



Crime Victims' Compensation: How Attorneys Can Help Navigate the Process

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Overview: Crime Victim Services Division – Mission Statement

- ▶ To assist in the compassionate and effective delivery of crime victim services by offering information, resources, and financial assistance to crime victims and the organizations assisting them



Overview: Crime Victim Services Division – Programs

- ▶ Crime Victims' Compensation Program (CVC)
- ▶ Sexual Assault Prevention and Crisis Services (SAPCS)
- ▶ Victim Information and Notification Everyday (VINE)
- ▶ Address Confidentiality Program (ACP)



Before: Know the Crime Victims' Compensation Act (CVCA)

- ▶ Texas Code of Criminal Procedure
 - Chapter 56 subchapter B
 - Article 56.31 through 56.64
 - Crime Victims' Compensation Act
- ▶ Texas Administrative Code
 - Title 1
 - Part 3
 - Chapter 60



Before: Know the CVCA – Purpose

- ▶ Art. 56.311. LEGISLATIVE FINDINGS AND INTENT.
The legislature recognizes that many innocent individuals suffer personal injury or death as a result of criminal acts. Crime victims and persons who intervene to prevent criminal acts often suffer disabilities, incur financial burdens, or become dependent on public assistance. The legislature finds that there is a need for the compensation of victims of crime and those who suffer personal injury or death in the prevention of crime or in the apprehension of criminals. It is the legislature's intent that the compensation of innocent victims of violent crime encourage greater public cooperation in the successful apprehension and prosecution of criminals.



Before: Know the CVCA – Eligibility Statutes (Slide 1 of 2)

- ▶ Art. 56.45. DENIAL OR REDUCTION OF AWARD. The attorney general may deny or reduce an award otherwise payable:
 - (1) if the claimant or victim has not substantially cooperated with an appropriate law enforcement agency;
 - (2) if the claimant or victim bears a share of the responsibility for the act or omission giving rise to the claim because of the claimant's or victim's behavior;
 - ...
 - (4) if the claimant or victim was engaging in an activity that at time of the criminally injurious conduct was prohibited by law or a rule made under law.



**Before:
Know the CVCA – Eligibility Statutes
(Slide 2 of 2)**

- ▶ Art. 56.46. REPORTING OF CRIME.
 - (a) Except as otherwise provided by this article, a claimant or victim may not file an application unless the victim reports the criminally injurious conduct to the appropriate state or local public safety or law enforcement agency within a reasonable period of time, but not so late as to interfere with or hamper the investigation and prosecution of the crime after the criminally injurious conduct is committed.



**Before:
Know the CVCA – What CVC Does**

- ▶ CVC does
 - Reimburse victims (and claimants) for actual pecuniary losses directly caused by the crime, within statutory limits (See. Tex. Code of Crim. Proc. 56.32(a)(9));
 - Assist victims with rent and relocation expenses in cases of family violence, sexual assault in the home, and human trafficking.



**Before:
Know the CVCA – What CVC Does Not Do**

- CVC does not
- ▶ Provide payments or benefits to victims for general living expenses;
 - ▶ Open or encourage police to open investigations into the original crime;
 - ▶ Provide assistance – directly or indirectly – in civil lawsuits.



Before: Determine If CVC Is Right for Your Client

- ▶ Art. 56.51. SUBROGATION.
 - If compensation is awarded under this subchapter, the state is subrogated to all the claimant's or victim's rights to receive or recover benefits for pecuniary loss to the extent compensation is awarded from a collateral source.
- ▶ Art. 56.34. COMPENSATION.
 - (f) The compensation to victims of crime fund and the compensation to victims of crime auxiliary fund are the payers of last resort.
- ▶ Art. 56.44-45. PAYMENTS & DENIAL.



Before and The Beginning: Lay the Groundwork – Fix Potential Problems

- ▶ Cooperation (and reporting)
- ▶ Communication
- ▶ Contribution (and witnesses)



During: Manage Expectations

- ▶ Explain process, difficulties, etc.
- ▶ See What CVC Does / What CVC Does **Not** Do
- ▶ Timeline



During: Organize the File

- ▶ In 2013, CVC received 28,010 applications for reimbursement
 - Application
 - Crime report
 - Medical bills
 - Proof of wages
 - Letters
 - Many, many more
- ▶ Ex-parte communication



During: Advocate

- ▶ Do what you do best...



After: Maximize Recovery



BEFORE (2) Determine if CVC is Right for Your Client

Art. 56.51. SUBROGATION.
If compensation is awarded under this subchapter, the state is subrogated to all the claimant's or victim's rights to receive or recover benefits for pecuniary loss to the extent compensation is awarded from a collateral source.

- ▶ Non-economic losses
- ▶ Made-whole doctrine
 - *TASB v. Ward*, 18 SW3d 256 at 111.
 - "Under general equitable principles, [the] right to reimbursement is subject to the [insured's] right to first be made whole."



After: Protect Information

- ▶ Public information requests
- ▶ Subpoenas
 - Mental health records
 - Medical records
 - Correspondence
 - Much, much more...



OAG Website for CVC

- ▶ OAG website for Crime Victims' Compensation
 - www.texasattorneygeneral.gov/victims
- ▶ What is available on the CVC website?
 - General program information
 - Basic qualification requirements
 - Reimbursable expenses
 - How to apply
 - Forms and applications
 - Appealing a denial
 - Remote User / Claims Management System
 - Information for service providers
 - Publications and materials order
 - Training



Crime Victims' Compensation

Questions?



Contact Information

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