

Crime Victims Compensation Fund

2014 Annual Report

Court of Claims
Cheryle M. Hall, Clerk



2014

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 Therese St. Germain., Business Manager



West Virginia Court of Claims
Crime Victims Compensation Fund

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

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 2014.

Respectfully,

A handwritten signature in blue ink that reads "Cheryle M. Hall".

Cheryle M. Hall,
Clerk

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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:

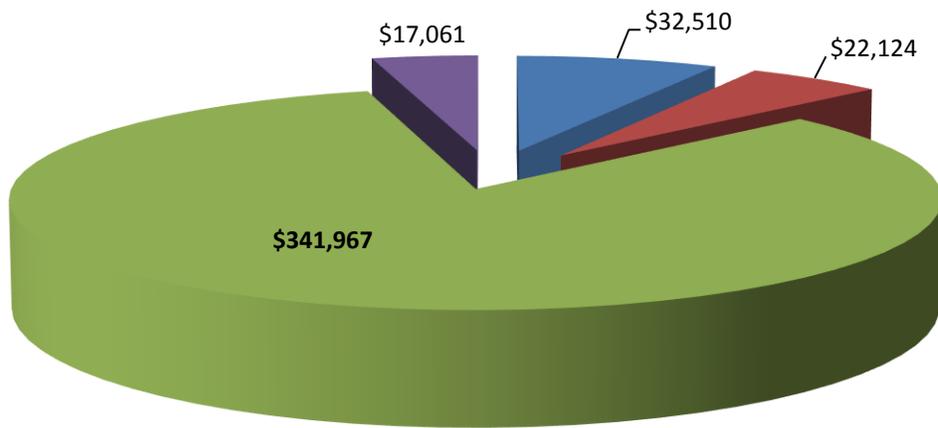
- Medical expenses
- Mental health counseling
- Mental health counseling for secondary victims up to \$1,000
- Lost earnings/support
- Funeral/burial up to \$10,000
- Relocation up to \$2,500
- Travel to medical treatment facility
- Travel to criminal proceeding up to \$1,000
- Travel to return minor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

* Crime-scene cleanup repealed by the Legislature in 2014.

Crime Victims Compensation Fund

Administrative Funds

October 1 – September 30



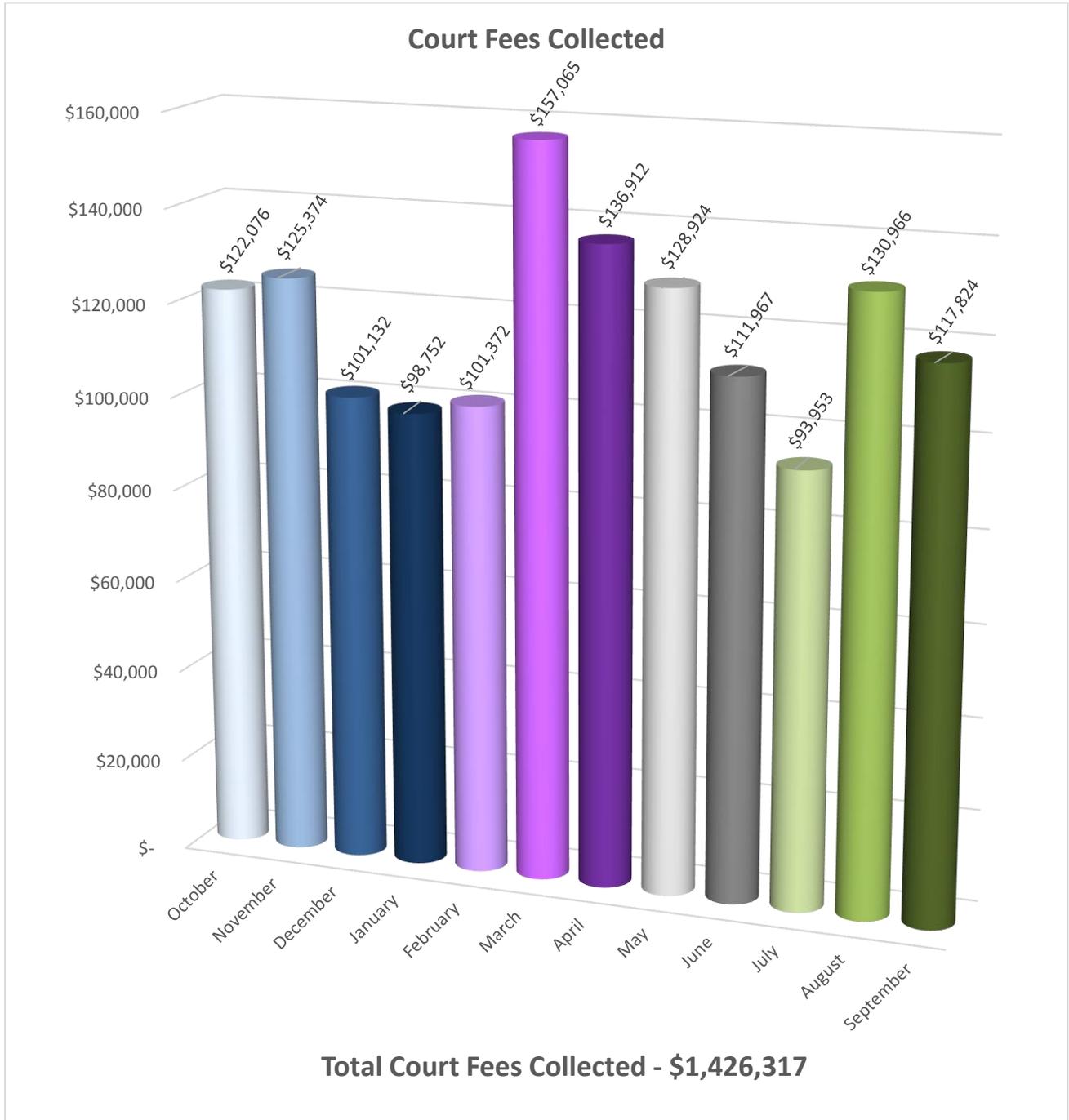
- Compensation of Judges
- Administrative Costs
- Personnel and Benefits
- Attorney Fees

TOTAL: \$413,662

Crime Victims Compensation Fund

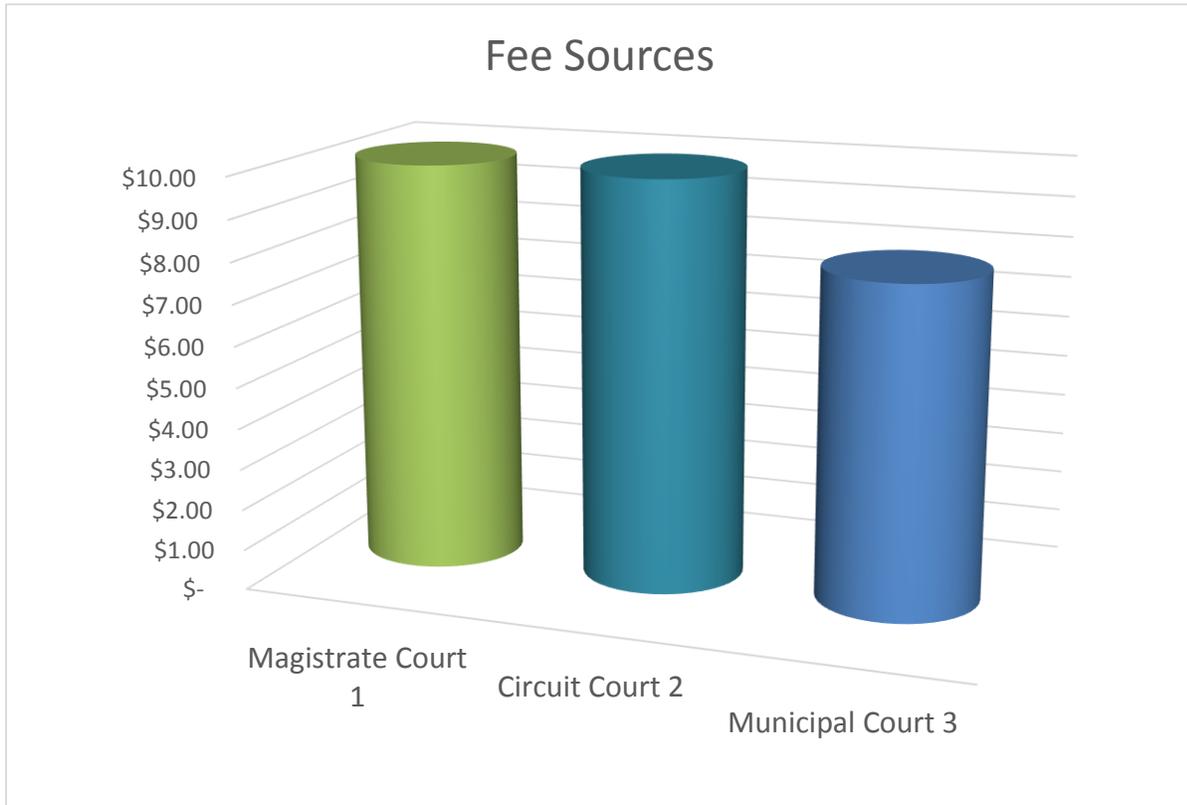
State Funds Collected by Month

Federal Fiscal Year 2014 (October 1 – September 30)



