

WEST VIRGINIA

# Crime Victims Compensation Fund

*2007 Annual Report*

Court of Claims  
Cheryle M. Hall, Clerk

2007

Annual Report

of the

West Virginia Court of Claims

for the

Crime Victims Compensation Fund

*Presiding Judge*

The Honorable Franklin L. Gritt, Jr.

*Judges*

The Honorable George F. Fordham

The Honorable Robert B. Sayre

Cheryle M. Hall, Clerk

Becky A. Ofiesh, Chief Deputy Clerk



*West Virginia Court of Claims*  
**Crime Victims Compensation Fund**

*Presiding Judge*  
Franklin L. Gritt, Jr.  
*Judges*  
George F. Fordham  
Robert B. Sayre

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

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 2006.

Respectfully,

Cheryle M. Hall,  
Clerk

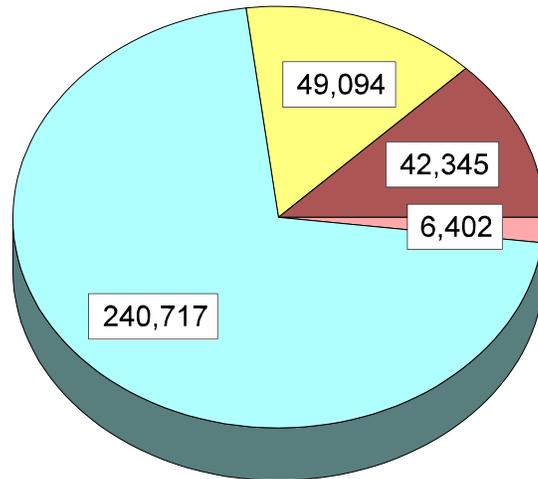
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# Administrative Costs

October 1 - September 30  
FFY 2006

## Administrative Funds \$338,558

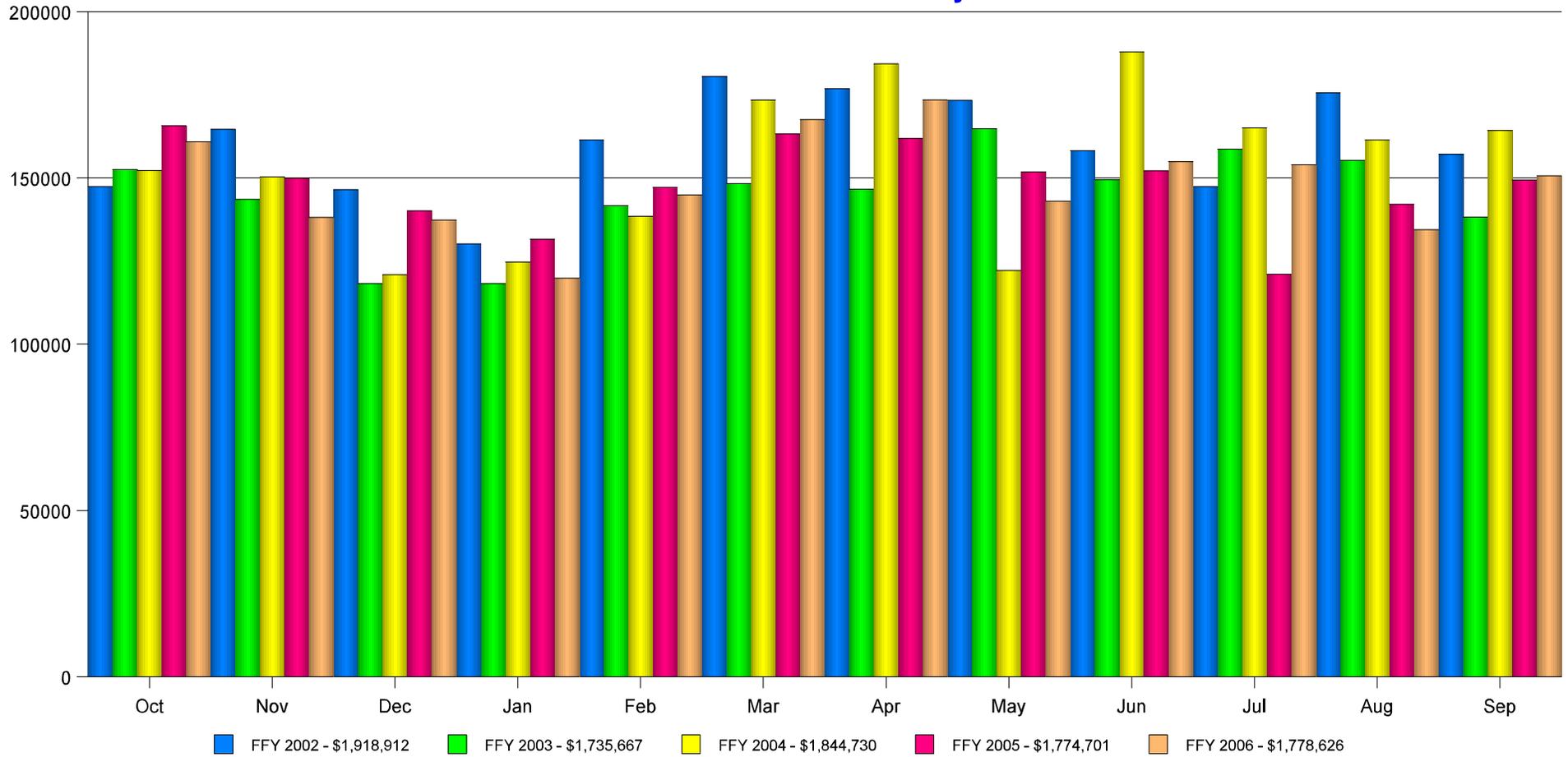


- Compensation of Judges
- Administrative Costs
- Personnel and Benefits
- Attorney Fees

