

**Office of Claims and Appeals**

**Fiscal Year 2022 Report**

**July 1, 2021 – June 30, 2022

**

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | **PUBLIC PROTECTION CABINET**OFFICE OF CLAIMS AND APPEALS |  |
| **Andy Beshear**Governor  | 500 Mero Street, 2SC1Frankfort, KY 40601Phone: (502) 782-8255Fax: (502) 573-4817http://kycc.ky.gov/ | **Ray Perry**Secretary**John Hardesty** Executive Director  |

December 29, 2022

The Honorable John Hicks

State Budget Director

Office of the State Budget Director

702 Capitol Avenue

Room 284, Capitol Annex

Frankfort, Kentucky 40601

Sen. Christian McDaniel, Co-Chair

Rep. Jason Petrie, Co-Chair

Interim Joint Committee on Appropriations and Revenue

702 Capitol Avenue

Capitol Annex

Frankfort, Kentucky 40601

Dear Director Hicks and Members of the Interim Joint Committee on Appropriations and Revenue:

Please accept the following as the Fiscal Year 2022 report for the Office of Claims and Appeals (OCA), and its constituent boards, pursuant to KRS 49.010(3)(d) and KRS 49.300(8). This report details OCA and its boards’ activities and operations during Fiscal Year 2022.

Sincerely,

/s/ John L. Hardesty

John L. Hardesty

Executive Director
Office of Claims and Appeals

**Overview**

The Kentucky General Assembly created the Office Claims and Appeals (OCA) in 2021 to administer the Crime Victims Compensation Board (CVCB), the Board of Claims (BOC), and the Board of Tax Appeals (BTA).

KRS 49.020(1)(b) grants the Board of Tax Appeals the power and authority to hear and determine appeals from final rulings, orders, and determinations of any revenue and taxation agency. The Board consists of three members appointed by the Governor, subject to Senate confirmation. Two board members must be attorneys with the qualifications for Circuit Judge. One board member must have a background in taxation.

KRS 49.020(3) grants the Crime Victims Compensation Board the power and authority to hear and determine all matters relating to a claim by a crime victim or a person authorized by law to act on behalf of a crime victim for compensation. Victims or authorized persons may submit claims for medical and mental health counseling expenses, lost wages, loss of support, or funeral and burial expenses incurred as a result of a crime. The Board also hears and adjudicates claims under the Sexual Assault Examination Program (“SAEP”) submitted by medical providers for reimbursement of expenses incurred related to sexual assault forensic examinations. The Board consists of three members appointed by the Governor and subject to Senate confirmation, not all of whom shall be engaged in the same occupation or profession. Two of the Board members shall be a victim as defined in KRS 421.500(1), the parent, spouse, sibling, or child of a victim as defined in KRS 421.500(1), whether or not the victim is deceased, or a victim advocate as defined in KRS 421.570(1). The other Board member shall be an attorney licensed to practice law in the state with two years of experience.

KRS 49.020(5) grants the Board of Claims the power and authority to investigate, hear proof, and compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies. The Board consists of three members appointed by the Governor, subject to Senate confirmation. Two members of the Board call be attorneys with the qualifications required for candidates for Circuit Judge and have a background and working knowledge in Kentucky tort law. One member shall have a background in business.

Each board is separately authorized to promulgate suitable administrative regulations to carry out the provisions and purposes of the board’s statutory authority; issue subpoenas and discovery orders, and to petition a court of competent jurisdiction for any order necessary to carry out the board’s powers and duties; take or cause to be taken affidavits or depositions within or without the state; administer or cause to be administered oaths; except for the power to issue final decisions on the merits of a claim or appeal, to delegate any of its power or authority to the Office of Claims and Appeals; and publicize widely the functions and purposes of the board.

KRS 49.010(3)(d) requires OCA’s Executive Director to prepare annual reports of the office and boards’ activities. Further, KRS 49.300(8) requires the Executive Director to make an annual report, by January 1 of each year, of the Crime Victims Compensation Board’s activities for the preceding fiscal year to the Office of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue. Each report shall set forth a complete operating and financial statement covering the CVCB’s operations during the year.

OCA’s Executive Director submits this annual report in accordance with KRS 49.010(3)(d) and KRS 49.300(8). The below sections summarize OCA and its boards’ activities during Fiscal Year (FY) 2022.