Crime Victims Compensation Fund

Fee Sources



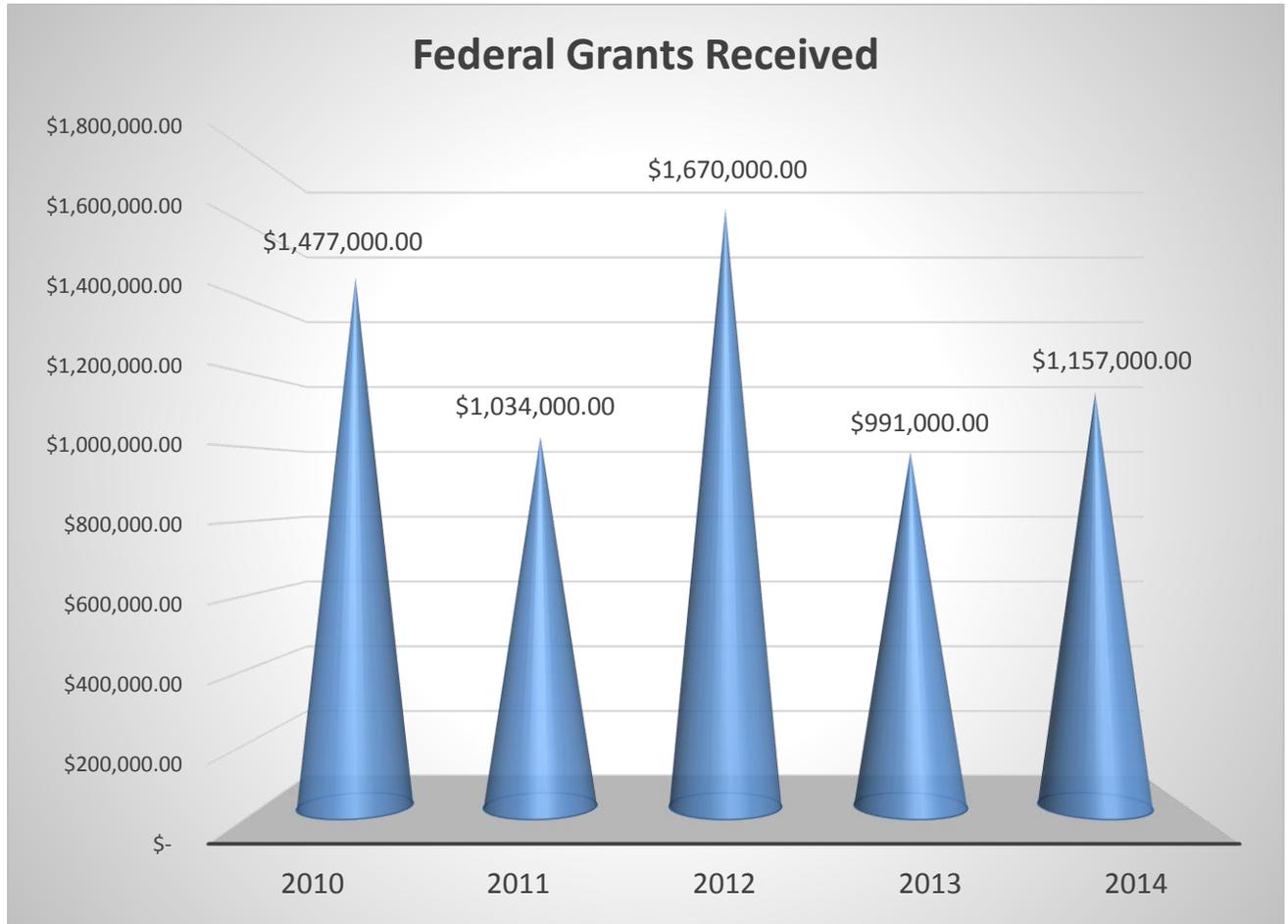
- 1 Plus 20% of DUI fines
- 2 Plus 20% of DUI fines & \$50 for each felony conviction
- 3 Plus 20% of DUI fines – only moving violations

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

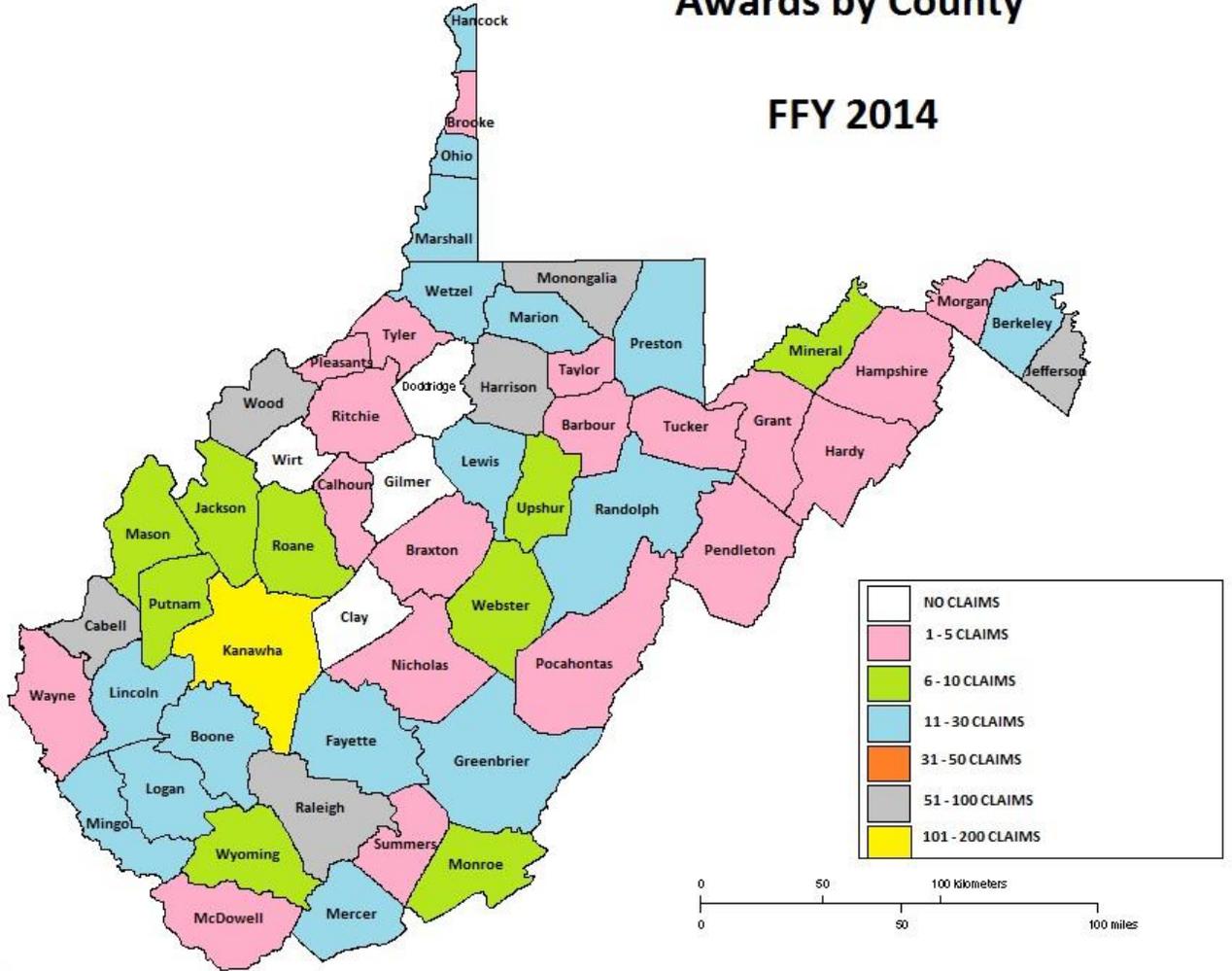


West Virginia has received a total of \$20,253,230 in federal funds for its compensation program since 1986 (the first grant year). The 2009 amount includes a one-time stimulus grant of \$348,230.