# Crime Victims Compensation Fund

October 1 - September 30

## State Funds Collected by Month

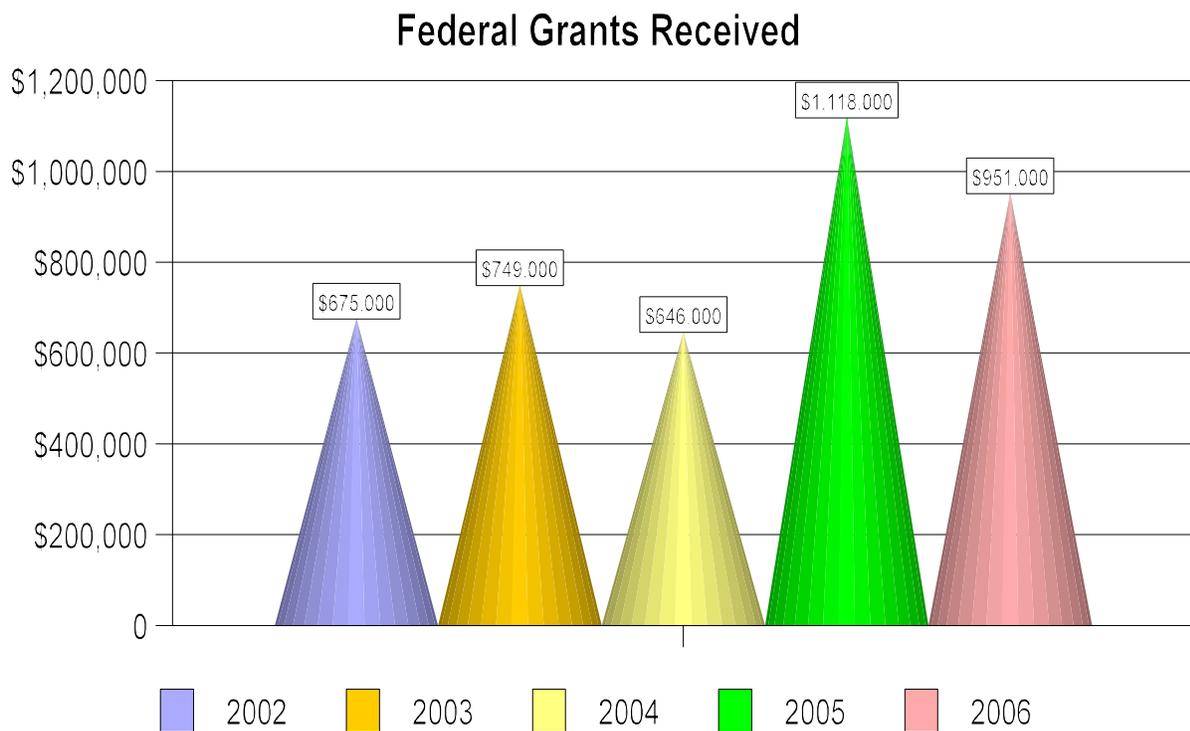


# Federal Grants

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 expenses.

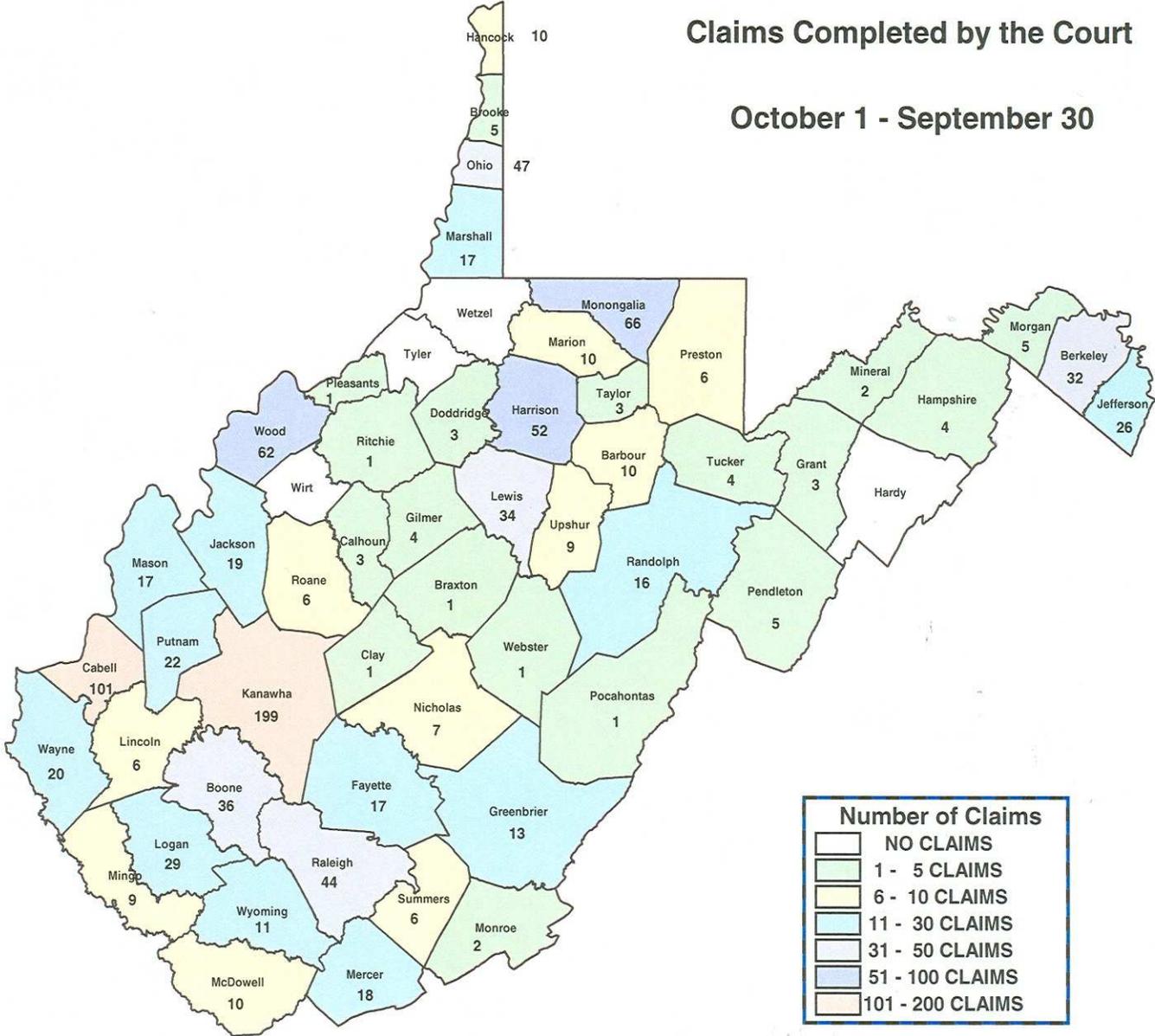


West Virginia has received a total of \$9,278,000 in federal funds for its compensation program since 1986 (the first grant year).

