

# 2020 Annual Report

## Crime Victims Compensation Fund



Legislative Claims Commission  
Janet N. Kawash, Clerk



**West Virginia  
CRIME VICTIMS  
COMPENSATION FUND**

Presiding Commissioner  
**J. David Cecil**  
Commissioners  
**J. Rudy Martin**  
**Andrew B. Cooke**

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**Janet N. Kawash**  
Clerk

**Becky A. Ofiesh**  
Chief Deputy Clerk

March 25, 2020

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 cover the activities of the Fund for the federal fiscal year 2020.

Very truly yours,

A handwritten signature in blue ink that reads "Janet N. Kawash".

Janet N. Kawash  
Clerk



**2020**

**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 Andrew B. Cooke

Janet N. Kawash, Clerk  
Becky A. O'fiesh, Chief Deputy Clerk

Prepared by Leslie R. Roberts, Business Manager



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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 Commission<sup>1</sup>.

### 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

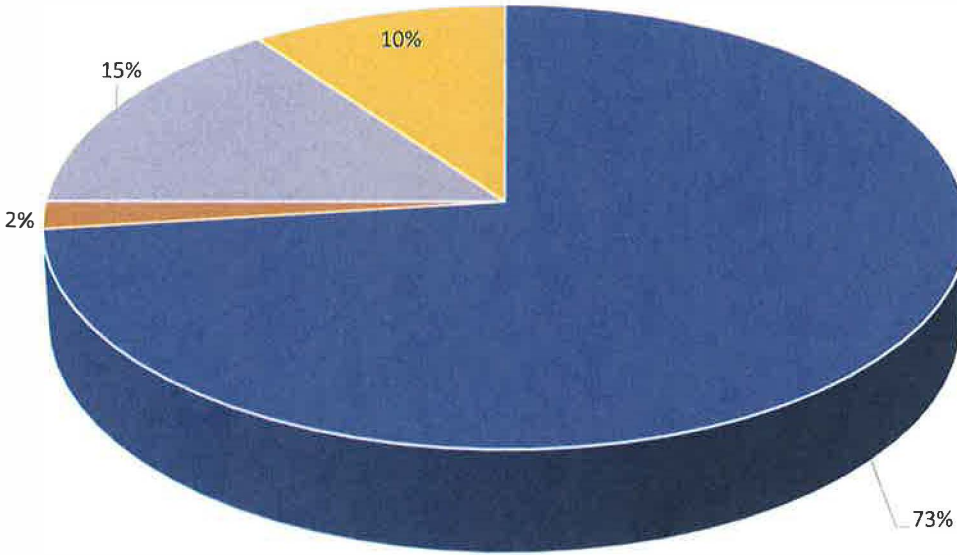
#### Compensable expenses:

- 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)

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<sup>1</sup> 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.

Administrative Funds  
October 1, 2019 - September 30, 2020

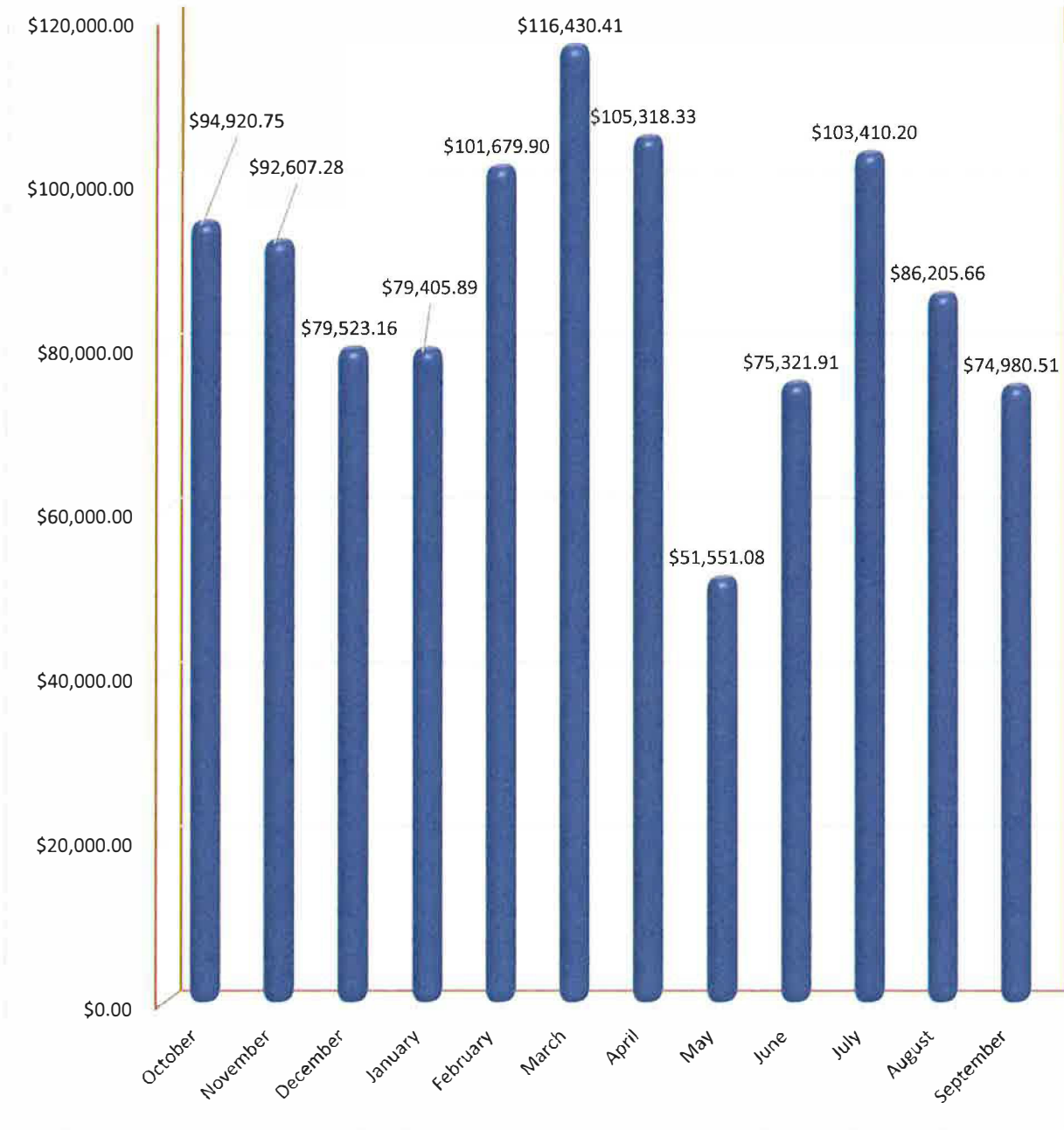


■ Personnel & Benefits ■ Attorney Fees ■ Administrative Costs ■ Compensation of Commissioners



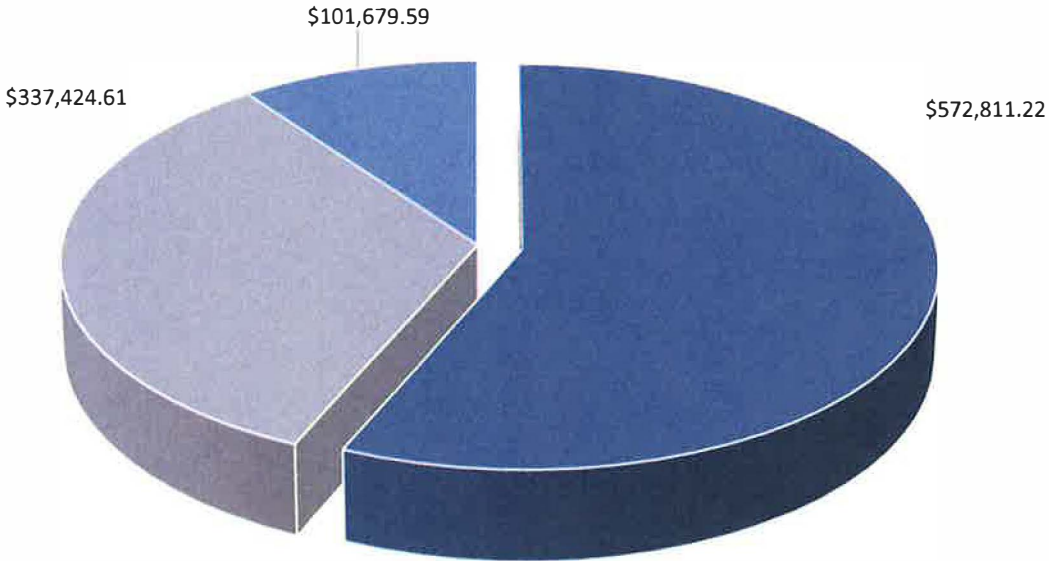
## Federal Fiscal Year 2020 (October – September)