**OCA Operations**

 The following is a breakdown of OCA’s expenditures for FY 2022. Please note that, unless otherwise designated, the following statistics represent the expenditures of OCA, as opposed to expenditures of the individual boards. Because OCA administers the boards, all expenditures are made through OCA.

|  |  |  |
| --- | --- | --- |
|   | **Expenditure FY 2022** |   |
| 110-Salaries And Wages | 666,908.19 | \* |
| 120-Fringe Benefits | 487,275.08 | \* |
| 130-Other Personnel Costs | 3,233.94 |   |
| 140-Pro Contract (Inc Per Serv) | 0.00 |   |
| 150-Non Pro Contract | 36,605.15 |   |
| **Total Personnel Costs** | **1,194,022.36** |   |
|  |  |   |
| 210-Utilities And Heating Fuels | 0.00 |   |
| 220-Rentals | 57,351.57 |   |
| 240-Postage And Related Services | 2,313.01 |   |
| 250-Miscellaneous Services | 1,763.18 |   |
| 260-Telecommunications | 0.00 |   |
| 270-Internal Computer Services | 27,326.31 |   |
| 320-Supplies | 1,867.45 |   |
| 340-Commodities | 489.99 |   |
| 360-Travel Exp & Exp Allowances | 7,003.59 |   |
| 370-Misc Commodities & Other Exp | 583,487.11 | \*\* |
| **Total Operating Expenses** | **681,602.21** |   |
|  |  |   |
| 450-Care And Support | 202,402.83 | \*\*\* |
| **Total Grants, Loans, Benefits** | **215,405.83** |   |
|  |  |   |
| **Total Expenditures** | **2,091,030.40** |   |

\* Includes all OCA employees and board members.

\*\* Includes Crime Victim payments.

\*\*\* Sexual Assault Examination Program payments.

**Crime Victims Compensation Board**

**Crime Victims Compensation**

Claims Filed: 313

Claims Approved: 165

Victims Receiving Awards: 165

Claims Denied: 74

Average Claim Processing Time: 102.21 days\*

Total Amount Awarded: $579,923.03

\* Processing time does not include abeyance claims and requests for reconsideration.

**Sexual Assault Examination Program**

Claims Filed: 1,403

Claims Approved: 513

Claims Denied: 235

Ineligible Claims\*: 655

Total Amount Awarded: $210,643.48

\* Ineligible claims are claims submitted for services not covered under the Sexual Assault Examination Program’s statutes and regulations.

**Recoveries**

Offender Payments: $76,541.85

Donations: $38,747.69

Total: $115,289.54

**CVCB Training and Outreach**

KRS 49.300(7) requires CVCB to publicize widely the availability of reparations and information regarding the claims therefor. In addition to publishing information and resources on its website and widely distributing an informational brochure and other materials at conferences and events, CVCB conducts periodic trainings to detail the available reparations under its programs, the application and claims process, and the operations of the CVCB.

In FY 2022, CVCB conducted nine (9) trainings. The attendees for those trainings totaled 104. Attendees worked for or represented numerous and diverse organizations, agencies, and nonprofits, including: the Kentucky State Police, Owensboro Area Shelter & Information Services, Catholic Charities of Louisville, Silverleaf Sexual Trauma and Recovery Services, Owensboro Health Regional Hospital, Kentucky Legal Aid, the Louisville Metro Police Department, The ION Center for Violence Prevention, Adanta, Mountain Comprehensive Care Center, the Office of the Attorney General, Children’s Advocacy Centers of Kentucky, Pathways, Inc., AppalReD Legal Aid, US Army Human Resources Command-Fort Knox, 25th Judicial Circuit (Clark and Madison Counties), 27th Judicial Circuit (Knox and Laurel Counties), 8th Judicial Circuit (Warren County), Bowling Green Police Department, 52nd Judicial Circuit (Graves County), 35th Judicial Circuit (Pike County), 22nd Judicial Circuit (Fayette County), The Rising Center, New Beginnings Sexual Assault Support Services, Hope Harbor, 12th Judicial Circuit (Henry, Oldham, and Trimble Counties), Pride Community Services Organization, Jefferson County Attorney’s Office, University of Louisville School of Medicine, St. Elizabeth Healthcare, Conifer Health Solutions, Ampersand Sexual Violence Resource Center, LKLP Community Action Council, University of Louisville Hospital, Home of the Innocents, Court Appointed Special Advocates of Madison and Clark Counties, Marshall County Resilience Center, Merryman House Domestic Crisis Center, Lake Cumberland Children’s Advocacy Center, Court Appointed Special Advocates of Lexington, University of Kentucky Hospital, Pulaski County Attorney’s Office, Knott County Attorney’s Office, Bourbon County Attorney’s Office, Holly Hill Child and Family Solutions, The Well of Lexington, Volunteers of America Restorative Justice, Children’s Law Center, Clay County Attorney’s Office, Kentucky Legal Aid, and the 42nd Judicial Circuit (Calloway and Marshall Counties).

