

**NEBRASKA CRIME VICTIM'S  
REPARATIONS PROGRAM**

*Twenty-fourth Report*

*July 1, 2010 – June 30, 2011*

*February 2012*

*Dave Heineman, Governor*

*Michael E. Behm, Executive Director  
Nebraska Commission on Law  
Enforcement and Criminal Justice*

**NEBRASKA'S REPORT**  
**on the**  
**CRIME VICTIM'S REPARATIONS PROGRAM**

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# REPORT ON NEBRASKA'S CRIME VICTIM'S REPARATIONS PROGRAM

## INTRODUCTION

All 50 states, plus the District of Columbia, Puerto Rico, and the Virgin Islands have Crime Victims Reparations' programs. New Zealand and Great Britain established the first compensation programs in the world. A number of European countries, plus Canada, Australia, New Zealand, and Japan also have victim compensation programs fairly similar to those in the United States. The Office of Victims of Crime has identified the following countries as having crime victim compensation programs: Austria, Belgium, Bermuda, Colombia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Hong Kong, Republic of Ireland, Japan, Luxembourg, The Netherlands, Norway, Philippines, Poland, Portugal, Spain, Sweden, Switzerland, and United Arab Emirates.

The Nebraska Crime Victim's Reparations (CVR) Act was created by Legislative Bill 910. The Bill was passed by the Nebraska Legislature in 1978 and became effective January 1, 1979. The operation of the CVR program is governed by Nebraska Revised Statutes 81-1801 through 81-1842 and Rules and Regulations, Title 80, Chapter 1-7.

The purpose of the program is to assist innocent victims of crime with medical expenses, mental health counseling, loss of wages, funeral bills in cases of homicide, residential crime scene clean-up, loss of earning power, and other expenses directly related to the criminal act. The program now covers Nebraska residents who are victims of terrorism in foreign countries.

**Loss of property, pain and suffering, and expenses not directly related to the crime are not covered.** Eligible awards are reduced by any collateral sources received or to be received. Collateral sources include insurance, sick leave pay, workers' compensation, unemployment, etc. A maximum of \$10,000 may be awarded to each claimant.

## PROGRAM ADMINISTRATION

The Nebraska Crime Commission is responsible for the administration of Nebraska's CVR program.

Crime Commission staff process the claims for compensation. The processing of claims includes:

- reviewing each claim for accuracy, completeness, and eligibility;
- acknowledging receipt of the claim, and requesting additional information if needed;
- requesting the incident report from the law enforcement agency involved;
- verifying the expenses being claimed (medical, funeral, loss of wages, etc.) to ensure they are directly related to the criminal act; verifying any payments made toward the expenses and by whom; and determining amounts to be considered for compensation;

- verifying criminal charges and the disposition of cases;
- preparing a summary of the information for each claim;
- submitting all claim information to the Hearing Officer for a determination;
- preparing and sending a letter to the claimant regarding the Hearing Officer's decision; and
- processing the payments for the awarded claims.

#### **PROCESSING OF CLAIMS**

- Once all information is received, the claim is investigated.
- The claim and all information received are reviewed by the Hearing Officer, and the Hearing Officer makes a decision to award, deny or request additional information.
- The claimant is notified of the Hearing Officer's decision.
- If the claim is denied or reduced, the claimant may file a written appeal.
- Hearings are conducted by the CVR Committee. The claimant may be present. If the Committee upholds the Hearing Officer's decision to deny, the claimant may appeal in District Court.

#### **REASONS A CLAIM MAY BE DENIED**

A claim for compensation will be denied if:

- the incident was not reported to law enforcement within three days;
- the claim for compensation was not filed with the CVR program within two years from the date of the incident;
- the victim did not cooperate with the criminal justice system in the investigation and prosecution of the crime;
- the victim did not submit the required information to the CVR program; or
- a victim was not an innocent victim of a crime or the victim's misconduct caused or contributed to the incident.

#### **APPEALS**

If a claim for compensation is denied by the Hearing Officer, the claimant has the right to appeal the decision to the CVR Committee. The appeal must be made in writing and received within 30 days from the date the decision was mailed to the claimant.

