

CVC ONLINE COURSE

Slide 1: Abbott Cover Slide

Slide 2: Introduction

This course will provide a detailed overview of the Crime Victims' Compensation program, which is administered by the Crime Victim Services Division of the Office of the Texas Attorney General. In it, we will describe the Crime Victims' Compensation Fund and program, victims and claimants who may be eligible for compensation, covered expenses and benefits, and financial award limits.

Slide 3: Enabling Legislation

All fifty states have developed a Crime Victims' Compensation (CVC) program that is designed to financially assist eligible victims of violent crimes. Each state's program has different types and amounts of reimbursement available.

In 1979, the Texas Legislature created the Crime Victims' Compensation Fund. Although there are specific eligibility requirements that will be addressed later in this course, those generally eligible for consideration are victims of violent crimes that occurred on or after January 1, 1980. Originally, the program was administered by the Industrial Accident Board, now known as the Texas Workers' Compensation Commission. In 1991, the CVC program was transferred to the Crime Victim Services Division of the Office of the Attorney General. The enabling legislation for the program is from the Crime Victims' Compensation Act in Chapter 56 of the Texas Code of Criminal Procedure [<http://www.capitol.state.tx.us/statutes/cp/cp0005600toc.html>]. This Code outlines laws affecting adults only. However, there are more provisions concerning victims of juvenile offenders in the Texas Family Code, Chapter 57 [<http://www.capitol.state.tx.us/statutes/fa/fa0005700toc.html>].

Slide 4: Goal of CVC

The goal of the CVC program is to reimburse victims of violent crimes for certain out-of-pocket expenses. Eligible victims and/or claimants may submit paid bills, co-payments or documentation of other unreimbursed expenses associated directly with the violent crime. Such awards may be made in the following categories (among others):

- Medical, Prescriptions and Rehabilitation
- Funeral Expenses
- Lost Wages or Loss of Support

- Family Violence or Sexual Assault Relocation
- Mental Health or Psychiatric Treatment
- Child or Dependent Adult Care
- Crime Scene Cleanup
- Travel to Medical, Mental Health or Court-Related Appointments

Service providers and advocates should help victims keep accurate records of needed documents such as paid bills, travel receipts, and payroll stubs; then emphasize to victims that the Crime Victims' Compensation program is a reimbursement program. Victims and/or claimants will not automatically receive a 'lump sum' of money but rather will be paid back for expenses incurred due to the crime.

Slide 5: "So, Where Does the Money Come From?"

Of course, a common concern is the source of funding for such a program. "So, where does the Fund get its money?" *The Crime Victims' Compensation program is supported through a legislative appropriation from the Compensation to Victims of Crime Fund, often referred to as the Crime Victim's Compensation Fund.* It is not a tax-based or general revenue funded program. No tax dollars are used. The Fund is dedicated to benefiting victims and their families, and the vast majority of its money comes from offenders, not taxpaying citizens or the victims, victims' family, or insurance.

Offenders are assessed fees and fines that are paid directly to the Fund.

The Fund receives \$45.00 for felonies, \$35.00 for Class A and B misdemeanors, and \$15.00 for Class C misdemeanors and municipal ordinance convictions, except for parking and pedestrian violations.

The federal courts charge a special assessment fee of \$50 for felonies and \$25 for misdemeanors. The CVC Fund receives these federal monies through a formula based on the amount of money Texas pays to crime victims from its state funds in a given year. Victims of both state and federal crimes are assisted through this program.

Another source of money for the Fund is through gifts, grants and donations. The Crime Victims' Compensation Fund can receive gifts, grants and donations but this is not actively sought.

Slide 6: Restitution

Restitution paid to the CVC Fund occurs when CVC pays benefits to a victim and later the offender is apprehended and convicted. The judge can then order the offender to pay back the CVC fund for what the victim was paid by CVC. If no CVC monies have been paid, the judge can order a one-time fee of up to \$50 for misdemeanors and up to \$100 for felonies paid directly to the Fund (CCP Art

42.12, Sec 11(18). The judge can still order the defendant to pay restitution directly to the victim for other crime-related losses.