Crime Victims Compensation Fund

Awards by County

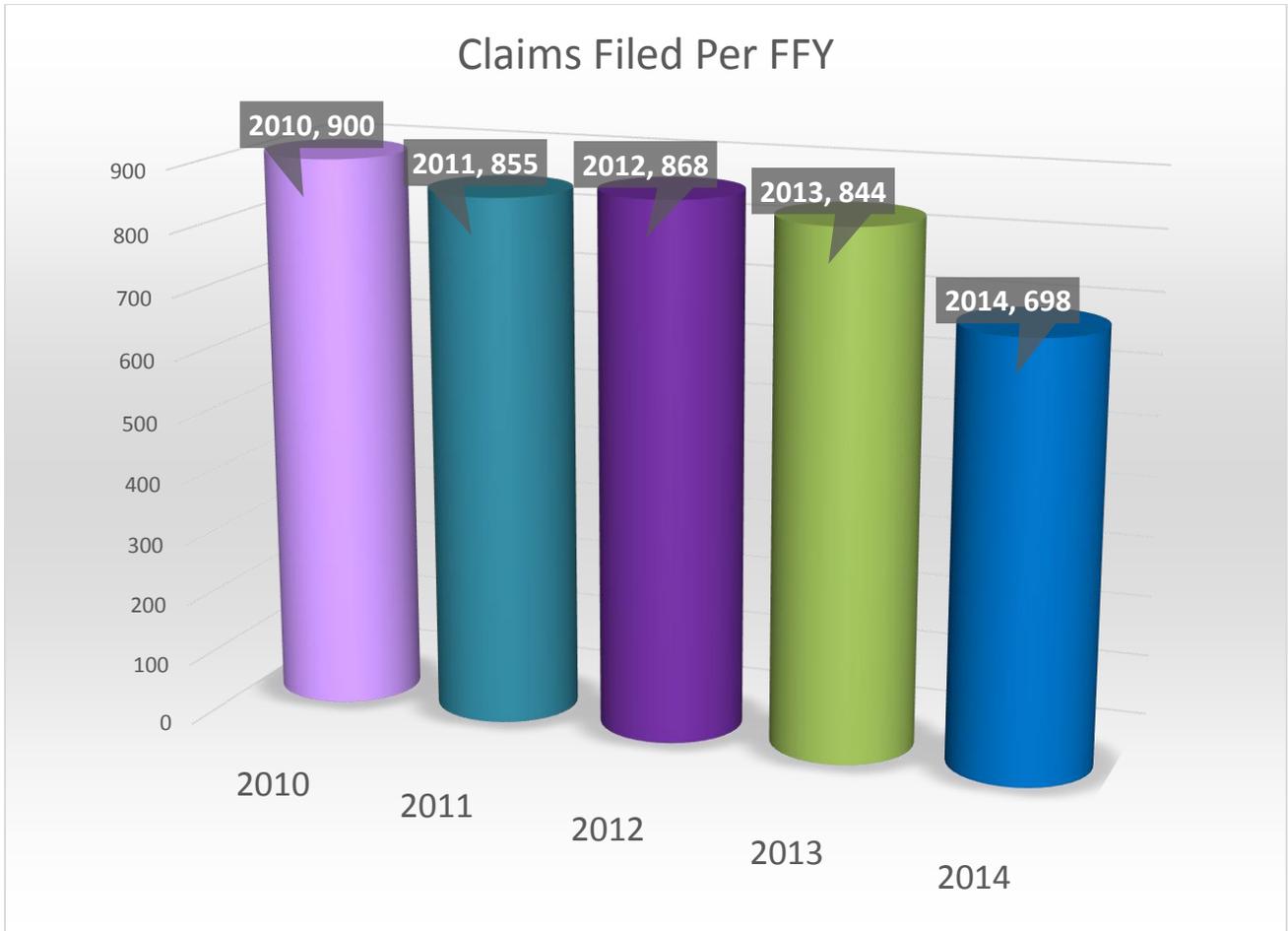
FFY 2014



Includes:
- Initial Awards
- Supplemental Awards

Crime Victims Compensation Fund

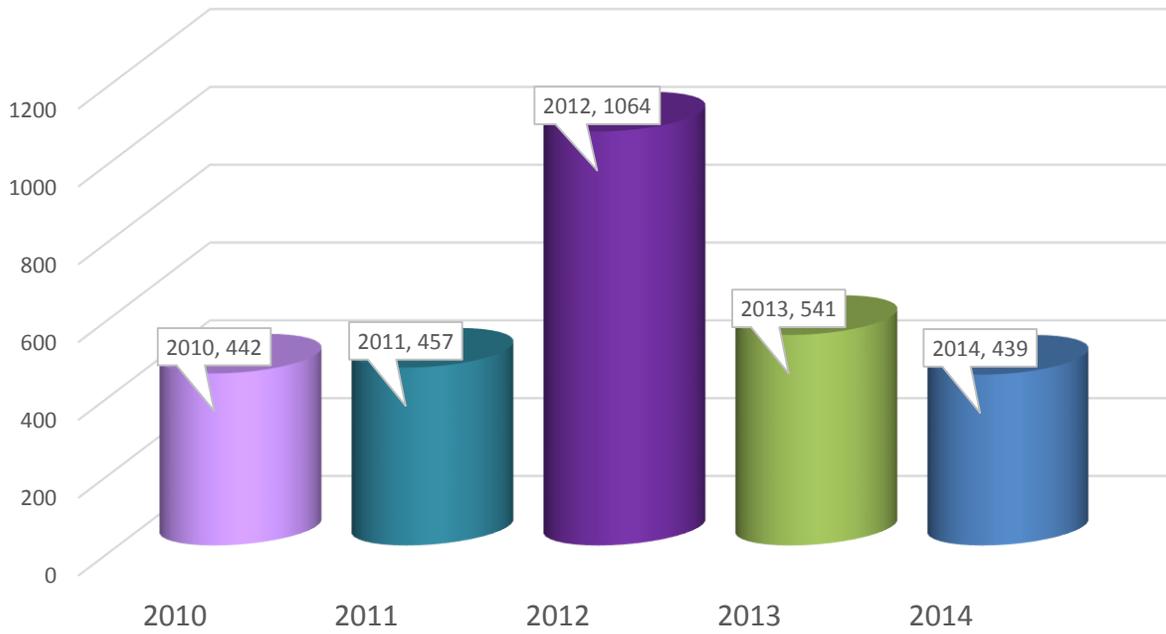
Claims Filed Per Year



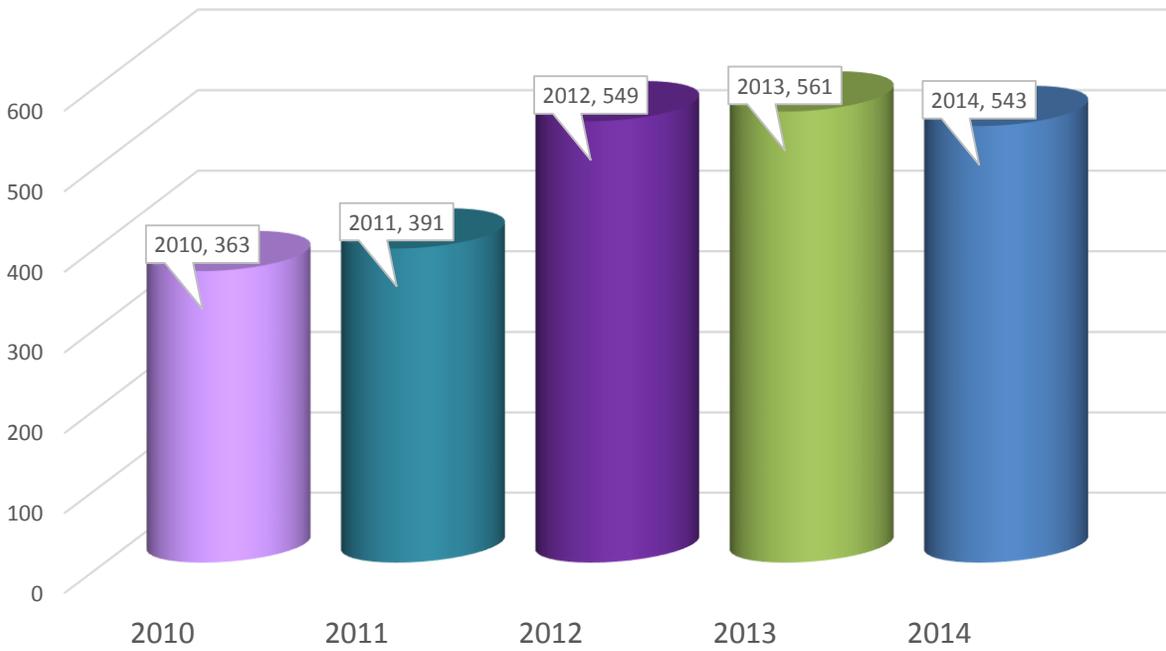
*A significant portion of the drop in claims has resulted from the drop in meth lab claims resulting from the statutory amendment repealing crime scene cleanup during the 2014 Legislative Session.