### Court Fees Collected



❖ State funds – fines and court costs (circuit and magistrate courts, \$10; municipal courts, \$8; felony convictions, \$50; 20% of DUI fines) W.Va. Code §14-2A-4, §62-5-10

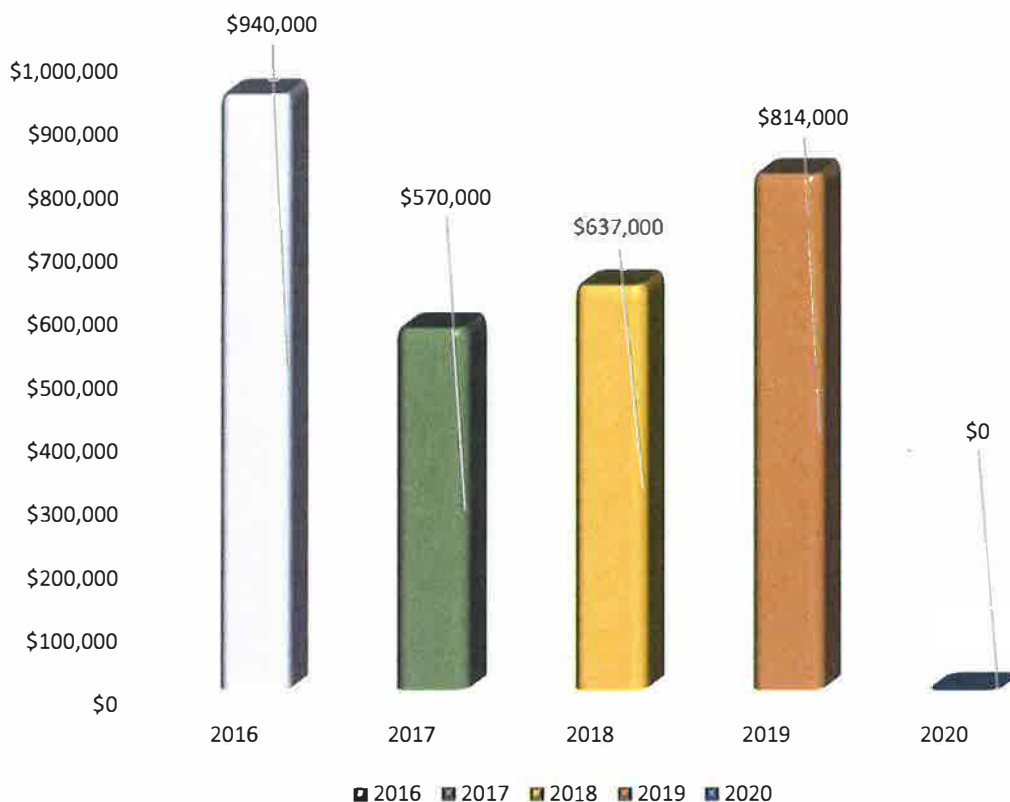
Court Fee Sources FFY 2020



■ Magistrate Court   ■ Municipal Court   ■ Circuit Court



## FEDERAL GRANTS RECEIVED



- The 2020 grant year was awarded based on the 2018 grant year. Due to a large grant award in the 2016 grant year that was required to be expended by the 2018 grant year and high levels of restitution and subrogation only in the 2018 grant year, the Crime Victims Compensation did not qualify for an award in 2020.

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

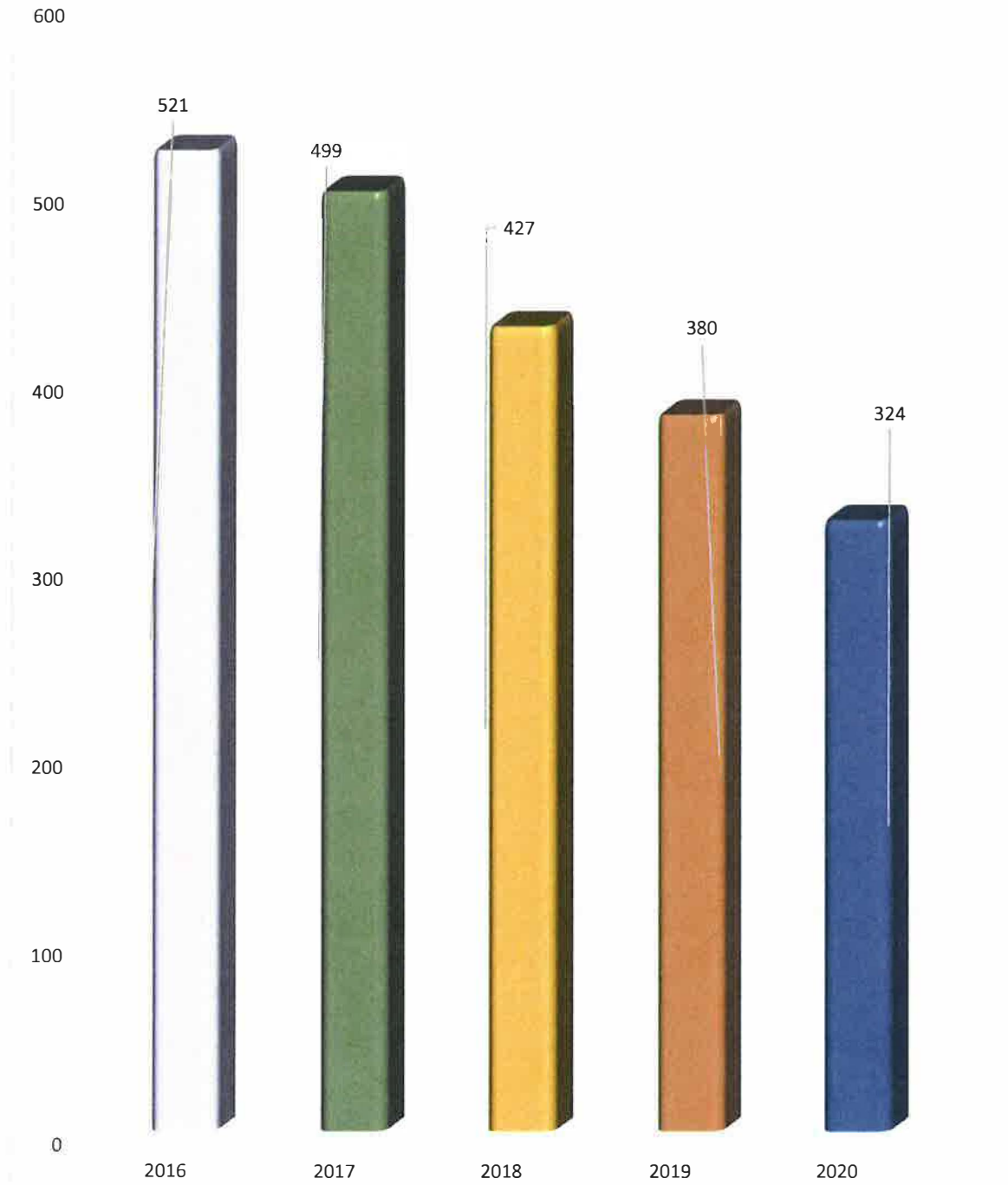
The U.S. Department of Justice, Office of Justice Programs, allocates these funds to state compensation programs based on a formula of 60% of the previous fiscal year's awarded claims.