Slide 7: Subrogation

Subrogation is repayment to the Fund by the victim after they have initially received funds from CVC and then later receive a civil suit settlement. Victims cannot be paid twice. When the victim signs the CVC application, they agree to notify the Crime Victims' Compensation program if they file a civil suit arising from the crime. CVC has a subrogation interest in any money they recover up to the amount of their award. Attorneys, victims and claimants are subject to prosecution if they fail to notify us.

The victim is required to reimburse the Fund for the amount paid to them up to the amount of their civil award minus legal fees and attorney fees.

Slide 8: Payer of Last Resort

CVC is the "Payer of Last Resort" which means that all other collateral sources must pay first. CVC is a reimbursement program, which implies that the victim or claimant has incurred expenses relating to the crime and needs to be repaid. Other collateral sources, such as health insurance, Medicaid or Medicare, must be utilized first. Auto insurance may play a role in criminal cases involving an automobile (e.g. DWI or vehicular manslaughter). Using collateral sources first may mean that the reimbursement process is lengthy. Advocates and providers should assist victims in understanding a reimbursement program and aid them throughout the process.

Slide 9: CVC FY 2002 Summary

In fiscal year 2002, CVC received over 28,000 applications and awarded \$44.9 million to victims, their families and claimants—making Texas' program the second largest in the country. These highlights from the Crime Victims' Compensation Fund's Annual Report show the great number of victims who have turned to the Fund for financial assistance with expenses related to the crime. There are more victims who could be assisted by the program if they knew of its existence. The CVC staff is able to assist victims, advocates, providers and the general public.

Please refer to the CVC Annual Report and look for your county's contributions and payout [http://www.oag.state.tx.us/AG_Publications/pdfs/2001cvc_annual.pdf]. Does this number accurately reflect the violent crime in your county? If not, who is paying for the victims' expenses? Can you think of some ways that more victims in your area can be reached to receive the help they need?

Slide 10: Eligibility Introduction Coversheet

(No Script)

Slide 11: CVC Mandates and Rights

A victim has the right to request and receive information about the Crime Victims' Compensation program. Victims have a broad range of rights, from being able to be present at relevant court cases to the right to be informed about their offender's release on parole or probation. However, Crime Victims' Compensation is perhaps one of the most tangible rights that victims have. As mentioned earlier, not all victims of crime are aware of the Compensation program. This is one reason victims have the right to *information* about the program, and many different agencies are responsible for securing this right.

State law requires law enforcement officers, Crime Victim Liaisons and Victim Assistance Coordinators to provide Crime Victims' Compensation information and applications to:

1. A person who is the victim of criminally injurious conduct (i.e., "crimes against persons")
2. A person who was the spouse of a deceased victim at the time of the victim's death or who is a parent, adult sibling, or child of the deceased victim
3. A person who is the legal guardian of the victim due to the age, physical or mental incompetence of the victim

Victim assistance groups receiving VOCA (Victim of Crime Act) grants, such as rape crisis centers and family violence shelters, are also required to give victims information about the Crime Victims' Compensation program.

Please refer to the Texas Code of Criminal Procedure (also referred to as CCP), Chapter 56.02, for a more complete list of victims' rights. Other rights can be found in the Texas Family Code, the Government Code, the Health Code and the Texas Constitution as well [<http://www.capitol.state.tx.us/txconst/toc.html>, <http://www.capitol.state.tx.us/statutes/gvtoc.html>, <http://www.capitol.state.tx.us/statutes/hstoc.html>].

Slide 12: Who Is A Victim

So, who is a victim? To be eligible for the Compensation program, a victim is defined as someone who suffers physical or mental harm or death as a result of criminally injurious conduct. Similar to other assistance programs, the Crime Victims' Compensation program has certain eligibility requirements. All applications must be filed either by a victim or a claimant. Also, each application received must have one and only one victim. If there is an incident with four victims, four applications should be submitted.

Law enforcement officers and firefighters are eligible as victims if they are injured in crimes involving criminally injurious conduct.