2007 grant: \$1,157,000

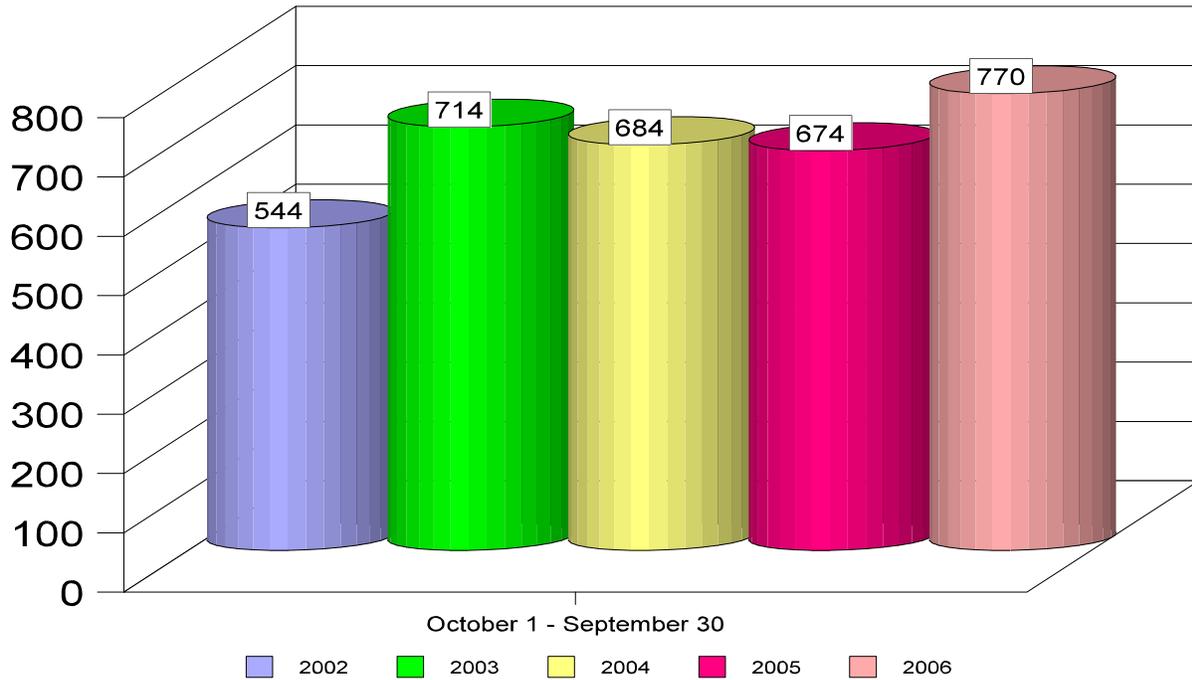
# Claims Completed by the Court

October 1 - September 30

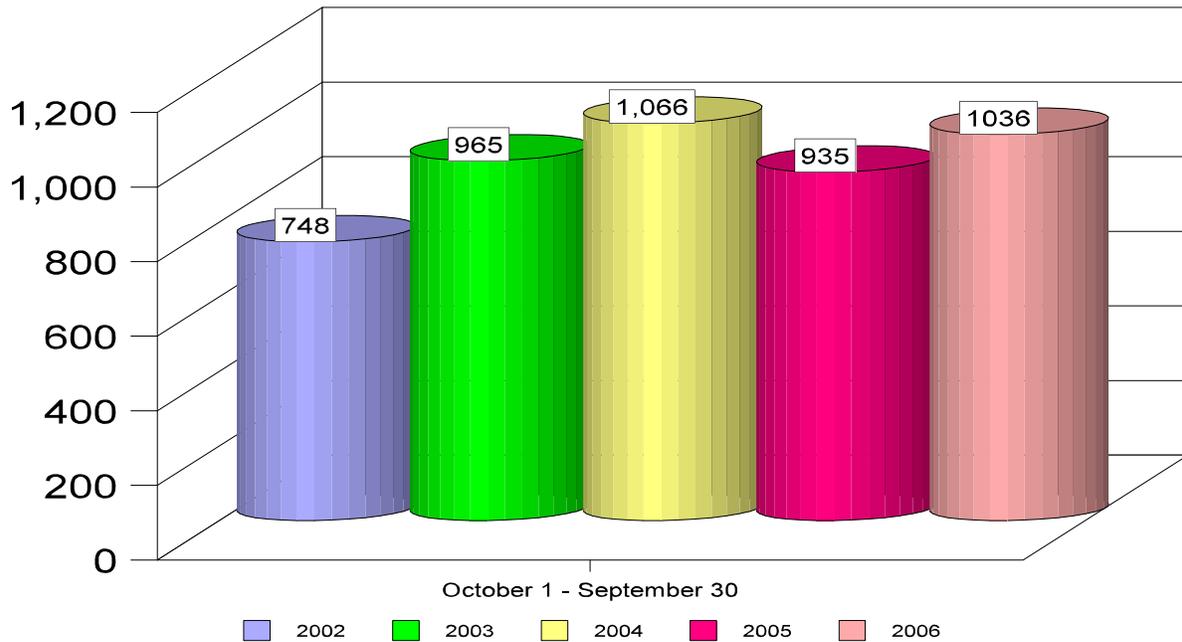


# Crime Victims Compensation Fund

## Claims Filed Per Year



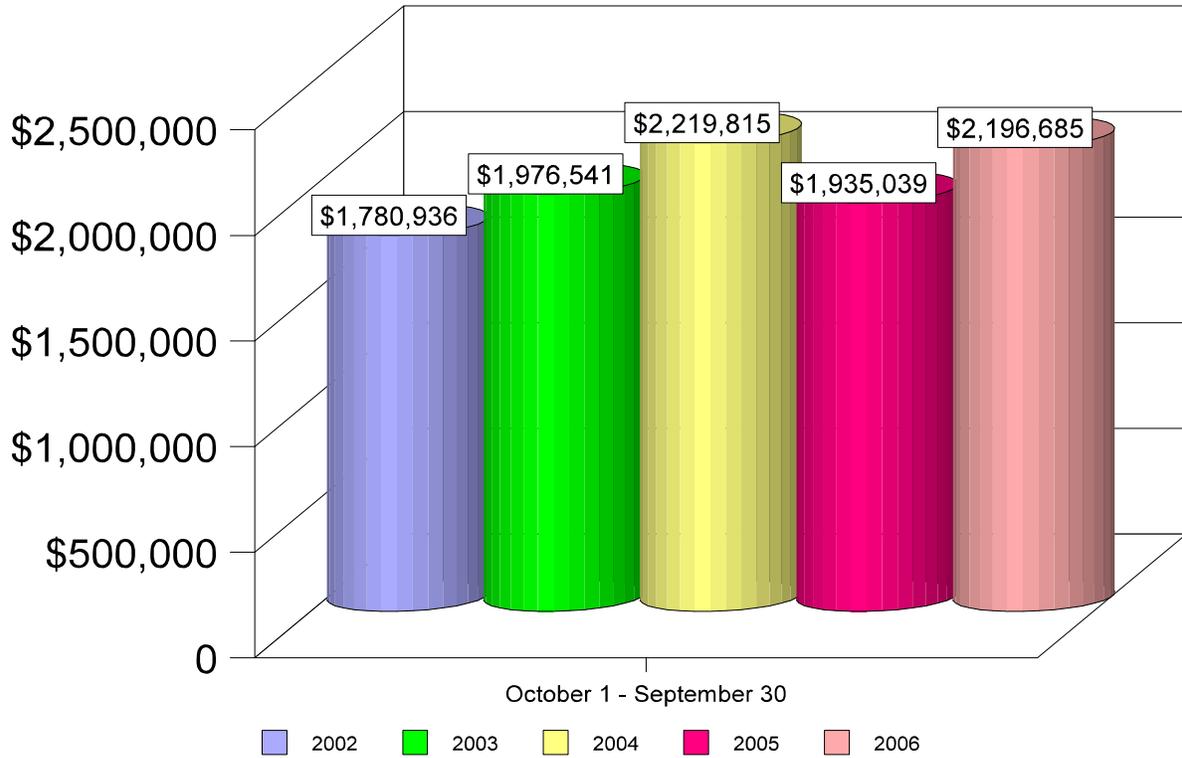
## Orders Issued by the Court Per Year \*