Crime Victims Compensation Fund

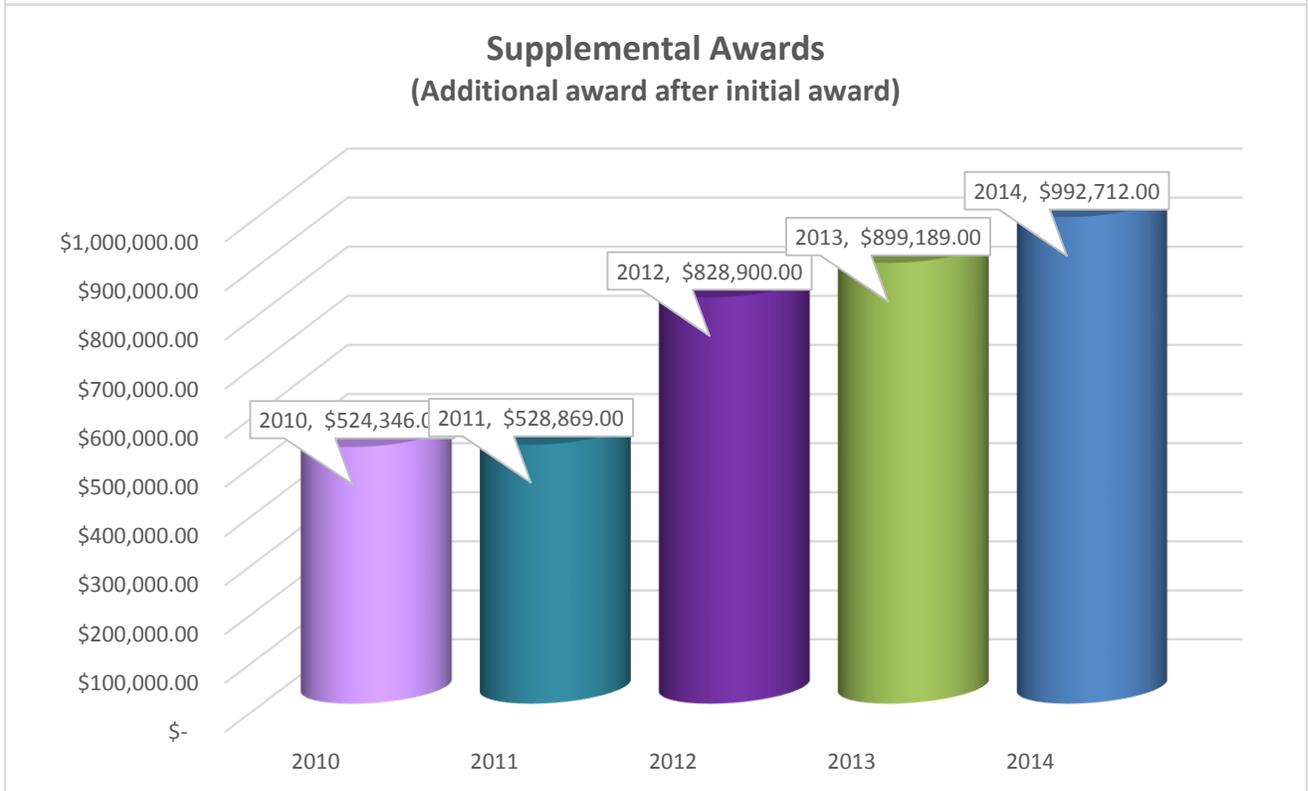
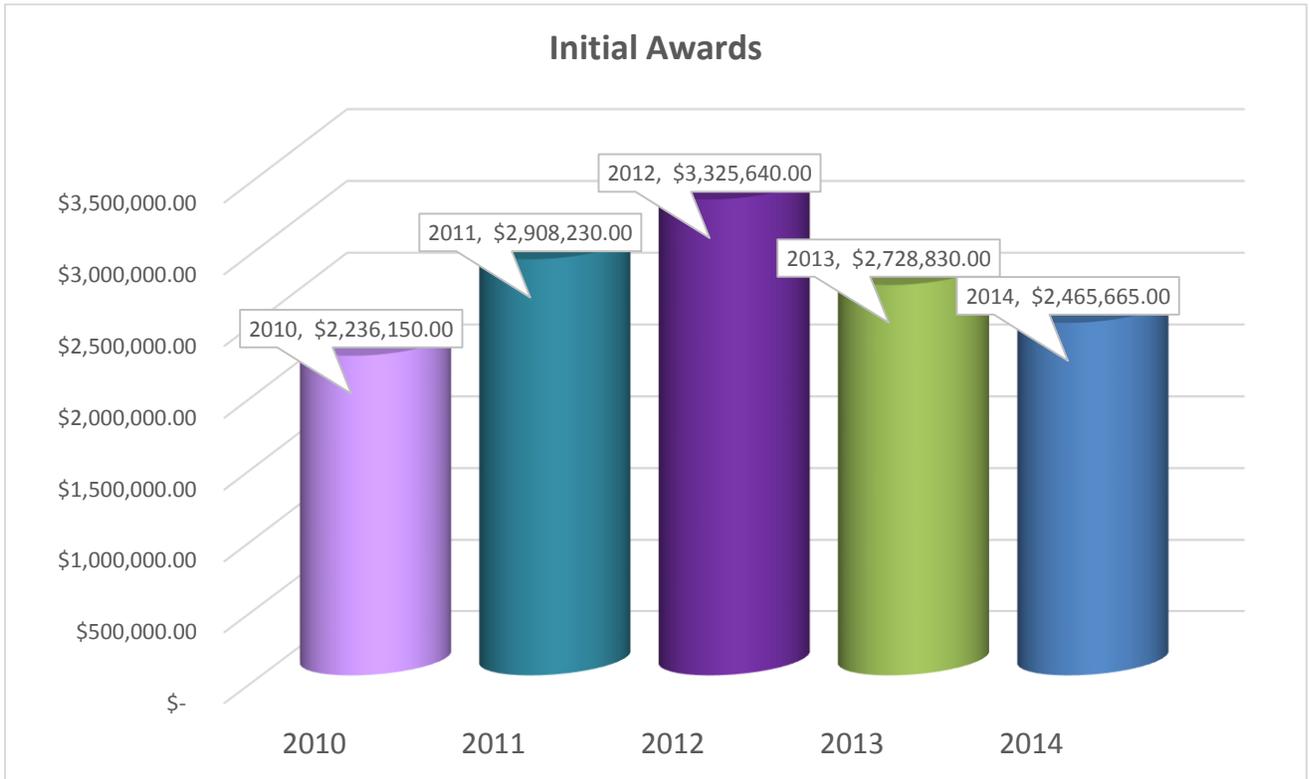
Orders Issued by the Court - INITIAL