Slide 13: Who Is A Claimant

In addition to victims, claimants may also file for Crime Victims' Compensation. Claimants are typically family members or other individuals who handle the victim's expenses. They are authorized individuals acting on a victim's behalf who pay the victim's expenses. A claimant can also be a dependent of a deceased victim or an immediate family member who needs counseling. Again, the application can have only one victim, but it can have many claimants.

The following are examples of persons who could be claimants:

- 1. A person who legally or voluntarily pays expenses**
- 2. The dependent of a deceased victim**
- 3. Family members who need counseling**

An example of a ***legally responsible individual*** would be a parent who pays medical expenses for a child victim; while an example of ***someone who voluntarily pays*** could be a neighbor who pays for the funeral of a deceased victim. In such a case, the neighbor should be listed as a claimant on the family's application to be reimbursed for the funeral expenses.

An example of a ***dependent*** is a person who is the ***surviving spouse*** of a victim, a ***person who is a dependent within the meaning of the Internal Revenue Code***, or a ***posthumous child*** of a deceased victim. To qualify as a dependent, the person must be identified on the victim's tax return as a dependent.

An example of a claimant may be a person who is in need of counseling as a direct result of the crime and is an immediate family member of a victim (related by blood or marriage), or a household member present at the time of the crime. Immediate family members related by blood within the second degree include the victim's father, mother, sisters and brothers, daughters and sons, and grandparents. The victim's immediate family by marriage includes the respective "in-law" or "step" relationships created by the marriage.

The official definition of claimants eligible for counseling is those persons who are:

one, immediate family by blood or marriage whether they were at crime scene or not and/or,

two, household members that may be immediate family or not, but if not (e.g. roommate, distant family, live-in housekeeper, etc.), they were present at the time of the crime.

Slide 14: Eligibility Requirements

Valid victims and claimants have been identified. What determines an eligible CVC claim is:

1. The victim is a resident and the crime is in Texas

- Undocumented people who are not citizens of the United States are not excluded from the program. A victim need not be a citizen of the United States, only a resident.
- The victim must be a Texas or United States resident who is injured or killed as the direct result of a violent crime that occurred in Texas.
- Since all fifty states have some type of Crime Victims' Compensation program, the Texas Crime Victims' Compensation program pays for crimes that take place within Texas only

2. The crime occurred in a country with no benefits

- Texas residents who are victims of crime in other *countries* that do not have programs are eligible.
 1. Texas residents who become victims of crime in another country should submit an application.
 2. The Crime Victims' Compensation program will determine whether a program exists in the country where the crime occurred and what, if any, benefits are available.
- In certain circumstances, expenses not covered by other states' or other countries' programs may be covered by the Texas program.

Slide 15: Criminally Injurious Conduct

As has been mentioned, victims are only eligible when they are victims of criminally injurious conduct. Criminally injurious conduct refers to crimes that are attempted or occur, pose a substantial threat of personal injury or death, and would be punishable by fine or imprisonment. This excludes property crime. All three of these conditions must be met.

First, the crime must have happened or was attempted. For example, in an attempted aggravated robbery, the offender points a firearm at the victim but then is interrupted and leaves. The victim still may suffer mental harm in this case.

Second, the crime poses a substantial threat of personal injury or death.

Personal injury is defined as “physical or mental harm.” Victims who do not appear to have suffered any physical harm but were exposed to a substantial threat of personal injury or death should be given information about the program. The Crime Victims’ Compensation staff will determine whether the elements of the case meet the test of “substantial threat” to make the victim eligible for benefits.

For example, a person robbed at knifepoint faced a substantial threat of personal injury-physical harm, emotional harm and death. Victims whose homes were burglarized while they were not present would not be eligible for benefits since there was not a “substantial threat of personal injury or death.”

And third, the crime is or would be punishable by fine, imprisonment, or death.

Article 56.32(a)(4)(c) of the Code states that the crime is considered “criminally injurious conduct” if the conduct **would be** punishable by fine, imprisonment or death if the person engaging in that conduct had the capacity to commit the conduct. The ‘**would be**’ exception applies to either a perpetrator who is clinically mentally ill or retarded and thus not responsible for his actions, or to a child (by legal definition) who commits an ‘adult’ crime but cannot be punished for it due to his age. Suicides are not eligible for benefits because committing suicide is not punishable by fine, imprisonment or death.