\* Includes supplemental awards.

# Crime Victims Compensation Fund

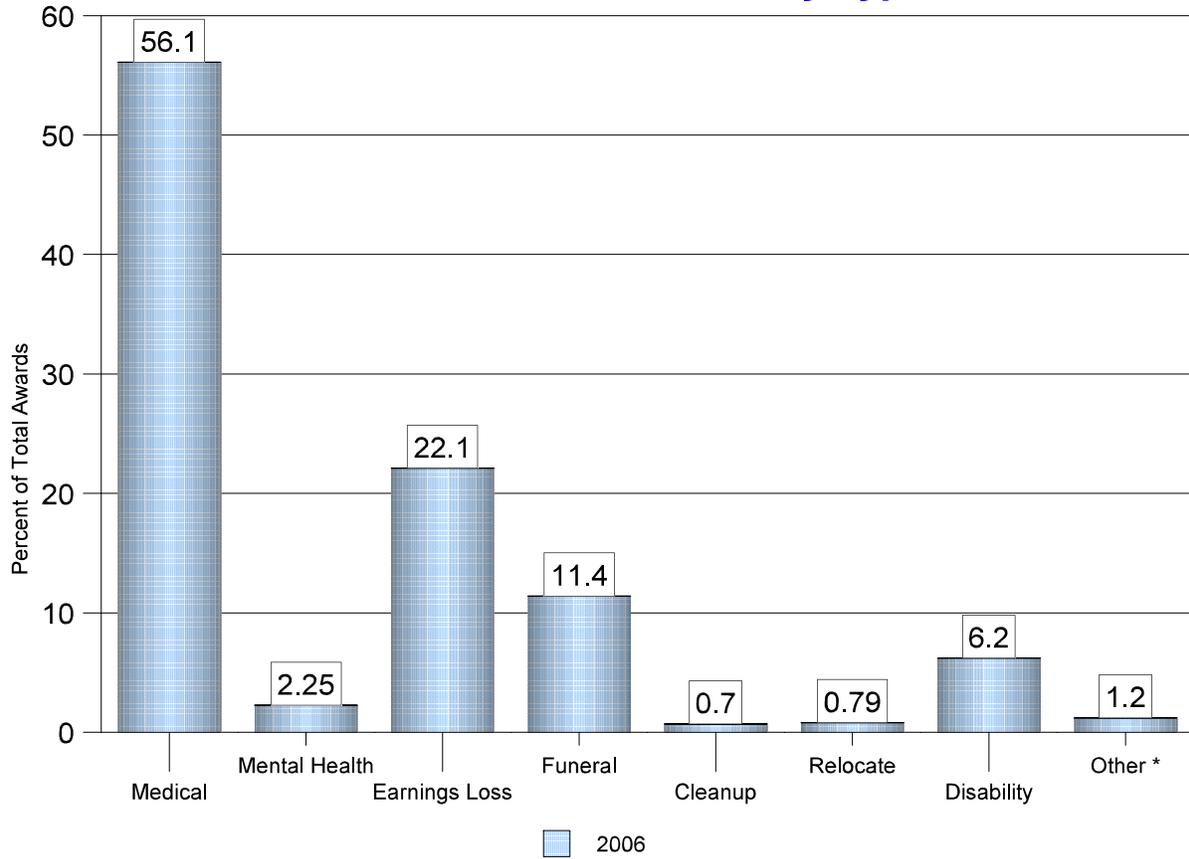
## Awards



# Crime Victims Compensation Fund

October 1 - September 30

## Percent of Total Awards by Type

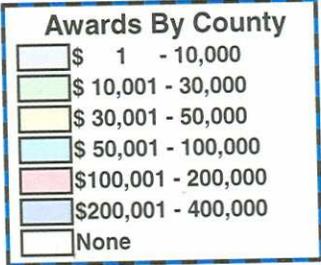
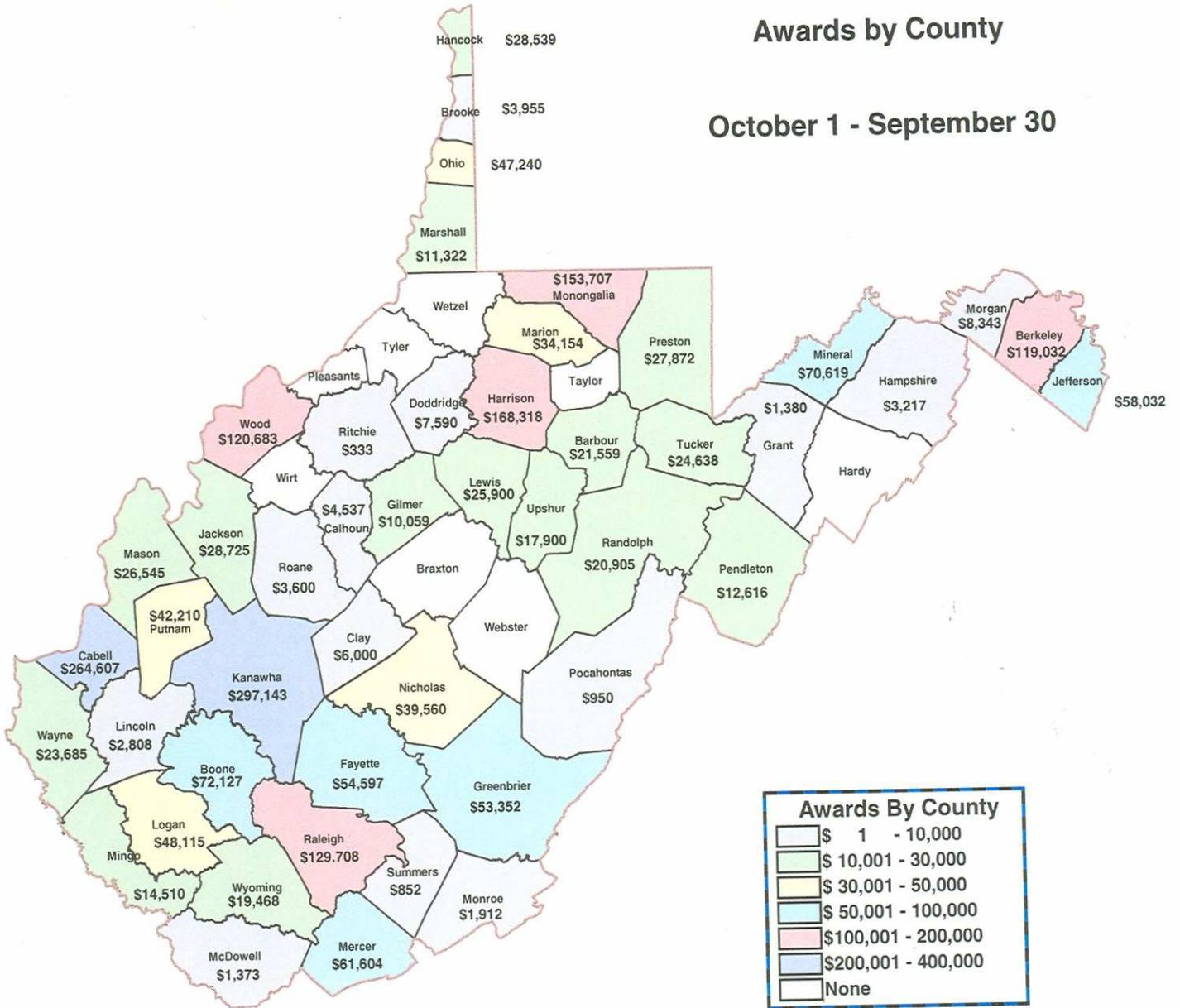


Note: FFY2002 was the first year that crime scene cleanup, relocation