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.

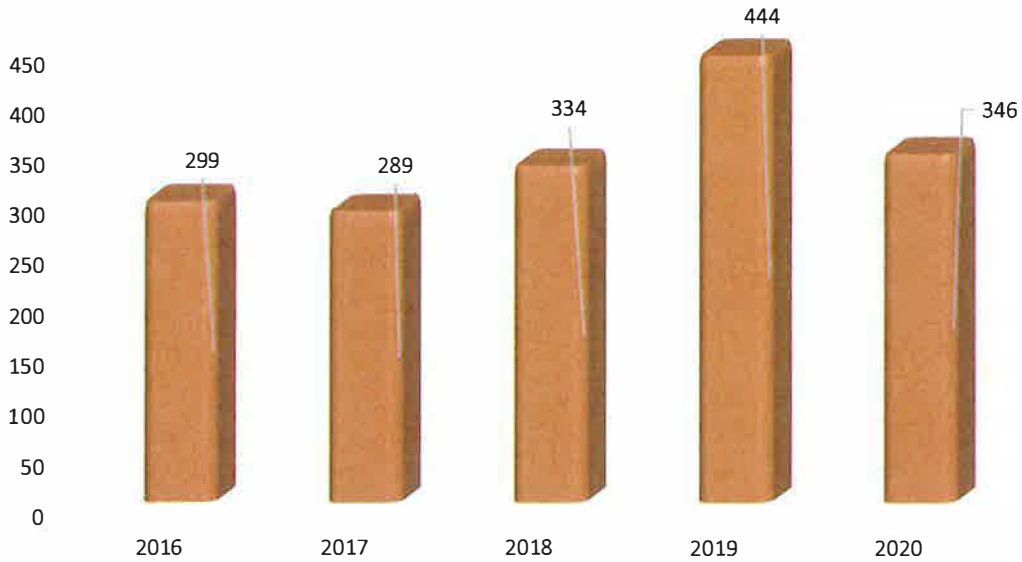
West Virginia has received a total of \$24,650,230 in federal funds for its compensation program since 1986 (the first grant year).