The CVR Committee consists of five members of the Nebraska Crime Commission and two members from the Public at Large who are appointed by the Governor for a term of four years. Members are reimbursed for actual expenses incurred in the performance of

their duties. During fiscal year 10/11 the CVR Committee consisted of the following members: Candice Batton, William Brueggemann, Scot Ford, Brenda Smith and Derek Vaughn. The Public at Large members were: G. Randall Hansen and Brian Wachman. If the CVR Committee upholds the Hearing Officer's decision to deny a claim, the claimant may appeal in district court within 30 days of the Committee's action.

### FUNDING

The Nebraska CVR program is funded through general fund appropriations, federal compensation funds, 5 percent of inmates' wages from federally certified correctional industry programs, a \$1.00 court fee for each misdemeanor or felony conviction, and up to 5% of the net wages of inmates assigned to the Department of Correctional Services work release program. With the passage of LB 510 in 2011, the amount of funds deposited in the CVR cash fund are estimated to increase by \$168,000 per year.

While the CVR program has been operational since 1979, the Legislature did not fund the program during fiscal years 85/86, 86/87, and 87/88, due to a budget shortfall. In fiscal year 02/03, the general fund appropriation was reduced from \$201,600 to \$20,000. More than 80% of the CVR programs in other states are funded with revenue from court fees or assessments paid by the offenders. In fact, in a large majority of states no tax dollars are used in either the administration or awards given to victims.

The appropriation for fiscal year 10/11 from all funding sources was \$293,034.

	<u>Claims Received</u>	<u>Awarded</u>
1979-1985	425	\$455,318
1985-1988	24	Not Funded
FY 88/89	96	\$131,327
FY 89/90	158	\$175,390
FY 90/91	176	\$200,233
FY 91/92	180	\$328,786
FY 92/93	195	\$341,527
FY 93/94	132	\$234,048
FY 94/95	193	\$274,345
FY 95/96	200	\$310,737
FY 96/97	224	\$378,897
FY 97/98	262	\$384,999
FY 98/99	221	\$426,884
FY 99/00	222	\$393,763
FY 00/01	206	\$430,611
FY 01/02	204	\$243,794
FY 02/03	187	\$223,325
FY 03/04	186	\$268,147
FY 04/05	92	\$142,536
FY 05/06	57	\$ 89,488
FY 06/07	87	\$ 92,524
FY 07/08	62	\$101,685
FY 08/09	46	\$ 89,588
FY 09/10	81	\$ 62,848
FY 10/11	57	\$ 92,257

## FEDERAL FUNDING

The Victims of Crime Act was signed into law by President Reagan in 1984. The Act provides for fines to be levied on offenders convicted of federal crimes. Fifty percent of the funds collected are utilized to assist state compensation programs. The amount to be paid each state is based on 60 percent of the state's non-federal funds disbursed during the previous federal fiscal year. To be eligible for federal funds, certain conditions must be met. Also, programs must comply with statistical reporting requirements.

During fiscal year 10/11 Nebraska received \$36,000. This amount is based on 60 percent of the actual amount of state funds disbursed to crime victims during the 10/11 Federal fiscal years.

## ACTIVITIES

Public awareness of the CVR program is provided through the distribution of brochures by law enforcement and prosecutor's agencies, through public speaking engagements and public service announcements, and through the efforts of victim/witness units and domestic violence/sexual assault task forces.

Beginning July 1, 2011 the CVR Committee voted to add felony assault victims to the list of crimes we will consider for payment. The additional funds we will receive as a result of the passage of LB 510 in 2011 allow us to expand our list of crimes. As of July 1, 2011 the CVR program will consider the following crimes for payment: homicides, sexual assaults, felony assaults, child abuse, robbery, domestic violence, arson, DUI, and kidnapping.

The CVR Committee conducted one Hearing during fiscal year 10/11 for claimants denied by the Hearing Officer.

The Crime Commission is a member of the National and International Association of Crime Victim Compensation Boards, the National Organization for Victims Assistance (NOVA), and the National Association of VOCA Assistance Administrators.

## 2011

### LEGISLATIVE INITIATIVES

**LB 390** (Ashford) – This bill passed on May 26, 2011. This was a comprehensive bill dealing with several Crime Commission responsibilities. Certain sections of the bill clarified the relationship between the Crime Victim's Reparations Committee and the Nebraska Community Trust.