costs, travel expenses to court proceedings, and disability awards became available.

\* Includes: mileage - replacement service - travel expenses to return minors

## Awards by County

October 1 - September 30



*Crime Victim Compensation Fund*  
**Claims Filed by County**

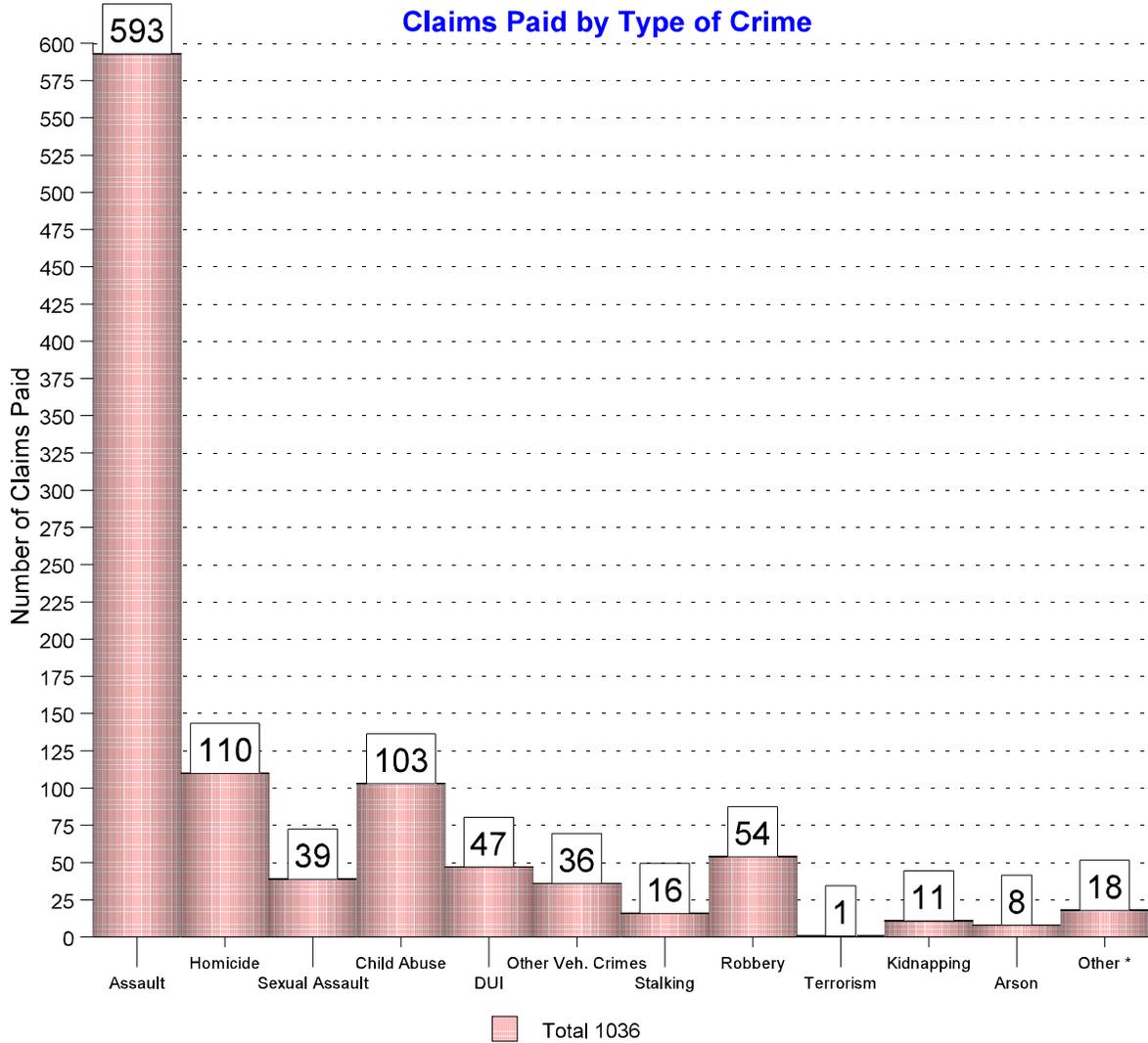
Period: October 1, 2005 through September 30, 2006