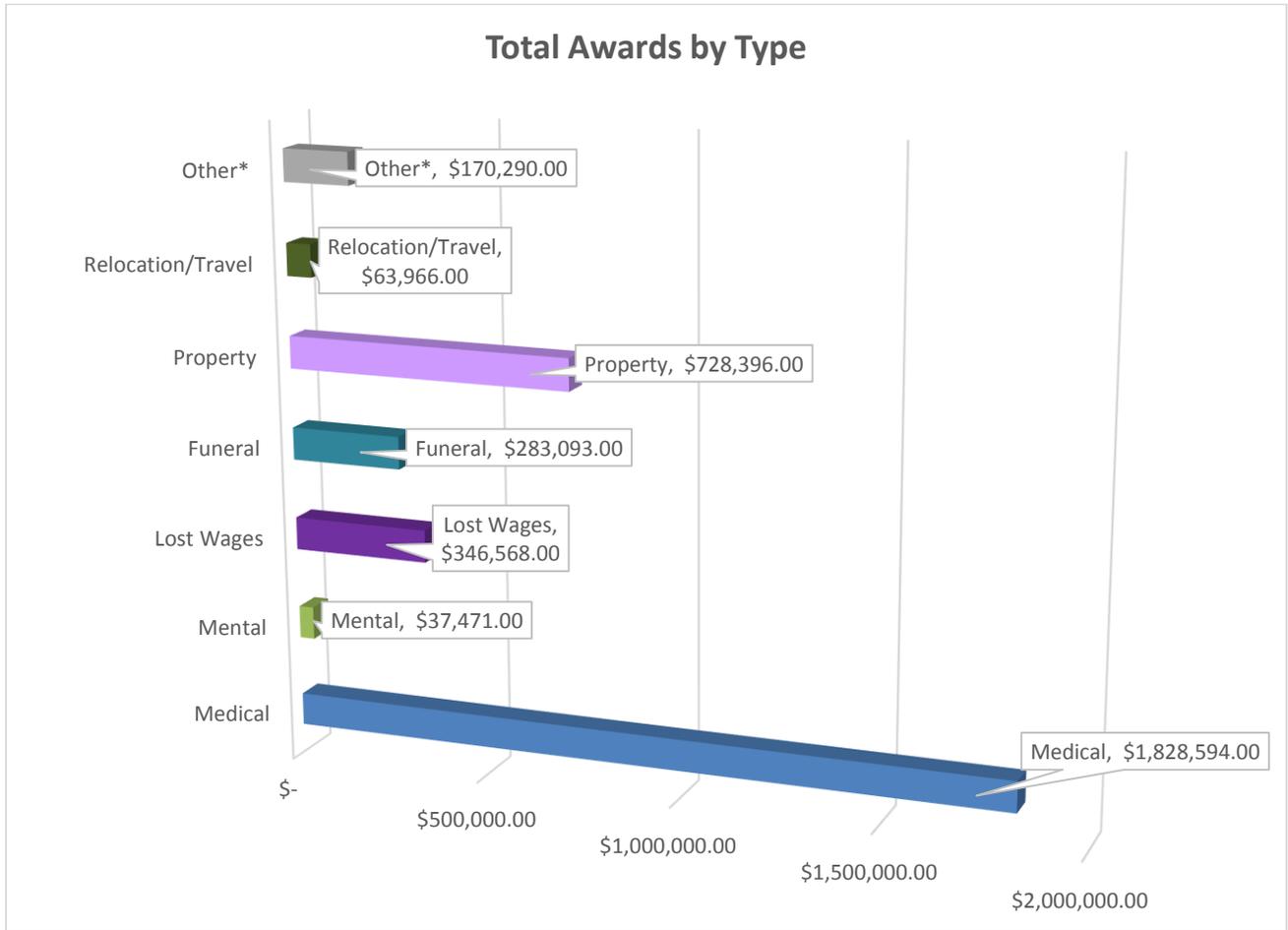
**Orders Issued by the Court - SUPPLEMENTALS
(Additional award after initial award)**



Crime Victims Compensation Fund



Crime Victims Compensation Fund

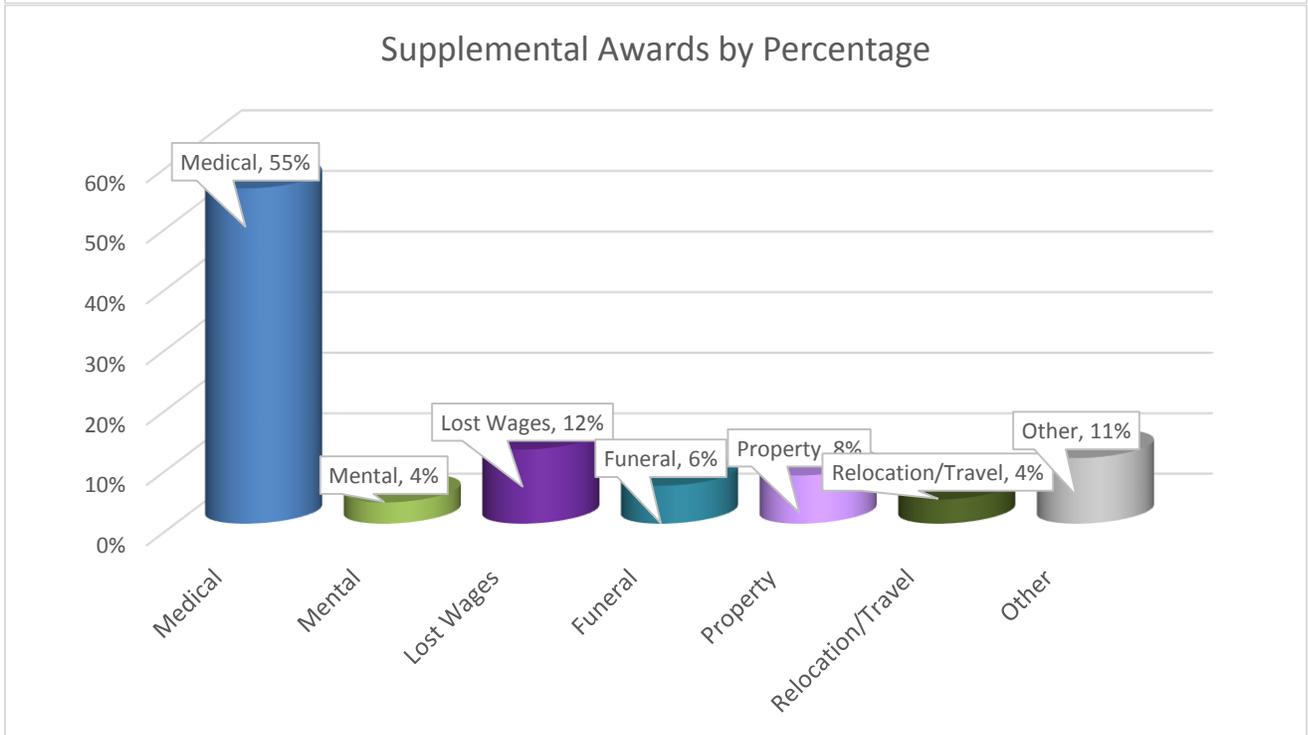
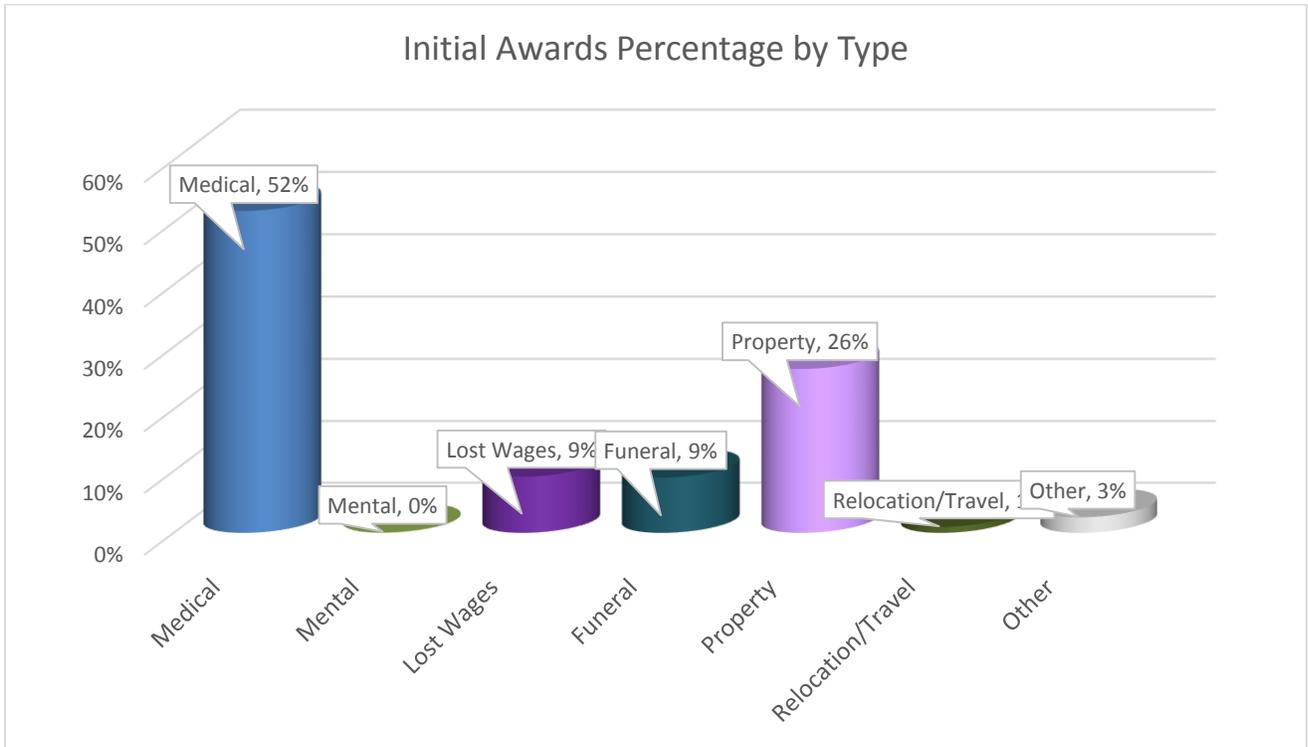