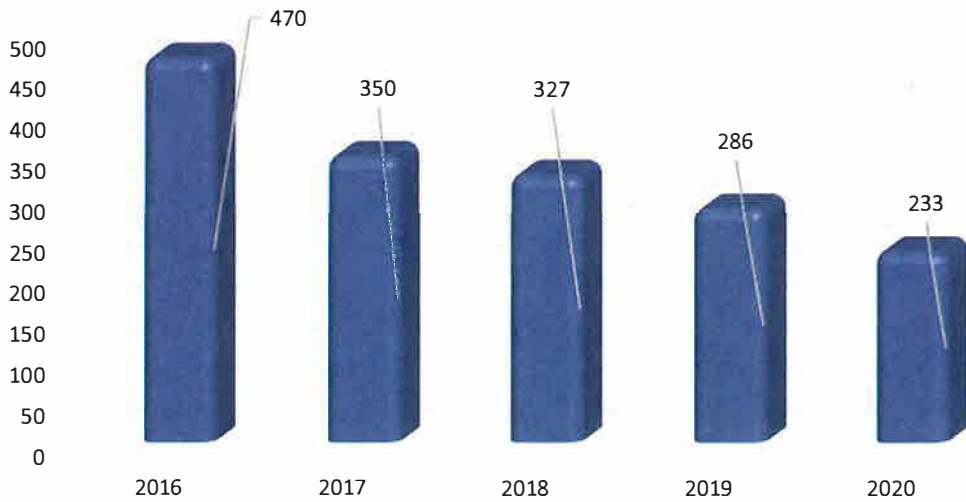
## Claims Filed



### Orders Issued by the Commission FFY 2020- INITIAL

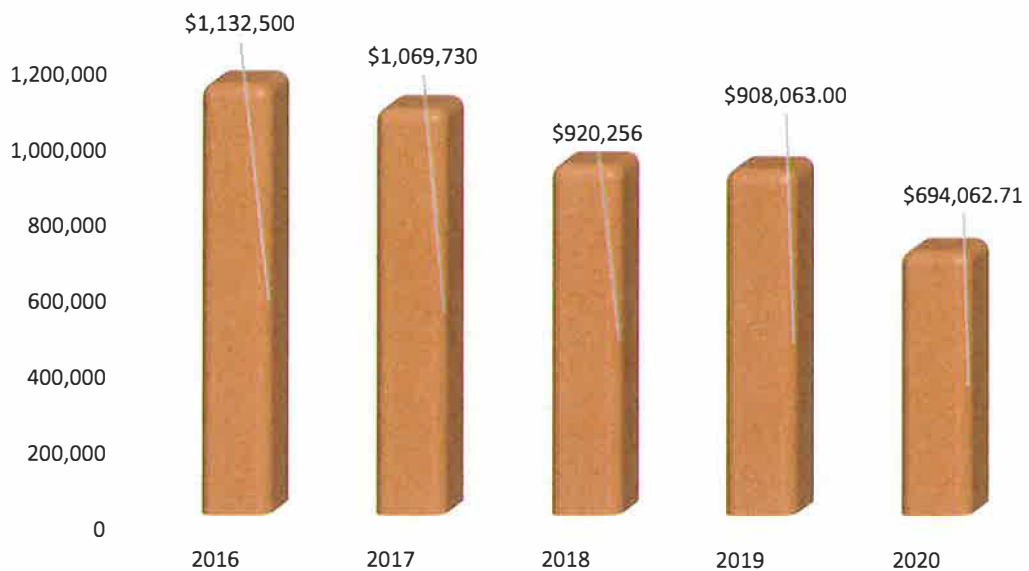


### Orders Issued by the Commission FFY 2020 - SUPPLEMENTALS





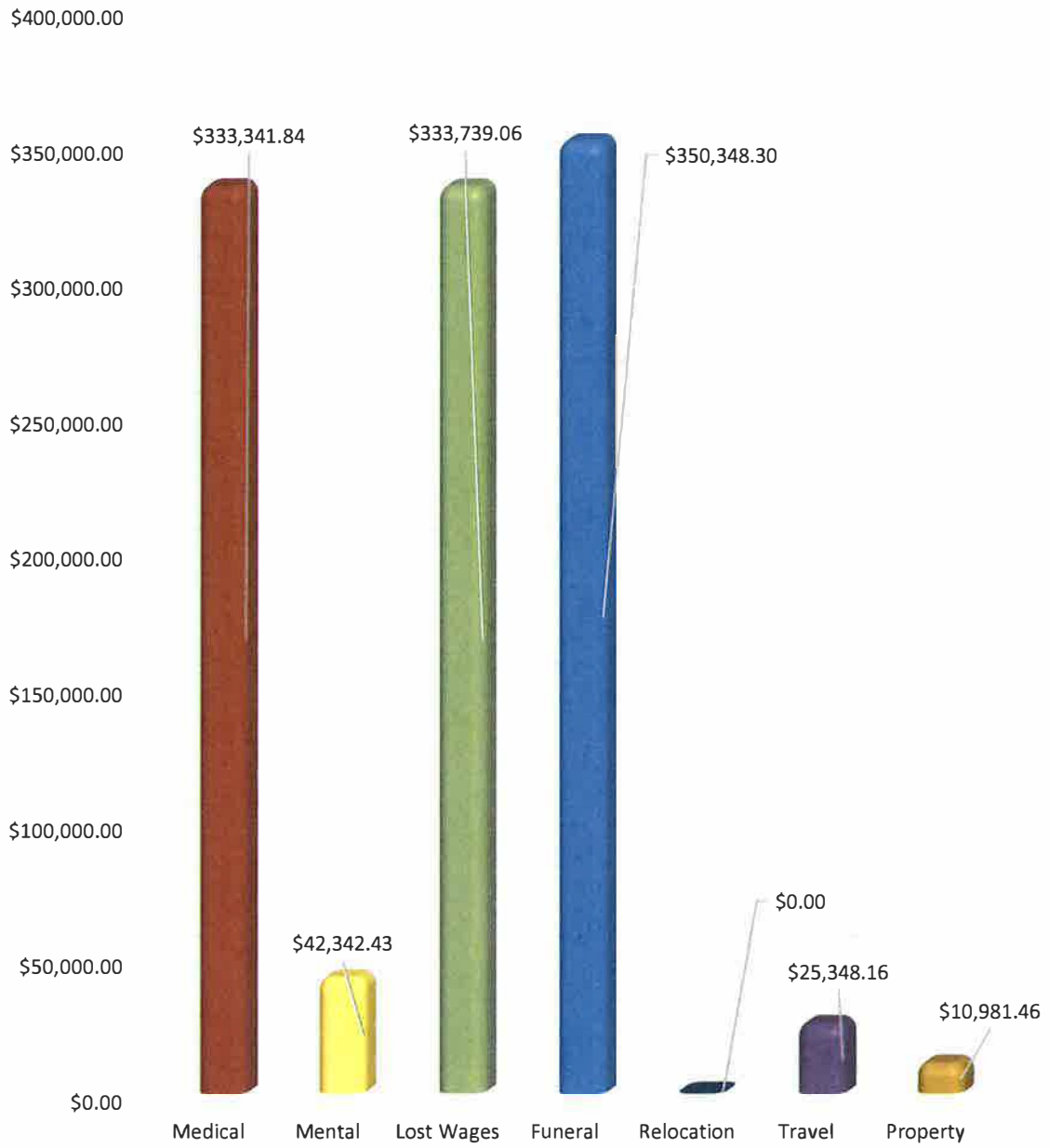
### Initial Award Amounts FFY 2020



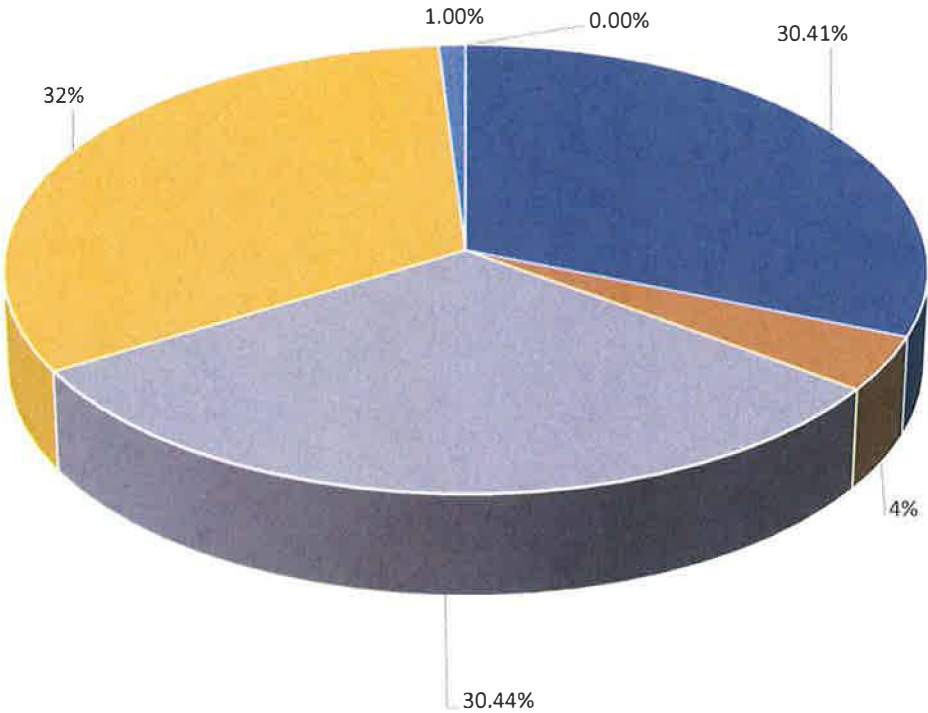