Slide 16: CIC Crimes

Criminally Injurious Conduct (CIC) crimes that are eligible for reimbursement are ones that are committed against persons and range from simple assault to homicide. CRIMINALLY INJURIOUS CONDUCT, VEHICULAR RELATED CRIMES are a particular type of CIC crimes and include the following:

- Intoxication related vehicular crimes (by car, boat or other vehicle)
- Driving
- Boating
- Flying

Crimes of intoxication assault and intoxication manslaughter are covered. Since it may not be known immediately whether a car accident with injuries has the elements necessary for one of the above charges to be filed, victims should be given the written notice containing information about Crime Victims’ Compensation.

When the victim and/or claimant submits the application, the Crime Victims’ Compensation staff will contact the investigating law enforcement agency to determine whether the case is eligible for an award.

Slide 17: Application by Crime Type Pie Chart

This chart illustrates the percentage of applications received by the type of crime committed. As you can see, simple assault, aggravated assault and aggravated assault of a child comprise the largest number of crime type applications to the CVC program.

Slide 18: Denial Behavior Factors

Claims may be denied because of behavior factors. Such factors relate to the behavior of the victim, such as whether or not the victim was involved in the crime that resulted in their injuries. One of the requirements of the Crime Victims' Compensation Act is that the victim must cooperate with law enforcement.

The behavior of the victim and the claimant(s) must be considered in determining whether an award may be made. There are some situations where the Crime Victims' Compensation program has no discretion and the claim must be denied, such as if the victim:

...knowingly or willingly participates in the crime:

An example of this is a man who robs a convenience store, gets shot by a clerk, and applies for compensation for his injuries. He would be ineligible because he committed the crime that resulted in his injuries.

Another situation for denial of a claim is if the victim is the offender or accomplice:

- This includes situations where the offender or accomplice would be unjustly enriched if an award would be made to the victim or claimant.
- An example of this would be: sisters Mary and Betty head out to rob a donut shop. Betty sits in the get-away car while Mary goes inside with a gun. The cashier gets nervous and pulls out his own gun and shoots the would-be robber, Mary. Betty files for compensation for her sister's funeral expenses. She would be ineligible because she was an accomplice to the crime.

A claim would also be denied if the victim knowingly or intentionally submits false or forged information to the Office of the Attorney General.

This includes false or forged medical reports, employment verification or forms.

If you know that someone who may have engaged in any of these activities and has applied for compensation, notify the Crime Victims' Compensation program or have your local law enforcement crime victim liaison contact us.

Slide 19: Denial or Reduction Factors

Other factors can cause the claim to be either denied or reduced in the amount of award the victim will receive. Again, these behavior factors look at the victim's part in their own victimization. There are some situations where the Crime Victims' Compensation program may deny or reduce the award based on the behavior of the victim or claimant. If CVC determines that a victim or claimant shares some responsibility for the crime, the amount of the award may be reduced accordingly. For example, if CVC determines that the victim or claimant was fifty percent responsible for what happened, each award made to the victim would be reduced by fifty percent, and the cap (maximum payout allowed) for that award is reduced by fifty percent as well.

Factors that can cause a person's claim to be reduced or denied include the following:

The person was engaged in illegal activity:

- Let's say an adult male is buying cocaine and gets into an argument with the dealer. The dealer pulls out a gun and shoots and kills his customer. The victim, or in this case the victim's family, files for burial expenses but are not eligible for an award (denial) because the victim was involved in an illegal activity. The fact that the family had no part in the deal and must bear the financial burden is not relevant. Eligibility is based first on the victim's behavior.
- A partial award may be made in some circumstances. Consider this case involving gang violence: Mark, a gang member, shoots Seth in June. In September, Mark is relaxing on his front porch when Seth drives by and shoots Mark in retaliation for Mark shooting him. The Crime Victims' Compensation staff would look at Mark's application in the context of whether this is a continuation of criminal conduct by examining Mark's criminal history and determining that it was indeed retaliation for a previous act of Mark's. Thus, Mark's compensation would be only a partial award.