Total paid - \$3,458,378

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

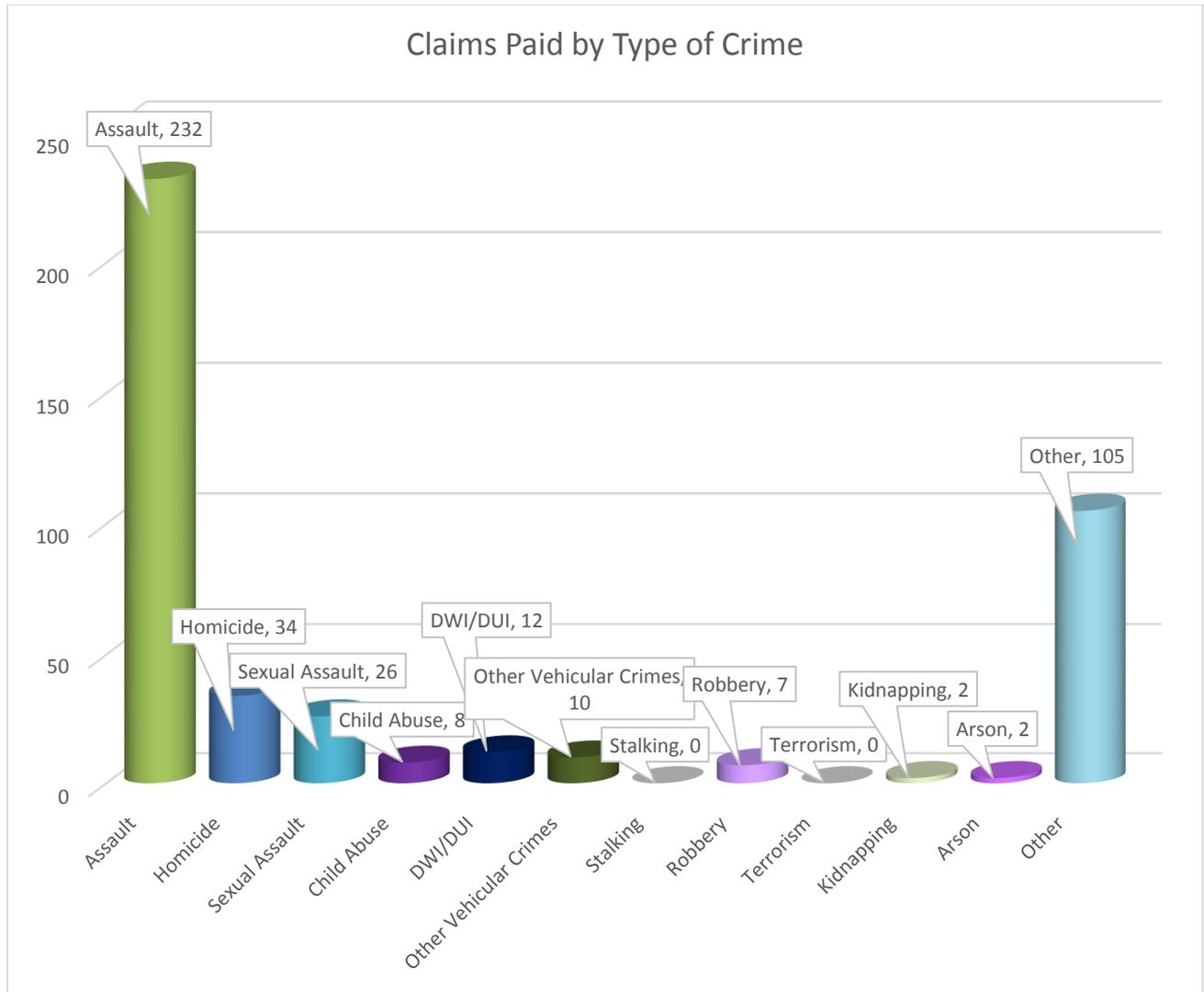
Crime Victims Compensation Fund

Percent of Total Awards by Type



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

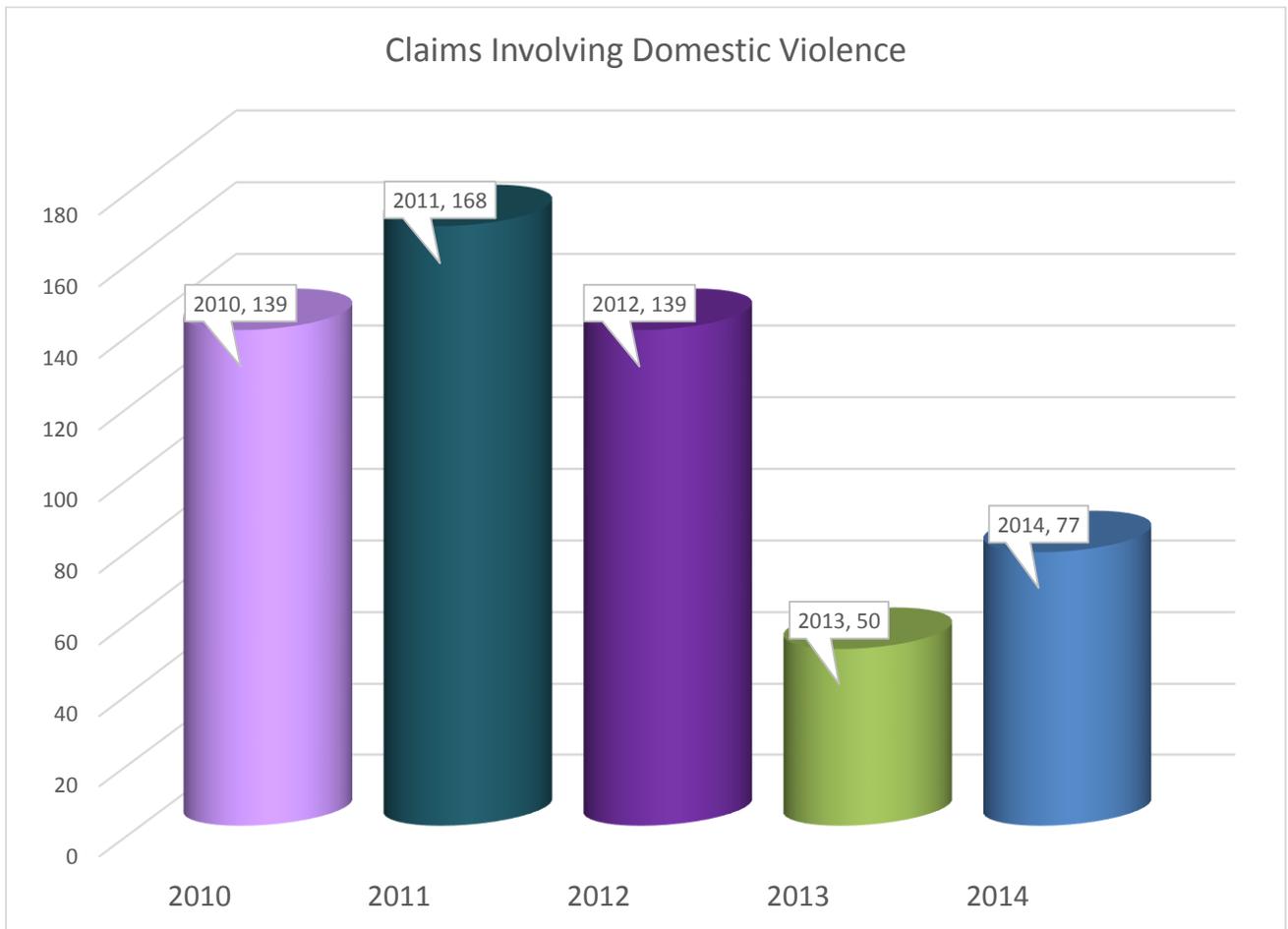
Crime Victims Compensation Fund
Claims Paid by Type of Crime