<b>COUNTY</b>	<b>CLAIMS FILED</b>
Barbour	6
Berkeley	21
Boone	20
Braxton	3
Brooke	5
Cabell	57
Calhoun	2
Clay	6
Doddridge	5
Fayette	16
Gilmer	2
Grant	0
Greenbrier	15
Hampshire	1
Hancock	9
Hardy	0
Harrison	43
Jackson	9
Jefferson	31
Kanawha	125
Lewis	27
Lincoln	3
Logan	28
Marion	14
Marshall	8
Mason	11
McDowell	6
Mercer	24

<b>COUNTY</b>	<b>CLAIMS FILED</b>
Mineral	7
Mingo	16
Monongalia	50
Monroe	1
Morgan	1
Nicholas	6
Ohio	24
Pendleton	1
Pleasants	0
Pocahontas	3
Preston	4
Putnam	14
Raleigh	37
Randolph	18
Ritchie	2
Roane	2
Summers	3
Taylor	3
Tucker	2
Tyler	0
Upshur	9
Wayne	6
Webster	3
Wetzel	3
Wirt	2
Wood	41
Wyoming	13
Occurred Out of State	1

# Crime Victims Compensation Fund

October 1 - September 30

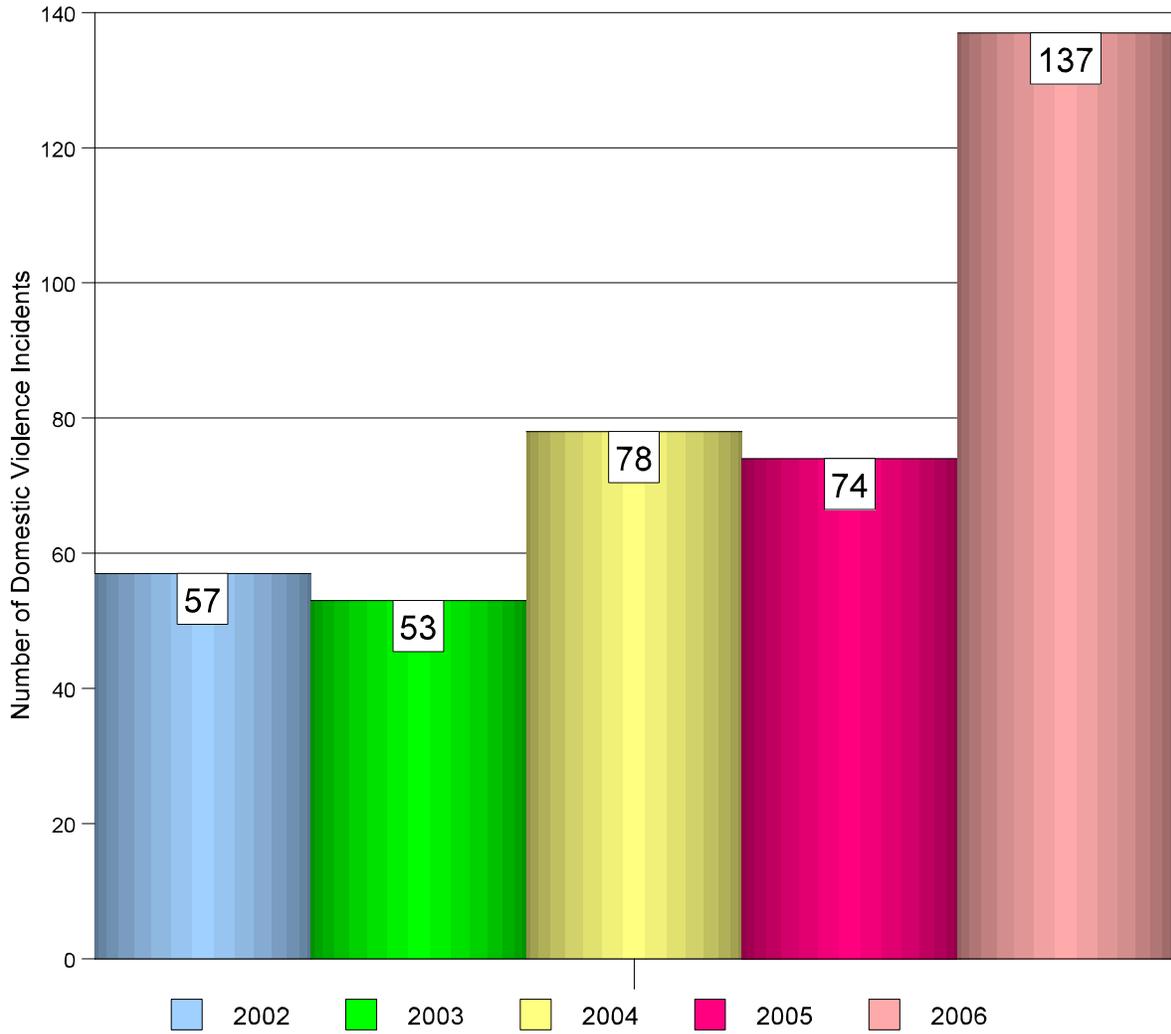


\* Includes: dog bite - arson - hunting accident - road rage

# Crime Victims Compensation Fund

October 1 - September 30

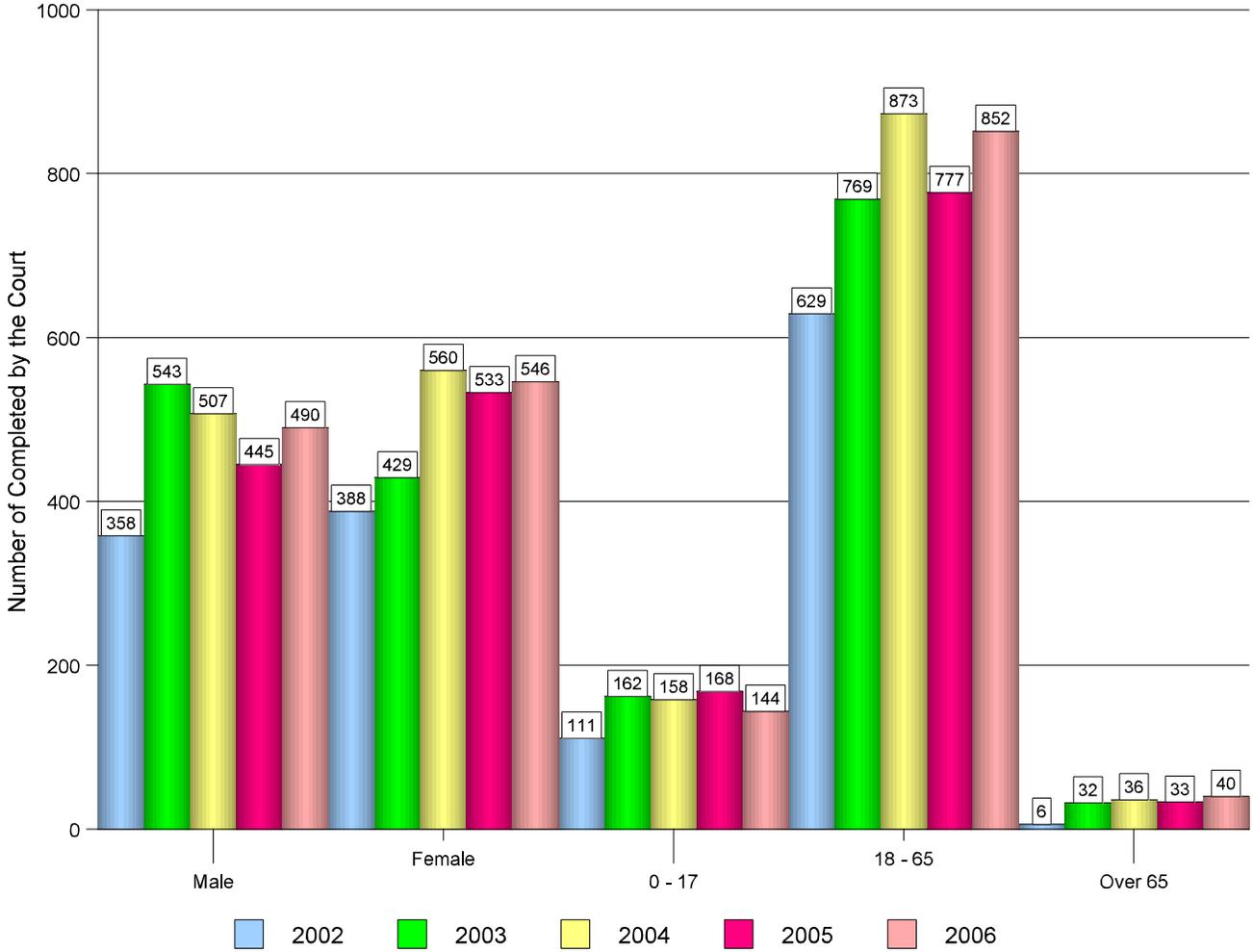
## Claims Involving Domestic Violence



# Crime Victims Compensation Fund

October 1 - September 30

## Claims Completed - Gender and Age



# Crime Victims Compensation Fund

## Denied Claims

October 1 - September 30

<u>Reason for Denial</u>	<u>Number</u>
Claim for loss of property .....	9
Claim not filed within two years .....	11
Claim withdrawn .....	1
Crime not reported timely to law enforcement .....	11
Crime occurred outside West Virginia .....	0
Crime occurred within penal institution .....	1
Crime not compensable .....	26
Dismissed .....	6
Duplicate claim .....	2
Incomplete information supplied .....	7
Maximum award reached .....	2
No economic loss* .....	128
Undetermined conduct .....	26
Unjust benefit to offender .....	0
Victim failed to cooperate with police or claim investigator .....	58
Victim guilty of contributory misconduct .....	<u>67</u>
TOTAL:	<b>355</b>

\* The claim was denied because no economic loss was established at the time. However, if at a later date the victim suffers an economic loss, the Court may make an award.

West Virginia  
Crime Victims Compensation Fund

**Summary of Benefits**

	<b>Awards Directly to Provider</b>	<b>Death Award - Limit \$35,000</b>	<b>Forensic Medical Exam. Paid by PAI*</b>	<b>Injury Award - Limit \$25,000</b>	<b>Victims of Terrorist Acts Outside USA</b>
Effective Date	06/12/1987	03/27/1987	06/07/1996	03/27/1997	03/27/1997

	<b>Awards Directly to Funeral Home</b>	<b>College Scholarship Allowable Exp.</b>	<b>Funeral/Burial Expense - Limit \$6,000</b>	<b>Crime Scene Cleanup - Limit \$1,000</b>	<b>Victim Relocation Expense - Limit \$1,000</b>
Effective Date	07/01/1998	03/02/1999	07/01/2001	07/01/2001	07/01/2001

	<b>Mileage to Court for Hearings</b>	<b>Secondary Victims - Limit \$1,000 (counseling)</b>	<b>Disability - Additional \$100,000</b>	<b>Crime Scene Cleanup - Meth. Labs - Limit \$5,000</b>	<b>Travel Exp. to Oth. State to Get Minor - Limit \$2,000</b>