Another example of a possible reduction is when a person shares responsibility for the crime. An example of this is where the victim challenged the alleged offender to a fight and then received injuries in what amounted to mutual combat. Let's say that you are at a football game and an argument between you and a fan from the other team gets heated. You both go outside to fight and he shoots you. That claim may be reduced because you were going to a fistfight and he shot you. You are partly responsible for what happened.

A third significant situation occurs when the victim does not cooperate substantially with law enforcement and prosecution:

- The Crime Victims' Compensation program will look at the range of cooperation. A good measure is: did the victim do what law enforcement asked to further the investigation?

- This includes providing a true, accurate and complete description of the crime, to the best of the victim's ability, and viewing lineups when requested.
- Awards may be denied or reduced if victims refuse to give statements, refuse to identify suspects, fails to return phone calls, or drops charges.
- The Office of the Attorney General should be notified when the victim is not cooperating with authorities in the case.

NOTE: In the case of family violence, **if a victim signs a non-prosecution form** at the district attorney's office, it is considered non-cooperation and **the claim will be denied**. If there are extenuating circumstances related to the victim's lack of cooperation, that information should be provided as well and the eligibility decision can be revisited. The Compensation program may take any threats to the victim's health or safety into consideration when looking at cooperation issues. Law enforcement must make it clear to victims what they must do to further the investigation or criminal justice process.

A final circumstance that would result in automatic denial of a claim is when a victim is an inmate when the crime occurs. This refers to assaults that occur in a jail, prison, or other detention center and will automatically be denied.

Victims whose cases are denied or reduced due to their behavior are still victims of crime and eligible for crime victims' rights outlined in the Code of Criminal Procedure, Article 56.02. They simply are not able to receive an award from the CVC program because they do not meet the eligibility requirements. It is important to explain this to victims and claimants to reduce the chance of secondary victimization.

Slide 20: Remember...

Remember, there is no requirement that a suspect be identified, apprehended, charged or even convicted for a victim to apply, and potentially be awarded, compensation. Some people believe that compensation can only be paid in cases where charges have been filed. That is not correct. The Crime Victims' Compensation program does need evidence that a crime took place and that the victim's behavior did not contribute to the incident.

However, there must be a police report and the victim must cooperate with the investigation and prosecution (if the case goes to court). Advocates must act as liaison between law enforcement agencies and the victims to ensure that both sides are receiving adequate amounts of information.

The CVC program's review of the crime is an administrative process; we will consider all factors including a victim's fear of formally filing charges. Prosecutors

need enough evidence to support a charge “beyond a reasonable doubt.” However, the Crime Victims’ Compensation program’s decisions are based on the preponderance of the evidence. In other words, “is it more likely than not that the conduct occurred?”

Slide 21: CVC Reporting Requirements

CVC has reporting requirements so that law enforcement officials will have a better chance at solving the case. Victims must report the crime to a law enforcement agency within a reasonable period of time, unless there are extraordinary circumstances. Cases prior to September 1, 1997 must be reported to law enforcement within seventy-two hours, unless the victim can show good cause why that requirement should be waived. For crimes after 1997, the current requirement is that the crime be reported in a timely manner and does not hinder the investigation of the crime.

Factors that may influence whether the reporting may or may not be considered timely are:

- 1) The statute of limitations has expired.
 - 2) Available information shows that the report was made to law enforcement for the sole purpose of applying for and receiving compensation.
- or,
- 3) The crime was never reported to law enforcement.

Slide 22: CVC Filing Requirements

CVC also has filing requirements. The victim must file their claim with the CVC program within three years unless,

- 1) they are physically incapacitated (e.g. in a coma as a result of the crime)
- 2) the victim is a child, or
- 3) the victim has *good cause not to have reported.

***Good cause** may include:

- The victim did not need services within three years of the crime, and later the stress of the upcoming trial created a need for counseling
- The victim did not know the CVC program existed
- In the case of child sexual or physical abuse, it may be difficult for a child to disclose the abuse while they are living at home with their abuse. In such cases, they may wait much longer than three years to report.