### Supplemental Awards FFY 2020



## Total Awards by Type FFY 2020

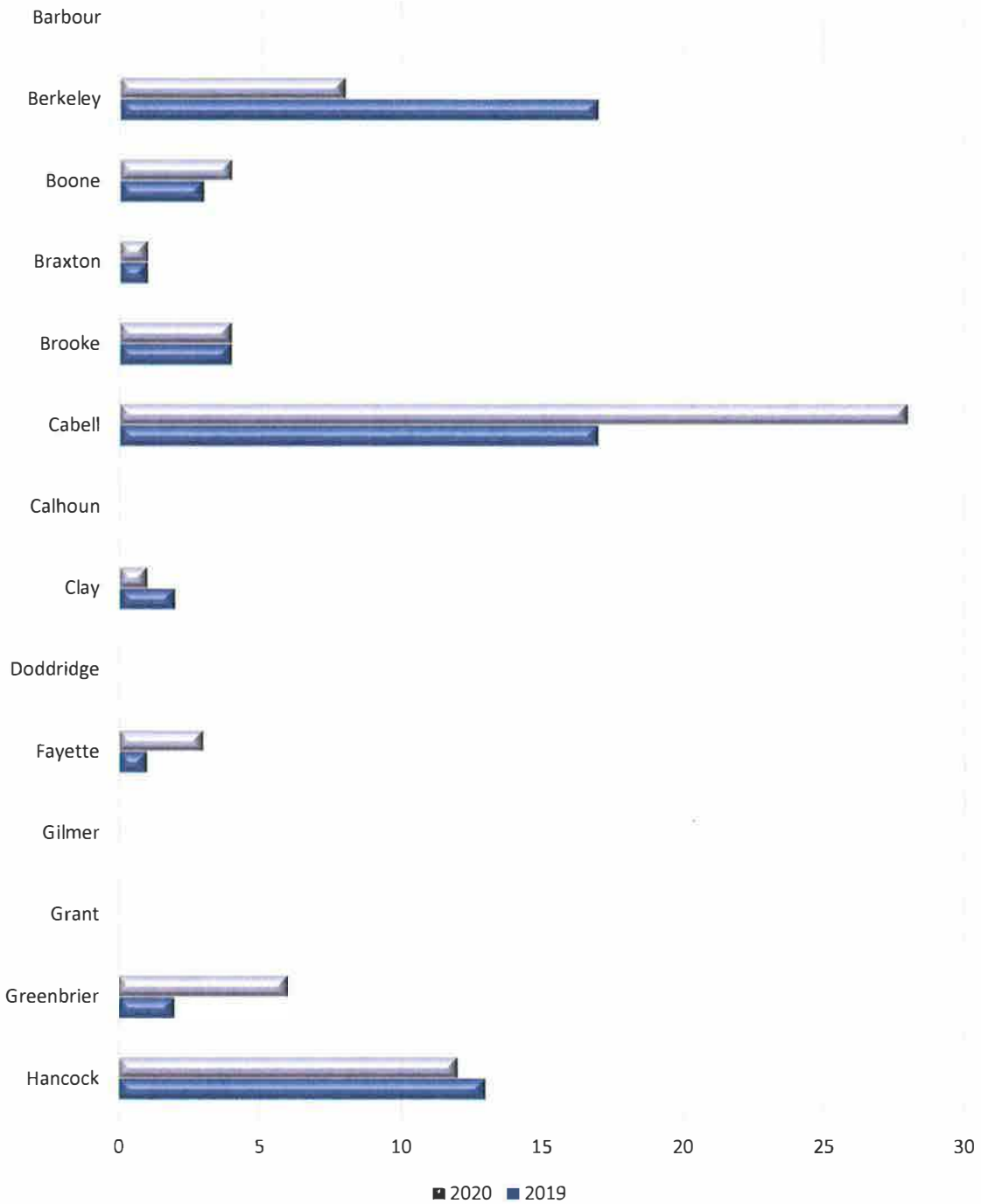


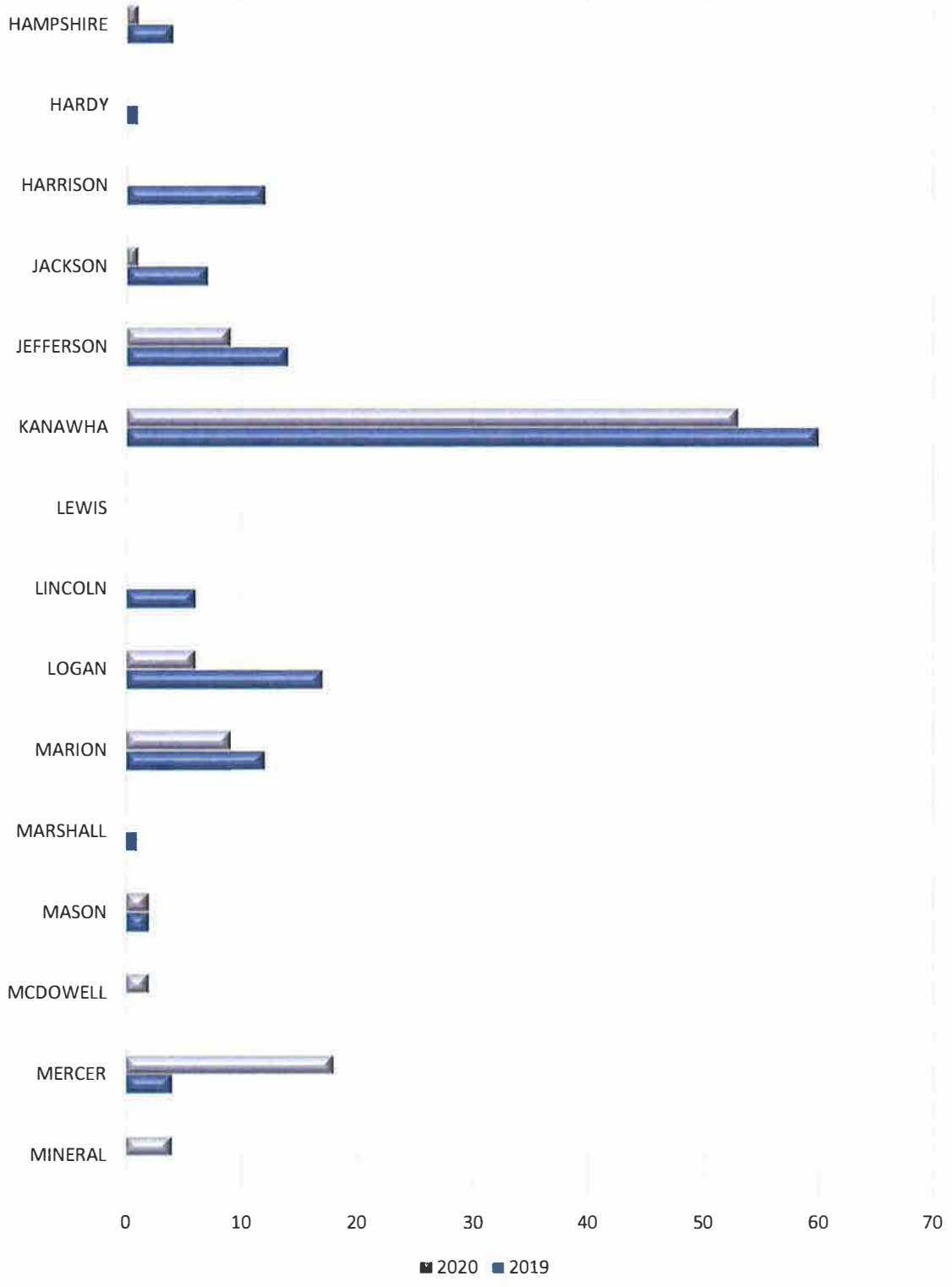
### Percent of Total Awards FFY 2020



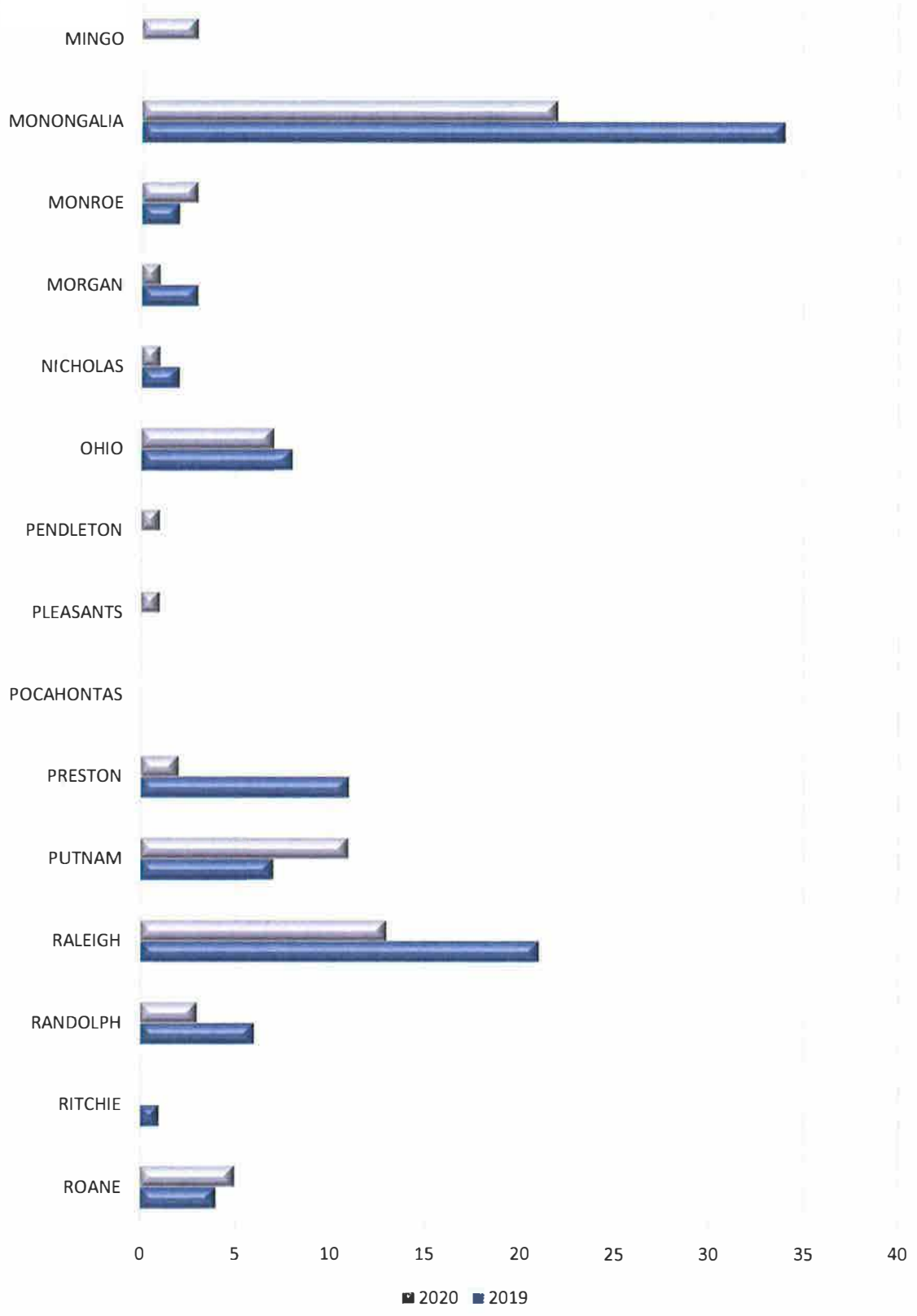
■ Medical ■ Mental Health ✧ Lost Wages ■ Funeral ■ Property ✧ Relocation ■ Travel