Pursuant to Senate Bill 378 passed in the Kentucky General Assembly’s 2022 Regular Session, which amended KRS 49.010 and 49.020, staff and members of the Crime Victims Compensation Board are required to receive six (6) hours of trauma-informed training within thirty (30) days of hire or appointment, then three (3) hours of training each year thereafter. In compliance with these new provisions, OCA planned, and members and staff of the CVCB attended, a trauma-informed training on July 28, 2022 conducted by the management and staff of the ION Center for Violence Prevention. The training was engaging and effective, and empowered staff and board members to better serve the victims and survivors with whom they interact.

**Board Meeting Dates**

No meetings for July and August 2021 (pending appointment of Board members)

September 24, 2021

October 12, 2021

October 28, 2021

November 15, 2021

December 13, 2021

January 28, 2022

February 8, 2022

March 8, 2022

April 12, 2022

May 10, 2022

June 14, 2022

**Board of Tax Appeals**

Appeals Filed: 209

 PVA Appeals Regarding Big Box Stores: 50

 PVA Business and Multi-Family Residential Appeals (Non-Big Box): 113

 PVA Individual Taxpayer Appeals: 39

 Department of Revenue Appeals: 6

 Department of Transportation Appeals: 1

Appeals Closed/Final Orders Issued: 183

Appeals to Circuit Court from BTA Final Orders: 71 (Many individual but related Board of Tax Appeals cases were combined into single hearings, so the 71 individual cases appealed to circuit court were appealed through eight (8) Petitions for Judicial Review.)

**Board Meeting Dates**

No July 2021 meeting (pending appointment of Board members)

August 25, 2021

September 29, 2021

October 27, 2021

November 17, 2021

December 15, 2021

January 26, 2022

February 23, 2022

March 23, 2022

April 27, 2022

May 25, 2022

June 22, 2022

**Board of Claims**

Negligence Claims Filed (Total): 915

Negligence Claims by Agency Respondent:

 Kentucky Transportation Cabinet: 746

University of Kentucky: 73

 Justice and Public Safety Cabinet (Dept. of Corrections): 20

Justice and Public Safety Cabinet (Dept. of Public Advocacy): 3

Justice and Public Safety Cabinet (Kentucky State Police): 6

Tourism, Arts, and Heritage Cabinet (State Fair Board): 9

Tourism, Arts, and Heritage Cabinet (Dept. of Parks): 18

Tourism, Arts, and Heritage Cabinet (Tourism): 1

Tourism, Arts, and Heritage Cabinet (Dept. of Fish & Wildlife Resources): 1

Administrative Office of the Courts: 1

 Northern Kentucky University: 3

Cabinet for Health and Family Services: 2

Labor Cabinet, Office of Unemployment Insurance: 1

Murray State University: 3

Eastern Kentucky University: 2

 Western Kentucky University: 5

Non-state Respondent (Improper): 11

Board of Claims: 1

Energy & Environment Cabinet (Div. of Mines): 1

Finance & Admin Cabinet (Dept. of Revenue): 1

Finance & Admin Cabinet (Dept. of Facilities Support Services): 1

Finance & Admin Cabinet (Fleet Management): 1

Kentucky Community and Tech. College: 1

Kentucky State Board of Elections: 1

University of Louisville: 1

Unknown (defaulted claims): 2

Claims Closed: 828

 Claims Awarded: 439

 Claims Dismissed or Settled: 383

 Claims Withdrawn: 5

Claims Awarded against Individual Agencies:

Kentucky Transportation Cabinet: 382

 University of Kentucky: 33

Justice and Public Safety Cabinet (Dept. of Corrections): 5

Justice and Public Safety Cabinet (Kentucky State Police): 3

Dept. of Military Affairs: 1

Western Kentucky University: 4

 Northern Kentucky University: 3

 Tourism, Arts, and Heritage Cabinet (State Fair Board): 3

Tourism, Arts, and Heritage Cabinet (Dept. of Parks): 3

 Murray State University: 2

Amount Awarded to Claimants (Total): $428,062.90

Amount Awarded against Individual Agencies:

 Kentucky Transportation Cabinet: $293,497.33

 University of Kentucky: $93,648.20

Justice and Public Safety Cabinet (Dept. of Corrections): $7,215.34

Justice and Public Safety Cabinet (Kentucky State Police): $6,156.00

Department of Military Affairs: $832.09

Western Kentucky University: $1,300.11

 Northern Kentucky University: $2,054.54

 Tourism, Arts, and Heritage Cabinet (State Fair Board): $20,270.47

Tourism, Arts, and Heritage Cabinet (Dept. of Parks): $2,338.82

 Murray State University: $750.00

**Board Meeting Dates**

No July 2021 meeting (pending appointment of Board members)

August 24, 2021

September 30, 2021

October 26, 2021

November 22, 2021

December 21, 2021

January 25, 2022

February 28, 2022

April 2022 (meeting cancelled)

March 22, 2022

May 24, 2022

June 28, 2022