Applications for child victims under the age of 18 may be filed within three years from the date the victim or claimant is made aware of the crime but not after the victim turns 21. Victims or claimants who submit an application outside that filing timeframe should include a letter stating the “good cause” of why the application was not submitted within this timeframe.

Slide 23: CVC Application Types

CVC has three different types of application processes, two of which are designed to speed the process. Priority Processing and Presumptive Eligibility applications have the potential for providing faster payments to victims, either due to need or via a special application process. Regular applications are submitted by mail and are processed in the order received.

Priority Processing recognizes that some applications need to be processed quickly due to an immediate financial need. Claims needing Priority Processing receive the fastest attention, and Priority Processing is designed for emergency situations such as the need for a funeral when a family has no money or insurance to pay for it. Priority Processing is often used for the following types of claims:

- Funeral
- Lost Wages
- Family Violence/Sexual Assault Relocation
- Medical
- Counseling

Necessary components for submitting applications for Priority Processing include:

- Priority Processing letter from victim or advocate stating “undue hardship”
- A complete application
- An offense report
- Other required information/documentation

Fax number for Priority Processing Applications: (512) 370-9837

Presumptive Eligibility is a streamlined process that assists victims in receiving their funds faster. PE is an electronic method of filing that is done through a trained advocate who assists the victim in completing the necessary forms for reimbursement. PE training is available through the Office of the Attorney General and helps speed the compensation process for victims. By having the providers help gather and submit the needed material to the OAG, victims may be paid more quickly.

Slide 24: Awards Introduction Coversheet

Slide 25: Payments by Type of Crime Pie Chart

In this CVC Major Expenditures pie chart from fiscal year 2002, payouts (awards made) by type of crime are illustrated. Further details can be found in the CVC Annual Report, which is posted on the OAG web site.

As indicated, the largest sum of money was paid out for injuries and expenses related to aggravated assault crimes followed by simple assaults and homicides.

Slide 26: Awards (Limits)

CVC has award limits. There are specific limits to compensation regardless of how much the victim has actually paid out-of-pocket. The amount of compensation available for eligible crimes is set at a maximum of \$50,000 (\$25,000 for crimes occurring prior to 9/1/97). Additional money is available for victims with catastrophic injuries.

Crime Victims' Compensation can make awards only for the expenses that meet the definition of "pecuniary loss" outlined in the Code of Criminal Procedure. "Pecuniary" refers to monetary losses. Property loss and pain and suffering are not covered.

Slide 27: Catastrophic Injuries Limits

CVC has higher limits on claims for catastrophic injuries, where there is total and permanent disability. For crimes occurring between 1995 and 1997, it is an additional \$25,000; for those between 9/1/97 and 9/1/2001, it is an additional \$50,000 and for crimes occurring on or after 9/1/2001, it is an additional \$75,000 added to the base award of \$50,000 (\$25,000 for eligible crimes prior to 9/1/97).

The law provides that victims suffering total and permanent disability may qualify for additional monies to be used for lost wages, reasonable and necessary costs of rehabilitation, equipment and other costs. Catastrophic injury awards apply in crimes that occurred after September 1, 1995. The law is not retroactive to people who may have suffered catastrophic injuries before that date.

"Total and Permanent Disability," defined, means that the victim has suffered significant reduction in function or mental abilities such as quadriplegia, moderate to severe brain damage, or irreparable facial disfigurement.

Slide 28: Award Types

The following are the most common types of awards (payouts) made to victims or claimants:

- Medical
- Psychiatric Care/Counseling
- Loss of Earnings
- Loss of Support
- Funeral and Burial
- Relocation and Rental
- Child or Dependent Care
- Crime Scene Clean-Up
- Items Rendered Unusable
- Travel

- Emergency Award

Each of these will be discussed in more detail.

Slide 29: Payments to Victims by Award Type Pie Chart

This chart outlines the percentage of total dollars awarded by type of crime. As illustrated, over 60% of money paid to victims is for medical and physician fee reimbursement.