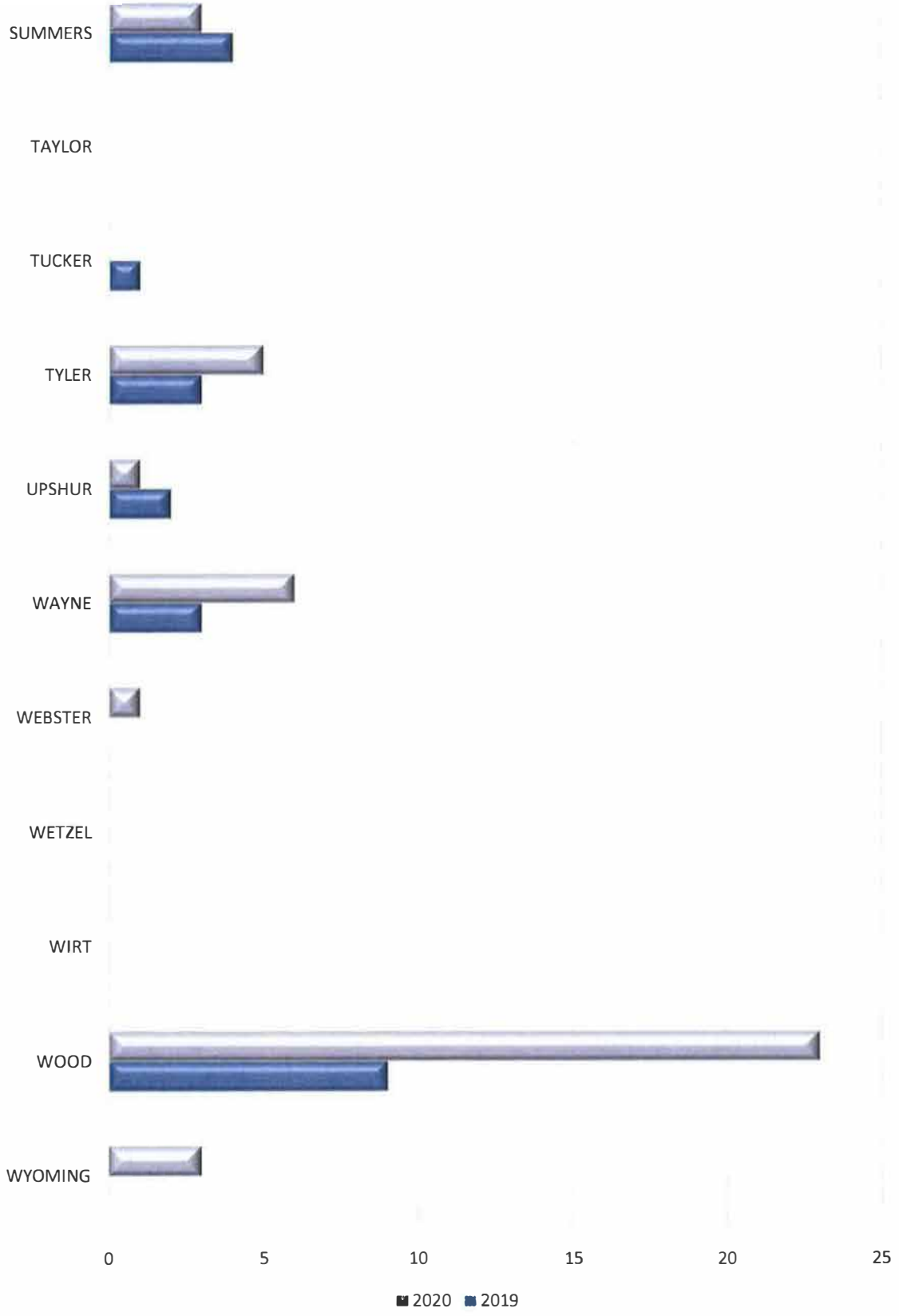
## Claims Filed By County 2019 & 2020



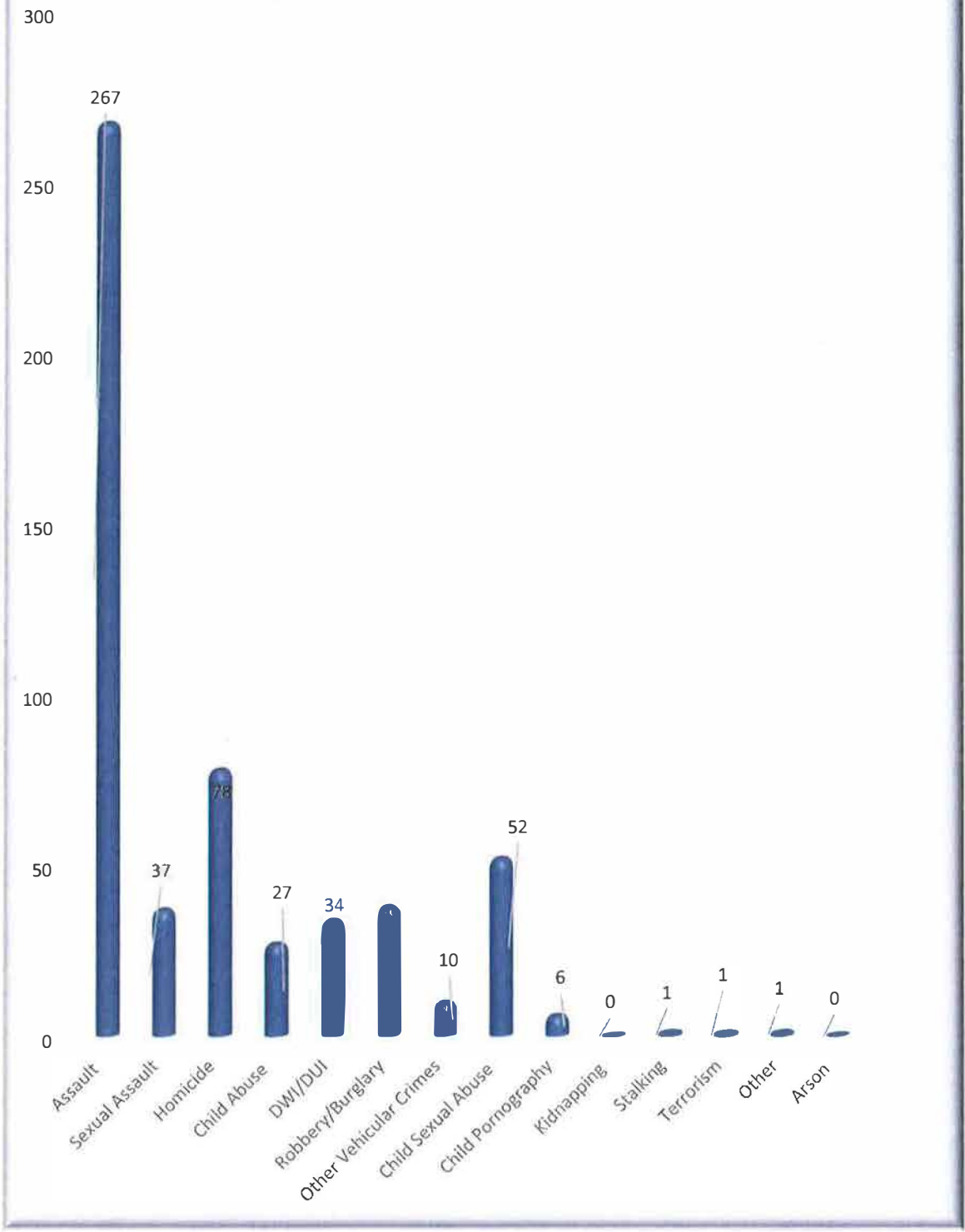






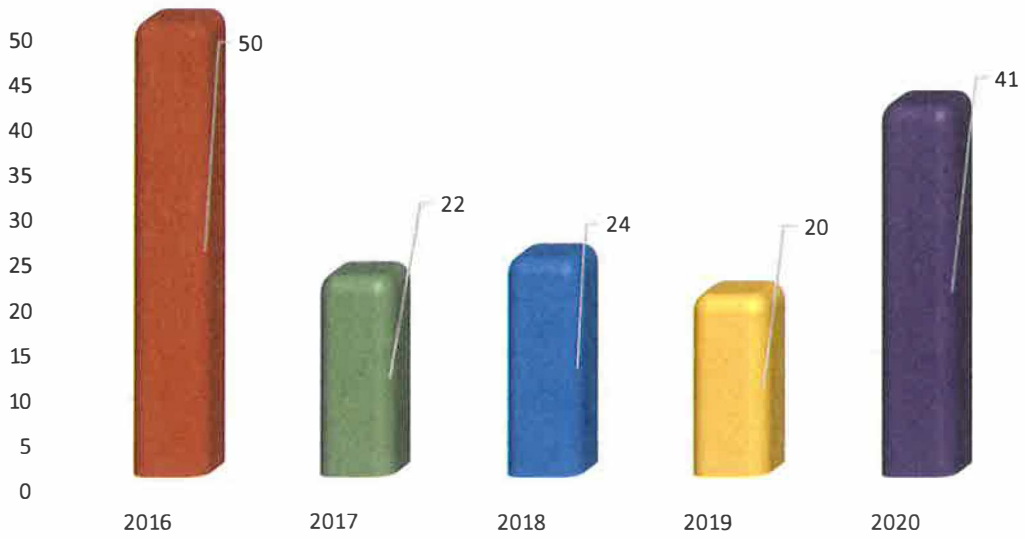


### Claims Paid by Type of Crime

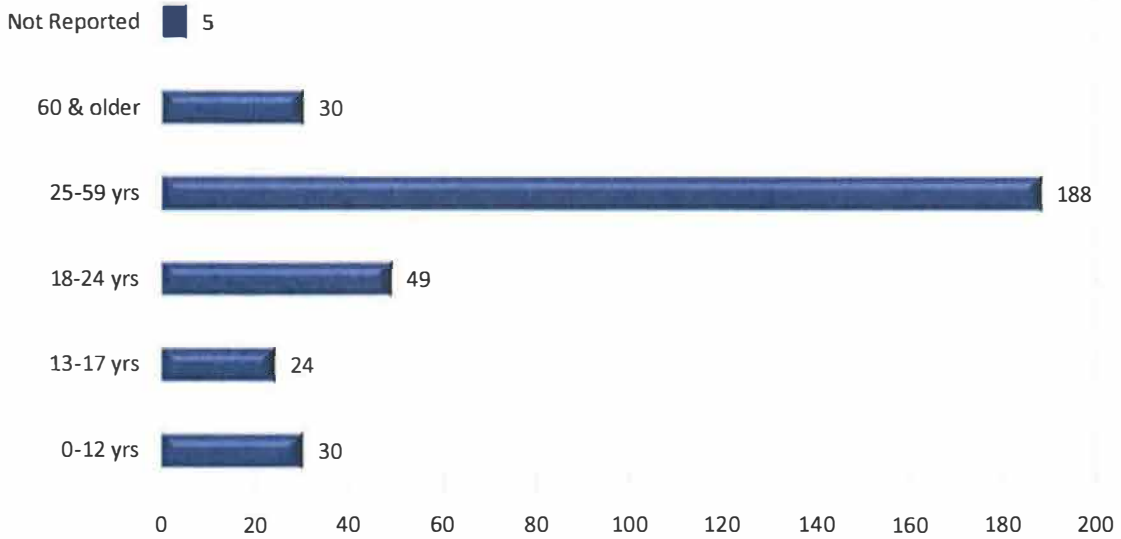




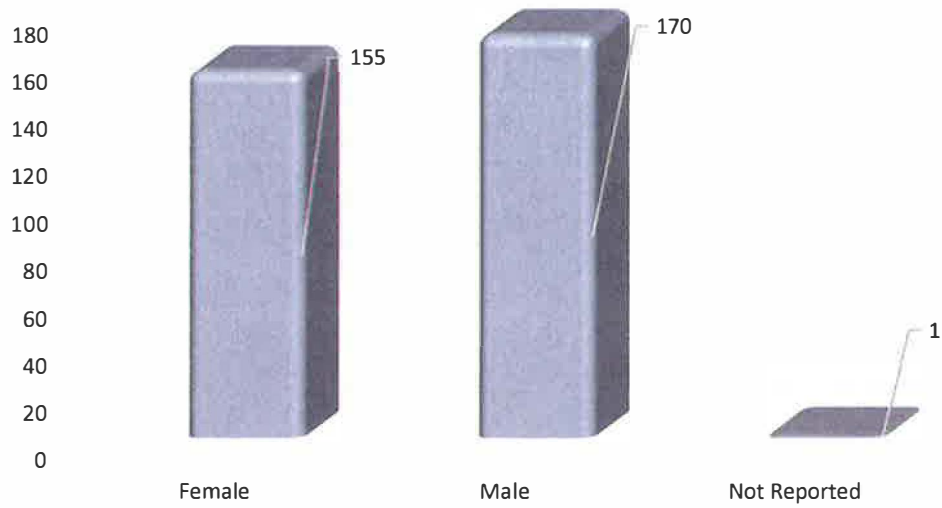
### Claims Involving Domestic Violence



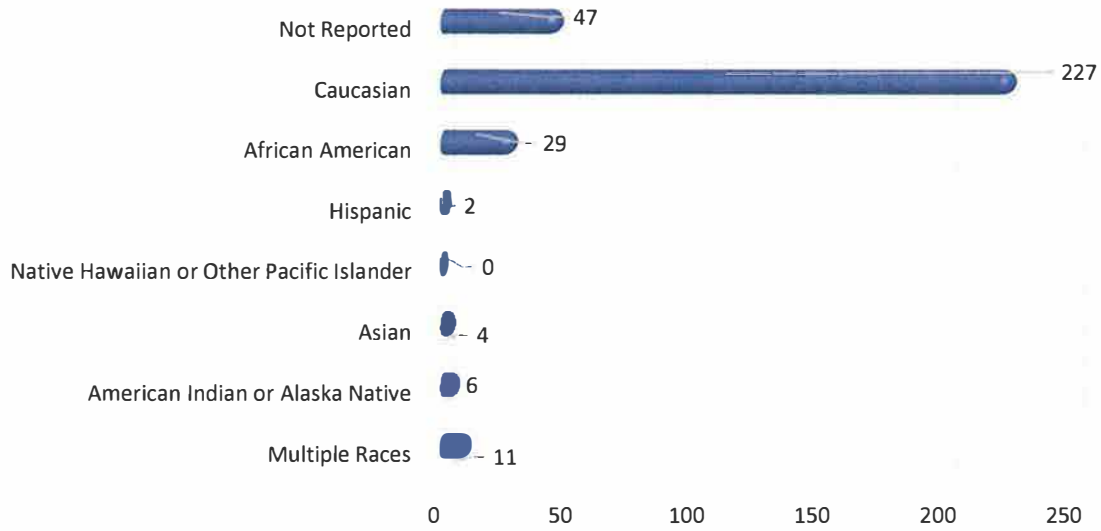
### Claims Completed by Age



### Claims Awarded by Gender



### Claims Completed by Race/Ethnicity



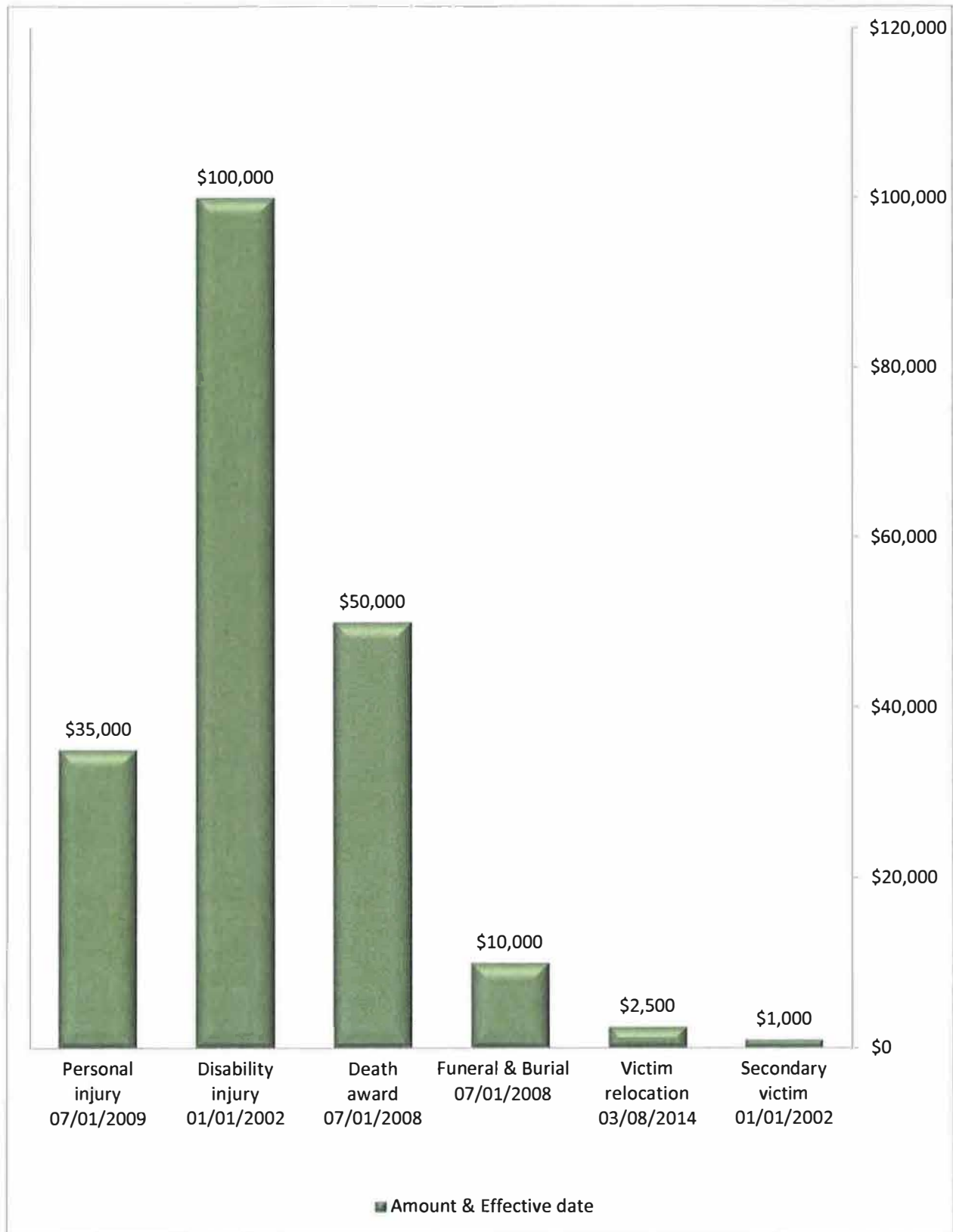
# Denied Claims

October 1, 2019 – September 30, 2020

The Commission denied 259 claims for various reasons which include:



## Summary of Maximum Benefits by Statute





**CRIME VICTIMS COMPENSATION FUND**  
A SYNOPSIS OF APPEALED CLAIMS

CV-16-0285 *In re:* T. B.

The Claimant was injured in an assault and battery which occurred in April, 2016. The Claimant filed an application for benefits with the Crime Victims Compensation Fund. The claim was determined to be compensable; she received benefits through March, 2019 in the amount of \$3,014.55, which were for the payment of the Claimant's unreimbursed counseling and mileage expenses. The Claimant submitted counseling bills for the amount of her insurance co-pays for sessions attended in the summer of 2019. The payment of these co-pays was originally denied by the Claims Commission because the documentation presented with the bills did not substantiate the Claimant's assertion that the therapy sessions were related to the assault which occurred approximately 3 ½ years prior to the treatment in question. Upon appeal, the denial of payment was upheld. The testimony, documentation, and other evidence, including the counselor's therapy session notes, were insufficient to establish that the counseling sessions were in fact related to the assault. Accordingly, the denial of the Claimant's request for payment was upheld.

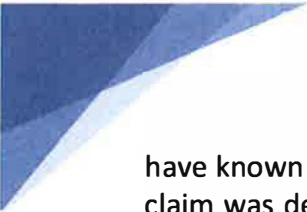
CV-17-0244-Z *In re:* S.W.

