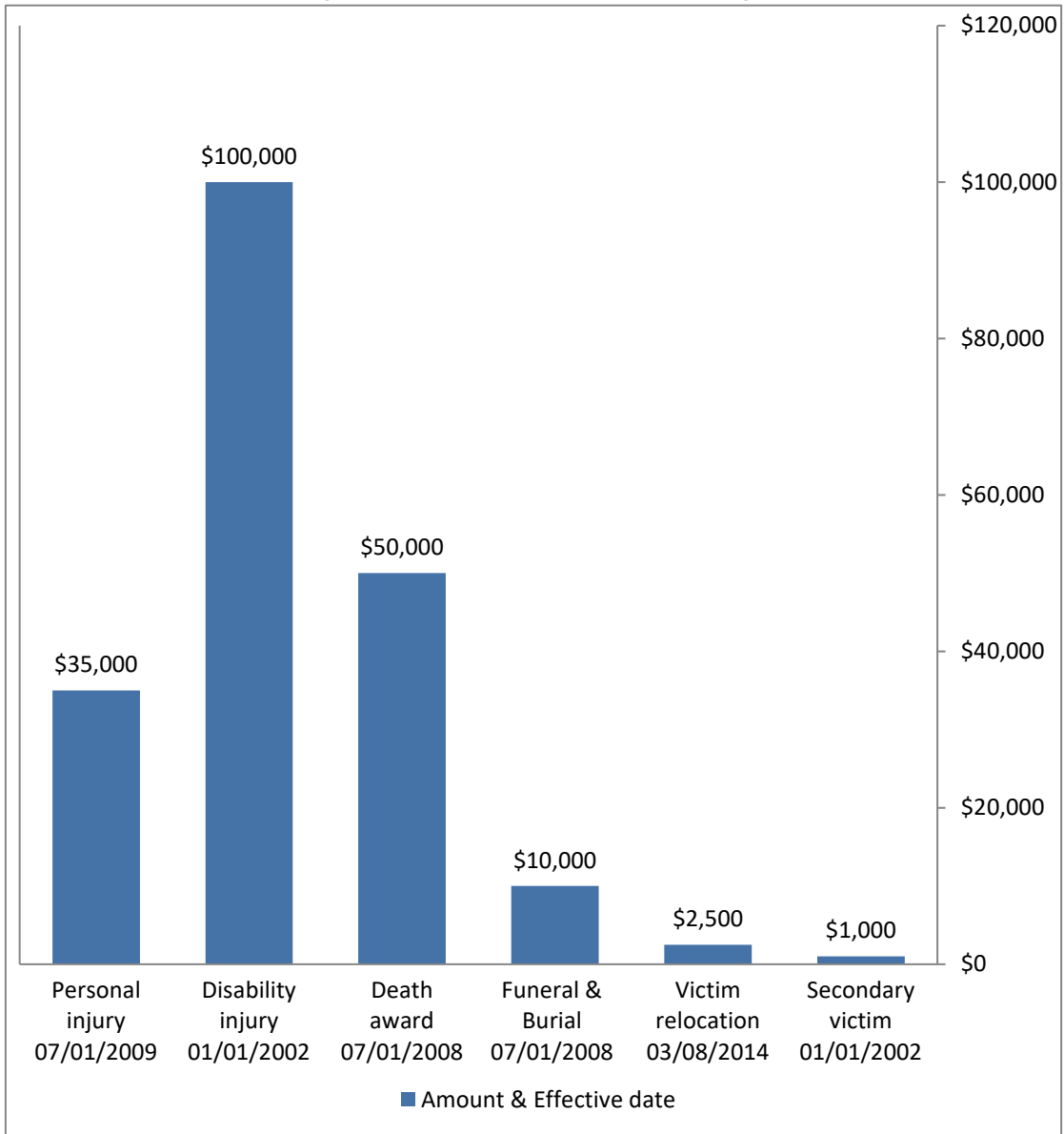
The Commission denied 287 claims for various reasons which include:

No Economic Loss*	188
Incomplete Information	3
Contributory Misconduct	44
Failed to Cooperate	23
No Criminal Conduct	8
Not Filed Within 2 Years	7
Undetermined Conduct	5
Crime Outside WV	1
Not Reported Timely	1
Unjustly Benefits Offender	1
Duplicate Claim	4
Crime Within Penal Institution	1
Claim Withdrawn	1
Non Citizen	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 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.