# **PROGRAM SUMMARY**

**Fiscal Year 10/11**

**PROGRAM SUMMARY**  
**FY 10/11**

Claims Pending as of July 1, 2010	32
New Claims Received	57
Supplemental Claims and Resubmitted Claims	2
Appeals Withdrawn	0
Appeals	<u>1</u>
<b>TOTAL CLAIMS</b>	<b>93</b>

Claims Considered (Includes claims withdrawn)	72
Claims Awarded	23
Claims Denied	47
Claims Withdrawn	1
Appeal Decision	1

Claims Pending as of June 30, 2011	21
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<b>FUNDS EXPENDED</b>	
General Funds	\$20,000.00
Cash Funds	13,170.06
Federal Funds	<u>59,086.99</u>
Total Expended	\$92,257.05

<b>CLAIM ACTIONS</b>	
Awarded in FY 10/11	\$92,257.05

**PROGRAM SUMMARY CONTINUED – FY 10/11**

<b>BREAKDOWN of AWARDS</b>	
Physicians' Fees	\$12,934.32
Hospital Expenses	20,412.26
Dental Expenses	160.00
Prescriptions	242.85
Out-of-Pocket Expenses	556.20
Other Expenses	-0-
Mental Health Counseling	-0-
Loss of Wages	-0-
Funeral Expenses	57,951.42
Loss of Support	-0-
Crime Scene Cleanup	-0-
Attorney Fees	-0-
<b>TOTAL</b>	<b>\$92,257.05</b>

**PROGRAM SUMMARY CONTINUED – FY 10/11**

<b>Claims Awarded Breakdown by Type of Crime</b>	
Assault	-0-
Assault (Domestic)	\$13,087.12
Homicide	57,951.42
Sexual Assault – Adult	11,218.51
Child Sexual Assault/Physical Abuse	-0-
DWI/DUI	-0-
Vehicular	-0-
Kidnapping	-0-
Robbery	-0-
Other	10,000.00
<b>TOTAL</b>	<b>\$92,257.05</b>

**PROGRAM SUMMARY CONTINUED – FY 10/11**

<b>CLAIMS CONSIDERED BREAKDOWN by VICTIM'S AGE</b>			
<b>AGE</b>	<b>MALE</b>	<b>FEMALE</b>	<b>TOTALS</b>
0-17	5	2	7
18-64	38	26	64
65+	0	1	1
<b>TOTALS</b>	<b>43</b>	<b>29</b>	<b>72</b>

<b>CLAIMS CONSIDERED BREAKDOWN by TYPE of CRIME</b>	
Assault	22
Assault (Domestic)	11
Homicide	22
Sexual Assault – Adult	7
Child Sexual Assault/Physical Abuse	0
DWI/DUI	3
Vehicular	0
Kidnapping	0
Robbery	2
Other	5
<b>TOTALS</b>	<b>72</b>

**PROGRAM SUMMARY CONTINUED – FY 10/11**

<b>CLAIMS CONSIDERED BREAKDOWN by VICTIM'S EMPLOYMENT STATUS</b>	
Employed	37
Self-employed	1
Unemployed	22
Retired	2
Disabled	1
Student	6
Child	3
Homemaker	0
<b>TOTALS</b>	<b>72</b>

**BREAKDOWN of CLAIMS by LEGISLATIVE DISTRICT – FY 10/11**

<b>District No./County</b>	<b>Claims Awarded</b>	<b>Claims Denied</b>	<b>Amount of Award</b>
1 <i>Cass, Johnson, Nemaha Otoe, Pawnee &amp; Richardson</i>	0	0	0.00
2 <i>Cass, Otoe &amp; Sarpy</i>	1	0	3,890.00
3 <i>Sarpy</i>	0	1	0.00
4 <i>Douglas</i>	0	1	0.00
5 <i>Douglas &amp; Sarpy</i>	0	1	0.00
6 <i>Douglas</i>	0	1	0.00
7 <i>Douglas</i>	0	1	0.00
8 <i>Douglas</i>	1	3	5,000.00
9 <i>Douglas</i>	0	1	0.00
10 <i>Douglas</i>	0	1	0.00
11 <i>Douglas</i>	7	3	25,964.00
12 <i>Douglas</i>	1	1	5,000.00
13 <i>Douglas</i>	2	4	9,550.61
14 <i>Sarpy</i>	1	1	6,955.28
15 <i>Dodge</i>	0	0	0.00
16 <i>Burt, Cuming, Stanton, Thurston &amp; Washington</i>	1	2	500.00
17 <i>Dakota, Dixon &amp; Wayne</i>	1	2	715.00
18 <i>Douglas &amp; Washington</i>	0	0	0.00
19 <i>Madison</i>	0	1	0.00
20 <i>Douglas</i>	0	1	0.00
21 <i>Lancaster &amp; Saunders</i>	1	0	6,131.84
22 <i>Colfax &amp; Platte</i>	0	0	0.00
23 <i>Butler, Colfax, Douglas, Sarpy &amp; Saunders</i>	0	0	0.00
24 <i>Polk, Seward &amp; York</i>	0	0	0.00
25 <i>Lancaster</i>	0	1	0.00
26 <i>Lancaster</i>	1	0	5,000.00
27 <i>Lancaster</i>	0	1	0.00
28 <i>Lancaster</i>	2	1	2,205.34
29 <i>Lancaster</i>	0	0	0.00
30 <i>Gage &amp; Lancaster</i>	0	2	0.00