The Claimant filed an application seeking an award under the Crime Victim Compensation Act after the Claimant sustained injuries in an altercation with an acquaintance. Following an investigation, the local police department determined that the altercation was a result of mutual combat. The Claimant was also uncooperative with law enforcement. The claim was denied due to the Claimant's lack of cooperation with the local police department and the Claimant's actions satisfied the statutory definition of contributory misconduct. Upon appeal, the denial of benefits was upheld as the Claimant did not present any evidence, testimony, or documentation to independently corroborate his testimony that would support an award of benefits.

CV-17-0437-Y *In re:* D.G.

The Claimant filed an application seeking benefits under the Crime Victims Compensation Act on behalf of his adult son who died as a result of an automobile accident. The investigation revealed that the Claimant's son was a passenger in a vehicle driven by an intoxicated driver. The driver was indicted by a grand jury on charges of DUI causing death. The autopsy examination of the Claimant's son determined that the decedent died as a result of multiple injuries sustained as an unrestrained passenger who was ejected from the vehicle. The Claimant's son also had components of methamphetamine in his system. The investigation of the Claimant's application determined that the Claimant's son and the other passengers had been socializing with the driver for some time prior to starting the fateful ride on the highway. The Claimant's son knew or should





have known that the driver's condition was impaired prior to entering the vehicle. As such, the claim was denied because the decedent's conduct met the statutory definition of contributory misconduct set forth in West Virginia Code §14-2A-3(1). Additionally, the investigation conducted by the West Virginia Crime Victims Compensation Fund determine that the Claimant's decedent was not the victim of "criminally injurious conduct as required by West Virginia Code §14-2A-3(c). Upon appeal, the denial of benefits was upheld as the Claimant did not provide any testimony, documentation, or other evidence to support a finding that the Claimant's decedent was a victim of criminally injurious conduct as required by the statute.

CV-19-0190-Z *In re:* C. T.