Total Claims Paid - 438

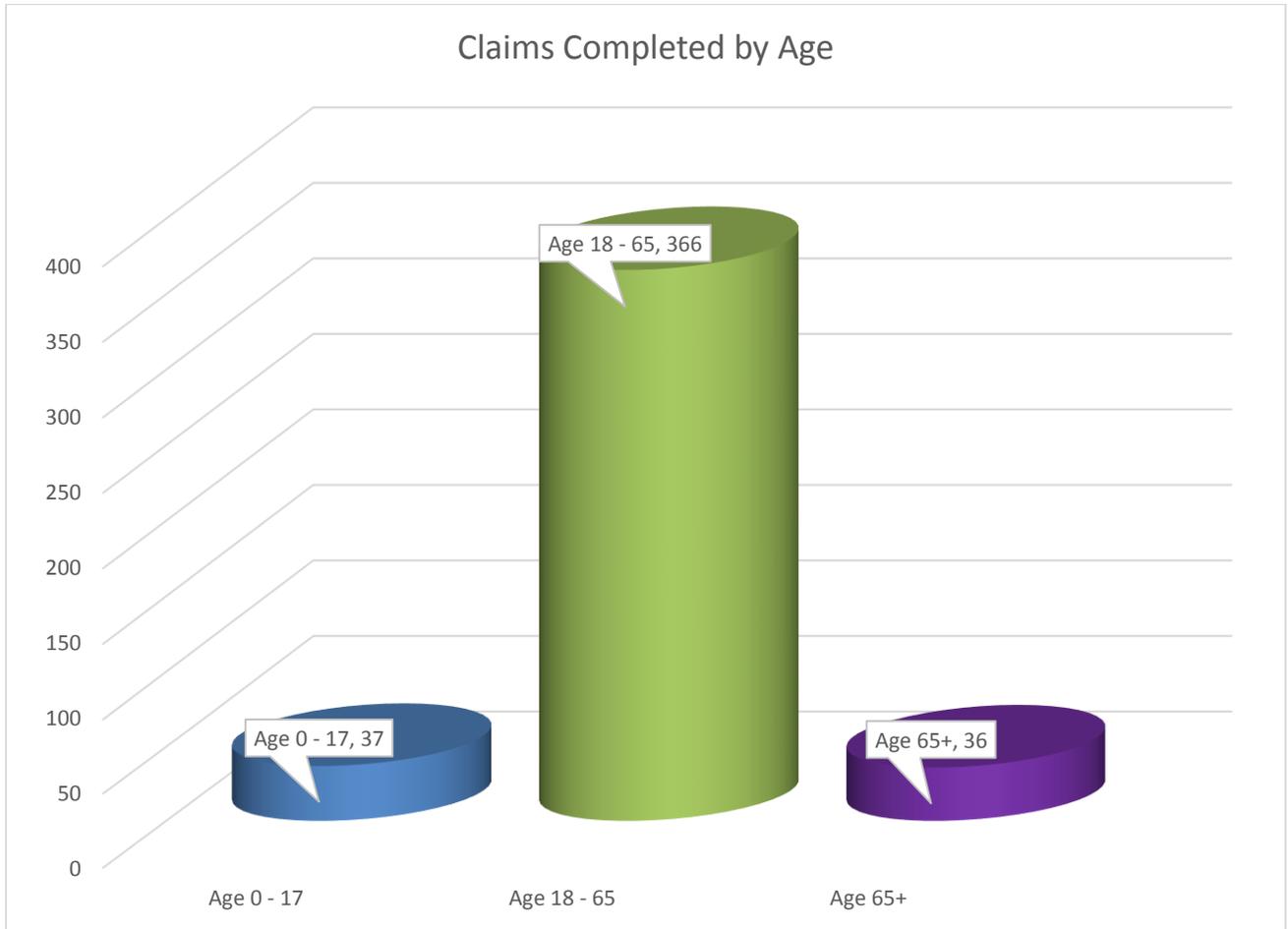
- Includes: harboring a vicious animal – arson – hunting accident – road rage – meth labs