**BREAKDOWN of CLAIMS BY LEGISLATIVE DISTRICT – FY 10/11**

<b>District No./County</b>	<b>Claims Awarded</b>	<b>Claims Denied</b>	<b>Amount of Award</b>
31 <i>Douglas</i>	0	0	0.00
32 <i>Fillmore, Jefferson, Saline &amp; Thayer</i>	0	0	0.00
33 <i>Adams &amp; Hall</i>	0	1	0.00
34 <i>Hall, Hamilton, Merrick, Nance &amp; Polk</i>	0	0	0.00
35 <i>Hall</i>	0	0	0.00
36 <i>Buffalo &amp; Dawson</i>	0	0	0.00
37 <i>Buffalo &amp; Kearney</i>	0	2	0.00
38 <i>Clay, Franklin, Gosper, Harlan, Nuckolls, Phelps &amp; Webster</i>	0	0	0.00
39 <i>Douglas, Sarpy &amp; Washington</i>	0	1	0.00
40 <i>Cedar, Holt, Knox &amp; Pierce</i>	0	1	0.00
41 <i>Antelope, Boone, Garfield, Greeley, Hall, Howard, Sherman, Valley &amp; Wheeler</i>	0	0	0.00
42 <i>Lincoln</i>	0	4	0.00
43 <i>Blaine, Boyd, Brown, Cherry, Custer, Holt, Hooker, Keya Paha, Logan, Loup, McPherson, Rock &amp; Thomas</i>	0	0	0.00
44 <i>Chase, Dawson, Dundy, Frontier, Furnas, Hayes, Hitchcock, Perkins &amp; Red Willow</i>	0	0	0.00
45 <i>Sarpy</i>	0	2	0.00
46 <i>Lancaster</i>	0	1	0.00
47 <i>Arthur, Banner, Cheyenne, Deuel, Garden, Keith, Kimball &amp; Morrill</i>	0	0	0.00
48 <i>Scotts Bluff</i>	0	0	0.00
49 <i>Box Butte, Cherry, Dawes, Grant, Scotts Bluff, Sheridan &amp; Sioux</i>	1	0	10,000.00
<b>Out-of-State*</b>	3	7	11,344.98
<b>TOTALS</b>	23	49	\$92,257.05

\*Crime occurred in Nebraska, but the claimant's residence is in another state.

If a Nebraska resident is victimized in another state, that state's CVR program pays his or her claim if eligible. If the other state does not have sufficient funds in their program and the claimant is a resident of Nebraska, a claim may be submitted to the Nebraska Crime Victim's Reparations program.

**PROGRAM SUMMARY CONTINUED – FY 10/11**

**CLAIMS CONSIDERED  
BREAKDOWN of AWARDS by EXPENSES and TYPE OF CRIME**

	Medical Expenses	Hospital	Dental	Prescription	Out of Pocket Exp	Other	Mental Health	Loss of Wages	Funeral	Loss of Support	Crime Scene Cleanup	Atty Fees
Assault	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Assault (Domestic)	7,500.00	5,015.84	160.00	121.28	290.00	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Homicide	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	57,951.42	-0-	-0-	-0-
Sexual Assault-Adult	1,866.00	8,964.74	-0-	121.57	266.20	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Child Sexual Assault/Physical Abuse	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
DWI/DUI	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Robbery	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Other	3,568.32	6,431.68	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTALS</b>	<b>12,934.32</b>	<b>20,412.26</b>	<b>160.00</b>	<b>242.85</b>	<b>556.20</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>57,951.42</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>