Effective Date	07/01/2001	07/01/2001	07/01/2001	06/09/2006	06/09/2006

	<b>Travel Exp. to Oth. Country to Get Minor - Limit \$3,000</b>	<b>Work Loss for Parent of Minor</b>	<b>Hit &amp; Run Included in Criminal Inj. Conduct</b>	<b>Victim's Health Care Mileage- Current: 0.445/mi.</b>	
Effective Date	06/09/2006	06/09/2006	06/09/2006	07/26/2006	

	<b>Fee Amounts: - Municipal Courts = \$8.00 - Other Courts = \$10.00 plus 20% of DUI fines, plus \$50.00 each felony conviction</b>
Effective Date	06/07/1996

\* W.Va. Prosecuting Attorneys Institute

## CLAIMS HEARD ON APPEAL

OCTOBER 1, 2005 - SEPTEMBER 30, 2006

CV-05-176 & CV-05-192 - Carolyn S. Taylor, Mark Alan Taylor

On April 25, 2003, the 23-year-old claimant and his 52-year-old mother were injured when their vehicle was rear-ended while stopped on Route 33 in Lewis County. These claims were consolidated since both arose from the same incident. The Claim Investigator recommended that no award be granted because there was no evidence of criminally injurious conduct. Court's initial denial was upheld because there was no evidence that the offender's actions were intentional.

CV-05-180 - Beau J. Miller

On January 14, 2005, the 23-year-old claimant was struck from behind as he exited a rest room at a "Tough Man" contest in Huntington, West Virginia. The Claim Investigator recommended an award of \$13,042.62. An Order was issued overturning the recommendation and denying the claim. It was discovered that the claimant had a blood alcohol level of .224% which may have led to "contributory misconduct." There was a lack of evidence that the claimant did anything to provoke the offender. It was the Court's opinion that the claimant was intoxicated at the time of the incident, and that he was at least to some degree guilty of contributory misconduct; therefore, a reduced award of \$7,825.57 was granted.

CV-05-198 - Joshua M. Gurnee

On October 22, 2004, the 19-year-old claimant was outside a bar when he was struck in the back of the head with an unknown object. The Claim Investigator recommended that no award be granted, and an Order was issued upholding that recommendation. At the hearing, it was discovered that the underage claimant had been "heavily intoxicated." The question for the Court was whether to reduce the award or deny the claim outright. Factors in the claimant's favor were: he had had the presence of mind to walk and not drive the evening of the incident; he was employed and remains so; he realized the consequences of his actions and appeared to have stopped this type of behavior. The Court awarded the claimant's unreimbursed allowable expenses.