Crime Victims Compensation Fund
Claims Involving Domestic Violence

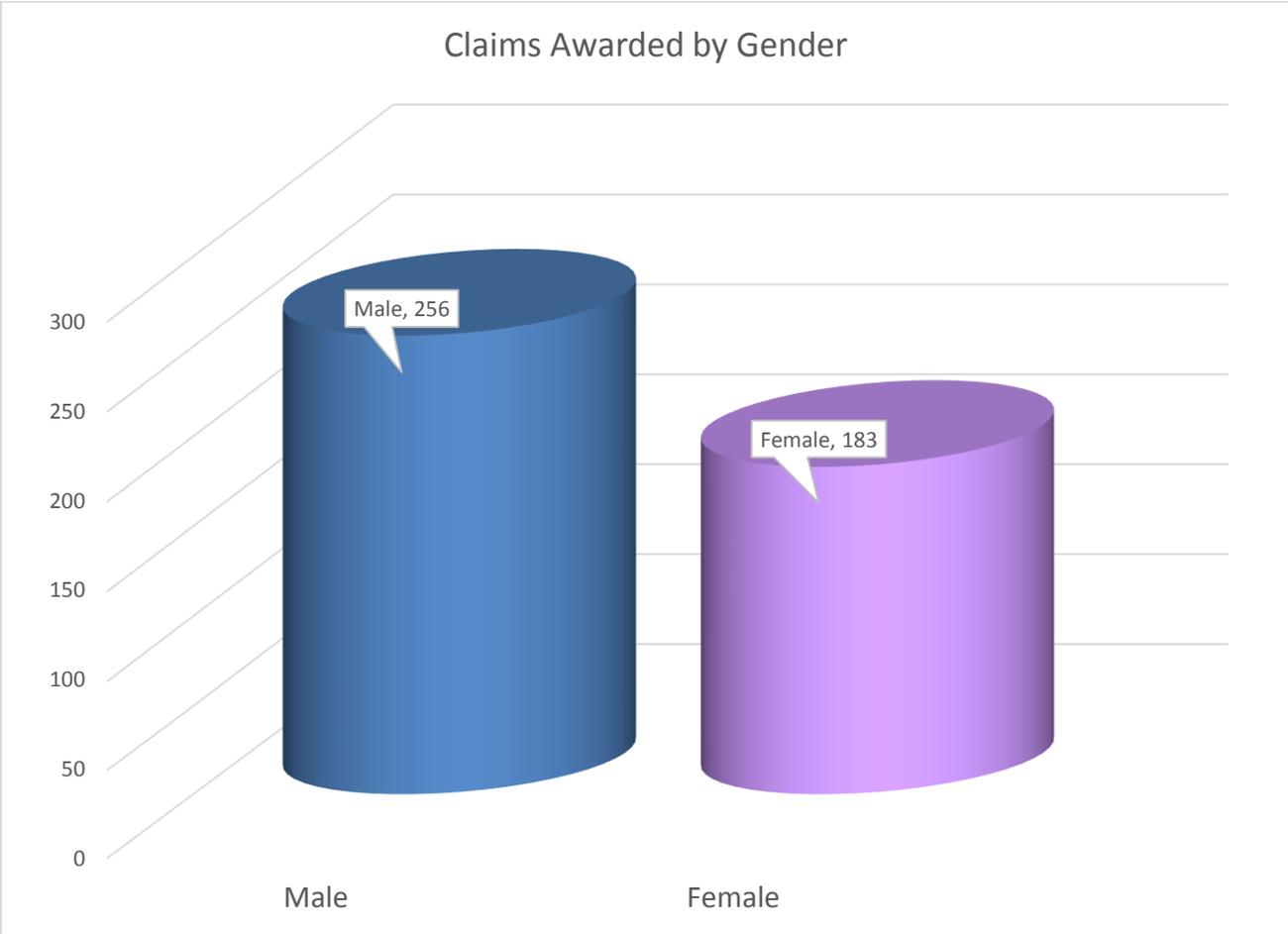


Crime Victims Compensation Fund

Claims Completed by AGE



Crime Victims Compensation Fund



Crime Victims Compensation Fund

Denied Claims

October 1 - September 30

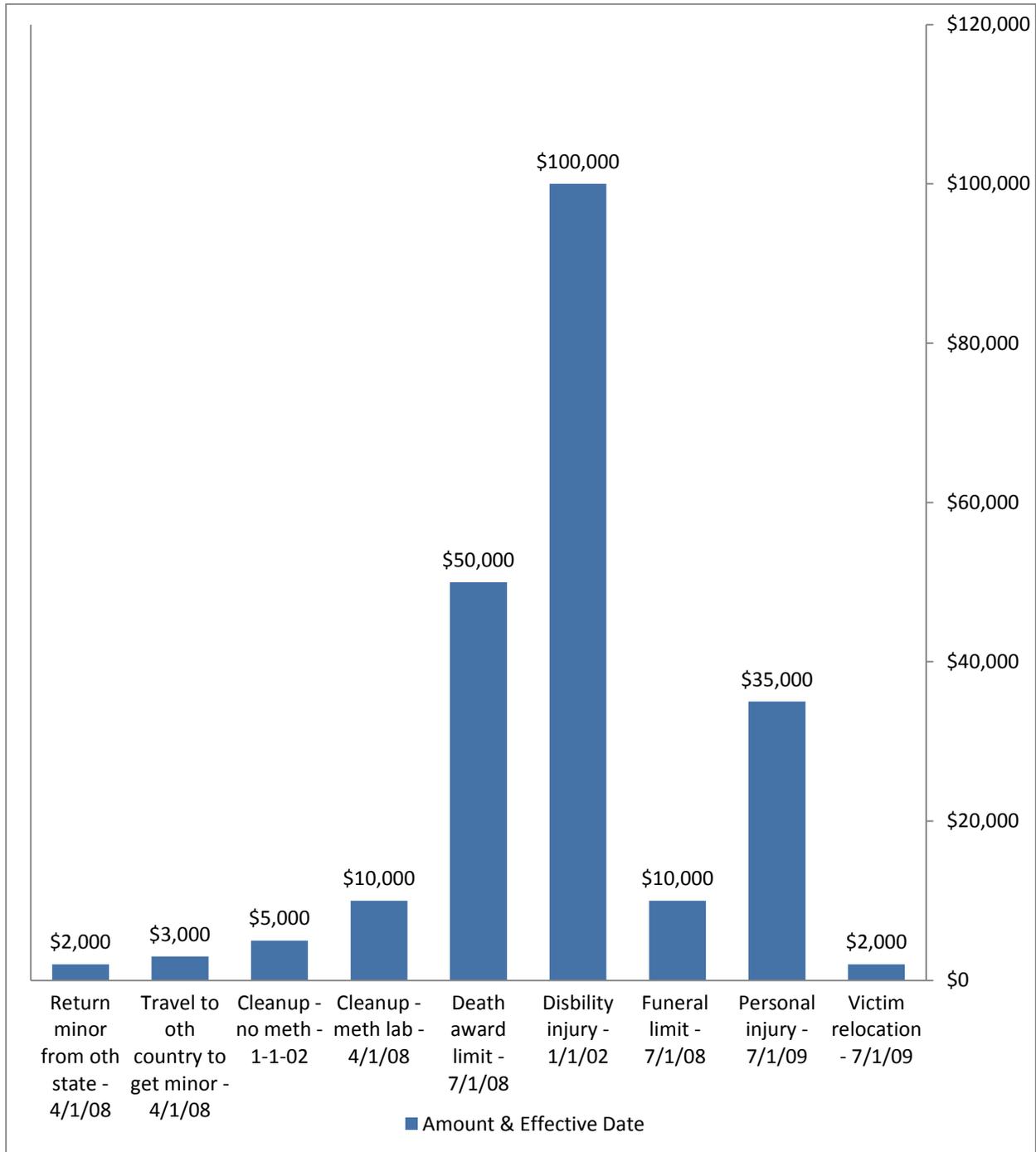
The Court denied 336 claims for various reasons which include:

No Economic Loss *	173
Incomplete Information	42
Contributory Misconduct	36
No Criminal Conduct	23
Failed to Cooperate	16
Not Filed Within 2 Years	15
Not Reported Timely	12
Duplicate Claim	7
Undetermined Conduct	6
Unjustly Benefits Offender	4

* 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 Benefits



*Meth Lab Cleanup and Crime Scene Cleanup were repealed by the Legislature in March of 2014

West Virginia Crime Victims Compensation Fund

Reference to Opinions

- **CONTRIBUTORY MISCONDUCT/INNOCENT VICTIM**
- **CRIMINALLY INJURIOUS CONDUCT**
- **METHAMPHETAMINE**

Following are head notes representing decisions from October 1, 2013 to September 30, 2014.

CONTRIBUTORY MISCONDUCT/INNOCENT VICTIM

CV-10-0540-X C.A.S.

On January 8, 2010, the Claimant was assaulted while walking along a public thoroughfare in Charleston, Kanawha County. Two assailants had followed the Claimant, exited their vehicle, and attacked him, resulting in head injuries. The attackers were not charged with a crime. The claim was initially denied based on the Claimant's alleged contributory misconduct. Prior to the assault, the Claimant and the assailants were involved in a heated altercation over the belief that the Claimant had acted inappropriately toward a female subject. At the hearing, the Claimant denied having any relations with the female subject. The Court reversed its prior ruling and found that the Claimant's behavior did not constitute contributory misconduct. However, no award was granted because no unreimbursed allowable expenses were submitted. Claim denied.

CV-13-0230-Z T.W.T.

On January 30, 2013, the Claimant and the offender (his roommate) were at their residence consuming alcohol and watching a movie. The Claimant had broken a glass, which angered the offender. She attacked him with a knife, inflicting multiple stab wounds. The offender told police that the Claimant had attacked her first. The claim was initially denied based on the Claimant's contributory misconduct. The Court concluded that the Claimant did engage in conduct which contributed to his injuries, and confirmed its prior ruling. Claim denied.

CRIMINALLY INJURIOUS CONDUCT

CV-11-0497-Y A.M.L.

On August 22, 2009, the Claimant's son, C.L., was the alleged victim of criminally injurious conduct in Martinsburg, Berkeley County. When police were summoned to the residence of the victim's uncle, the victim was found unconscious in the bathroom. It was undisputed that the victim had obtained heroin from his uncle and aunt on the date in question. The initial denial of the claim was based on a finding that no criminal act had occurred. Testimony at the hearing revealed that the aunt had taken morphine from her employer in the past and given it to the victim's uncle who would then provide it to the victim. The substance found in the victim's arm at the scene was determined to be morphine. The Court initially denied the claim because there was no evidence that the victim was forced to ingest the drug. Despite the unfortunate circumstances surrounding the claim, the Court confirmed its previous decision. Claim denied.

CV-13-0409-X T.A.M.

On an unspecified date in Hamlin, Lincoln County, the Claimant alleged that she was the victim of several incidents of physical and sexual abuse by law-enforcement officers and agencies. She also claimed to have reported the incidents to the F.B.I. The initial denial of her claim was based on the fact that there was no evidence that any crime had actually occurred. At the hearing, the Claimant was adamant that she was, and continues to be, abused. Also testifying at the hearing was a State Police sergeant who advised that numerous accusations have been made by the Claimant and proven to be unfounded. Moreover, the F.B.I. had no record of any such incidents on record with them. The Court confirmed its previous ruling, and denied the claim.

CV-13-0614-X C.C.

On November 1, 2012, the Claimant allegedly became the victim of criminally injurious conduct while operating a tractor-trailer in Morgantown, Monongalia County. While attempting a left turn onto Interstate 79, the Claimant's vehicle collided with a vehicle driven by the alleged offender. The Claimant was issued a citation for improper lane change, and the other driver was not cited. Neither was injured. The claim was initially denied on the basis that no criminal act had occurred. No new evidence was adduced at the hearing, and the Court confirmed its previous ruling. Claim denied.

METHAMPHETAMINE

CV-013-0009-W D.L.

On August 30, 2012, methamphetamine-making materials were discovered on property allegedly owned by the Claimant in Culloden, Cabell County. The Court's initial denial of the claim for cleanup of the property was based on the fact that the Claimant was not the owner at the time. At the hearing it was revealed that the Claimant did not have legal title to the property in question at the time of the incident. The Court confirmed its previous ruling and denied the claim.

CV-12-0294-W M.T.

On April 7, 2012, the Kanawha County Sheriff's Department discovered methamphetamine-making materials at a property owned by the Claimant. The Court initially denied her claim on the basis that she knew of the illicit activity and was therefore not an innocent victim. Testimony at the hearing revealed that, although the Claimant owned the trailer in question, she did not live there. Instead, she permitted a friend to live there and perform renovations in exchange for free rent. The Court reversed its previous ruling and granted an award of \$6,217.80 for the cost of remediation of the property.