Slide 30: Medical Expenses Types

Medical expenses include a number of different types of services. The following is a partial list of what may be reimbursed:

- EMS
- Hospital
- Physicians' services
- X-Ray
- Anesthesia
- Prescription
- Rehabilitation
- Nursing home

Other medical expenses may include:

- Physical therapists
- Home health care services
- Health care equipment (wheelchairs, crutches, walkers)
- Hearing aids, glasses, voice boxes, dentures, prosthesis
- Dental

Slide 31: Medical Expenses Info on Payments

CVC pays for medical expenses according to the Worker's Compensation guidelines. Medical expenses are the most common bills for which compensation is made.

The rule under which the Crime Victims' Compensation program pays for medical expenses is according to a fee schedule established by the Texas Workers' Compensation Commission, called Medical Fee Guidelines. However, this amount is often less than the amount charged by the provider. **The victim is not responsible for the difference.** The victim or claimant does not have to pay the difference between what the Medical Fee Guidelines allow and what the provider charged, unless the victim was at fault in some capacity and their benefits were reduced. This means that when CVC pays a medical bill for a victim, the provider must consider it as payment in full.

The Crime Victims' Compensation program staff reviews all bills to make sure the treatment is related to the crime and is reasonable and necessary. In other words, if someone is shot in the foot, Crime Victims' Compensation is not going to pay for gall bladder surgery.

Slide 32: Psychiatric Care/Counseling Svcs. Available

CVC covers inpatient and outpatient psychiatric care and counseling sessions for victims who need it. Compensation may cover counseling expenses for the victim and for the victim's immediate family members who may need therapy to cope with what happened to their loved one. Inpatient treatment is covered for victims only, not family members. Service providers should check with their supervisor and their agency guidelines about authorization for psychiatric care and/or counseling.

This has particular applications in cases involving family violence and child abuse. Crime Victims' Compensation can help children who saw harm done to a family member cope with what they experienced.

Mental health counseling may be covered for the victim or claimants. The counseling sessions must deal with the crime and not with other pre-existing problems or issues not related to the crime. It is important that mental health providers explain to victims that pre-approval is required before beginning counseling.

Slide 33: Psychiatric Care/Counseling Approved Providers

Psychiatric services or counseling must be provided by a licensed professional such as a:

- Psychiatrist
- Psychologist
- Clinical Nurse Specialist (specialization in Psychiatry)
- Licensed Professional Counselor
- Licensed Marriage and Family Therapist
- Licensed Master Social Worker
- Advanced Clinical Practitioner

Slide 34: Loss of Earnings Info on Payments

Victims can be reimbursed for lost earnings, and their award amount is figured by their weekly net earnings but limited to \$500 a week. When a victim submits a claim for lost earnings, the Crime Victims' Compensation program must confirm that the victim was employed and verify their earnings.

There are situations which may be considered if the victim was unemployed at the time of the crime but could demonstrate that she/he was employable.

Slide 35: Loss of Earnings Availability

Loss of earnings can be paid to the victim in only two situations: if they miss work because of injuries or because they are participating in the criminal justice process.

First, the victim misses work due to a physical or emotional disability related to the crime. This may include the victim or family member who misses work to seek medical or psychological treatment for injuries related to the crime. This applies not only to the victim but also to claimants who take child victims to treatment.

A drunk driving crash victim, for example, who misses work due to multiple injuries caused by the crash could qualify for lost earnings. A doctor's confirmation is needed stating that the victim missed work because of a physical or mental disability caused by the crime. This is critical in cases involving emotional disability. Oftentimes, victims may be so traumatized by the crime that they simply cannot go to work. Yet when they try to get a doctor's statement, the physician cannot document that an emotional disability related to the crime was the reason why the victim missed work.

If you are working with victims in this situation, encourage them to get the necessary documentation in a timely manner.

Loss of earnings may also be paid for participating in or attending investigative, prosecutorial, and judicial proceedings, including post-conviction and post-adjudication proceedings.

Claimants also qualify for loss of earnings if they miss work to accompany their child to criminal justice proceedings. Participation or attendance in the investigative process refers to proceedings that law enforcement or prosecutors ask the victim to attend. This could be meeting with an investigator to provide additional information, viewing a lineup, looking at photos of suspects, describing the perpetrator to a sketch artist, etc. It does not include civil court actions, only criminal actions involving prosecution of the offense.