CV-05-045 - Alva P. Jones

On June 30, 2004, the 25-year-old claimant was sitting outside his mother's home when an offender struck him in the face and ankle. The Court's initial denial of an award was based on the Claim Investigator's finding that the claimant was not an innocent victim of crime. Evidence at the hearing revealed that the claimant participated in yelling back at the offender, which led to the physical altercation. This claim was denied.

CV-05-004 - Frances J. Moore

On November 30, 2004, the 70-year-old claimant was injured while trying to stop a physical altercation between her son and another person. The Claim Investigator recommended that no award be granted on the basis of “contributory misconduct.” An Order was issued upholding the recommendation. At the hearing it was determined that the claimant had struck the alleged offender with a metal rod multiple times, and then left in a vehicle which sped in the direction of the alleged offender, who had to jump out of the way to avoid being hit. The original Order was upheld and the claim was disallowed.

CV-05-084 - Andrew J. Cole

On November 6, 2004, the 42-year-old, hearing-impaired claimant was assaulted after he observed a man about to strike his neighbor and called out to the offender. The claimant was told to mind his own business. An hour later, the claimant was assaulted by the same offender while attempting to go to the store. This claim was initially denied because the claimant failed to report the incident within seventy-two hours of the assault. The Court found that “good cause existed for the failure to report the conduct” and awarded the claimant \$1,350.00.

CV-04-258 - Tom Christian

On February 26, 2004, the claimant’s 62-year-old father apparently intervened in an argument and was fatally shot. The Claim Investigator recommended that no award be granted, because the facts surrounding the incident were unclear. At the hearing, it was discovered that the claimant’s father was dependent on oxygen and would not have had the strength to fight the offender. The Court awarded the claimant \$1,200.00 for funeral expenses.

CV-04-562 - Brent Peruzzi

On December 31, 2003, the 22-year-old claimant was stabbed in the hand outside a bar in Monongalia County. The Claim Investigator recommended that no award be granted on the basis that the claimant was not an innocent victim. At the hearing, it was discovered that the claimant had first shoved the offender inside the bar. The original Order was upheld and no award was granted.

CV-03-573 - Tricia Ann Meeks

On June 3, 2002, the 24-year-old claimant was severely injured in a motorcycle accident in South Charleston, West Virginia. The claimant was a passenger on a motorcycle when the driver failed to negotiate a curve. The vehicle left the roadway and crashed, and the claimant and the driver were paralyzed as a result. No charges were ever brought against the driver. The Claim Investigator recommended that the claim be held in abeyance until criminally injurious conduct could be established. At the hearing, counsel for the claimant and counsel for the Fund indicated to the Court that they had reached an agreement to settle

the claim. The claimant was granted an award of \$11,940.48 for unreimbursed work loss.

CV-04-400 - Amy Holland

On January 30, 2003, the claimant's 19-year-old boyfriend was killed in an automobile accident. The claim was filed on behalf of their minor child. The Claim Investigator recommended that no award be granted on the basis that the claimant was not an innocent victim. At the hearing, it was discovered that the claimant had allowed the victim and a friend to borrow her vehicle. The friend, who was intoxicated, was arrested and charged with DUI causing death. According to testimony, the driver did not appear to be intoxicated at the time he borrowed the vehicle; therefore, the Court awarded the claimant \$6,000.00, which represents the maximum award for funeral and burial expenses. The issue of dependent's economic loss remains open.

CV-03-526 - Ruth Jones

On January 17, 2003, the claimant's 15-year-old daughter was killed in an all-terrain vehicle accident on Route 46 in Mineral County. The Claim Investigator recommended that no award be granted on the basis that the victim and the driver had been drinking alcohol and the all-terrain vehicle had been stolen. At the hearing, it was discovered that the 15-year-old victim had not been present when the 4-wheeler had been stolen, and her blood alcohol level was .05. The Court found that a reduced award would be appropriate because the blood alcohol level of the victim had a negative impact upon her judgment in accepting a ride from an impaired driver. The Court awarded the claimant \$4,500.00 for funeral expenses.

CV-04-506 - Marvin L. Paugh

On April 3, 2004, the 63-year-old claimant was injured as he exited a vehicle and the driver ran over him. The Claim Investigator recommended that no award be granted on the basis that the claimant was not an innocent victim. At the hearing, it was discovered that the claimant's blood alcohol content was .31%, and he and the driver had been drinking for two days. The Court was constrained by the evidence to stand by its previous ruling and deny the claim.

CV-04-109 - Mary E. Kovar

On February 15, 2004, the 29-year-old claimant was injured at a bar in Clarksburg when she tried to stop an argument between a couple. The Claim Investigator recommended that no award be granted on the basis that the claimant was not an innocent victim. At the hearing, it was revealed that the claimant had not been drinking at the bar, and had not thrown any punches prior to being struck. The Court directed the Claim Investigator to prepare an economic loss analysis to ascertain the claimant's unreimbursed allowable expenses relating to the incident for further review.

## Activities Promoting the Crime Victims Fund



### Crime Victims Day at the Legislature

Crime victims Compensation employees coordinate an annual event held during the legislative session that provides information from various local, state, and federal organizations to legislature members and staff.



Nicole Reed

### Crime Victims Compensation Staff Member Honored

Staff member Nicole Reed was presented with the Geneva Foster Pioneer Award for her exemplary dedication, service, and commitment to crime victims in West Virginia. The award was presented during a reception following a Kick-Off Ceremony celebrating the 2006 Crime Victims Rights Week by the United States Attorney's Office for the Southern District in West Virginia.

### Radio Announcements

The Crime Victims Fund reached out to all of our citizens through a radio campaign during spring 2006.



David Bennett, Nicole Reed, Rocky Martin, Amy Shupe, Becky Ofiesh

### Crime Victims Compensation Fund Training

Crime victim staff members provide training throughout the State of West Virginia to educate advocates, law enforcement, service providers, the public, and others about the benefits available to crime victims through the Crime Victims Compensation Fund.

## National Crime Victims Rights Week

During the month of April, Crime Victims Compensation staff members participate in a local event that centers around victims and the multitude of services available. A number of disciplines including, but not limited to, law enforcement, corrections, and non-profit agencies, come together in an effort to educate the public about such services. Events to celebrate this week throughout the United States are supported by the United States Department of Justice. Governor Joe Manchin II signed a proclamation designating the last week in April as Crime Victims Rights Week.

Governor Manchin presents proclamation to organizers of the weekly events.



Events at the State Capitol