The Claimant filed an application seeking an award under the Crime Victim Compensation Act on behalf of her adult son. The Claimant returned to her home to find her son unresponsive; he died at a local hospital shortly thereafter. An investigation was conducted by the West Virginia State Police; an autopsy was conducted by the West Virginia State Medical Examiner's Office. These investigations revealed that the Claimant's son died as a result of an accidental drug overdose. The decedent's companion was present at the time of his overdose and she was ultimately charged with failure to render aid to the decedent. Following an investigation by the West Virginia Crime Victims Compensation Fund, the Claimant's application for benefits was denied. The Fund determined that the decedent's conduct met the statutory definition of "contributory misconduct" as defined by West Virginia Code §14-2A-3(l) and that he was not the victim of "criminally injurious conduct" as required by West Virginia Code §14-2A-3(c). Upon appeal, the denial was upheld as there was no evidence presented to overturn these original findings.

CV-20-0066 *In re:* E. B.

The Claimant filed an application seeking an award under the Crime Victim Compensation Act. The Claimant was involved in an altercation outside of a bar when he, while intoxicated, confronted another patron, and sustained injuries when the other patron struck him in the face. The incident was investigated by the local police department but no charges were ever filed against the purported assailant. The West Virginia Crime Victims Compensation Fund also conducted an investigation and determined that the Claimant's conduct in confronting the patron constituted "contributory misconduct" under West Virginia Code §14-2A-3(l). Additionally, the Claimant was not the victim of "criminally injurious conduct" as required by West Virginia Code §14-A-3(c). At the hearing, the Claimant testified that he had been drinking throughout the evening and he voluntarily confronted the patron who later struck him. Additionally, he testified that it was his belief that if he had not confronted the other patron, he would not have been hit by that patron. The Claims Commission upheld the denial of benefit to the Claimant as the Claimant did not meet the statutory requirement of a victim and that the Claimant was responsible for bringing about his own injuries.