Law enforcement will be asked to provide documentation that the victim was asked to be present at these investigative proceedings so that the victim may receive compensation. Eligible claimants may also qualify for loss of earnings if their presence is needed at the investigative stage, or if they attend the trial or participate in post-conviction or post-adjudication procedures. Attendance at executions is considered a post-conviction proceeding.

Slide 36: Travel Availability

CVC covers travel expenses related to participation in or attendance at the investigation or prosecution processes, as well as post-conviction involvement. Another reason for claiming travel expenses is when seeking medical treatment

or counseling. Reimbursement for travel expenses is available for crimes that occur on or after September 1, 1997.

When the victim is subpoenaed to appear as a witness, the prosecutor's office is responsible for those travel expenses. CVC can help with the expenses for claimants of child victims who want to attend the proceedings. Reimbursement is based on state travel guidelines for commercial transportation, lodging and meals, and is subject to some restrictions such as how far the victim or claimant must travel from home before receiving reimbursement. Travel expenses relate to situations where the victim has to attend or participate in an investigation, prosecution or adjudication court case, or post-conviction/post-adjudication hearing in another city, county or state. Travel by claimants of a homicide victim to witness an execution may also be reimbursed for crimes occurring on or after 9/1/97.

Slide 37: Travel Limits

If the victim has to travel more than twenty miles, they will be provided necessary and reasonable transportation. If the victim has to travel more than sixty miles, they will be provided meals and lodging at state rate as well.

The Crime Victims' Compensation program will request documentation from law enforcement and Victim Assistance Coordinators to confirm that the victim or parent of a child victim attended investigative proceedings at their request and the amount of time their presence was needed. Obtaining receipts for the actual travel expenses is the responsibility of the victim. Travel to funerals is not covered.

Slide 38: Loss of Support

Dependents of murder victims or dependents of other victims can receive awards for loss of support. This award is limited to \$500 a week and requires employment verification.

In Homicide Situations:

To dependents of a murder victim, the award can be up to the value of the claim.

In Other Situations:

Payments for loss of support, usually found in family violence situations, can only be paid when there are dependents of the victim.

The financially dependent mother with dependent children in a family violence situation could qualify for loss of support if the perpetrator is no longer providing that support. The amount is calculated at 50% of the spouse's earnings. An eligible award is made for three months and then reviewed before approving further payments.

Those of you who work with family violence and child abuse cases can see how Crime Victims' Compensation is a resource to help victims participate in the criminal justice process. In order to pay loss of support, the Crime Victims' Compensation program needs proof of perpetrator earnings at the time of the crime and proof of the claimant's dependency. An income tax return showing the claimant as a dependent is the preferable method.

Payments for loss of support are limited to a maximum of \$500 per week. Payments cannot exceed that amount, no matter how many dependents are involved. If there are multiple dependents, the payments are divided equally among qualified dependents/claimants.

Slide 39: Funeral and Burial

There is a \$4,500 maximum for funeral expenses. Such expenses include, but are not limited to, the cost of the casket or urn, opening and closing the grave, processions, flowers and grave markers.

Cost for transportation of the deceased victim from the place of the crime to the burial site may also be covered. This is in addition to the \$4,500. For example, a homicide victim was returned to Oklahoma (the victim's home state) for burial through the assistance of the Crime Victim's Compensation Fund.

Slide 40: Family Violence and Sexual Assault Relocation

Victims of family violence or sexual assault in their residence can receive a one-time award of up to \$3,800. This covers relocation costs, costs to move, travel expenses, security deposits, utility deposits and cost of a moving van.

As mentioned when discussing Priority Processing, victims of sexual assault in their residence can be compensated for the cost of relocating.

Slide 41: Child or Dependent Adult Care

CVC covers child or dependent adult care that is needed as a result of a crime. This is only available as a new expense resulting from the crime. The compensation covers up to \$100 a week per child or dependent. **The care must be provided by a licensed provider.**

Eligible claimants include parents and legal guardians. A childcare award can be made if the victim's injuries render them unable to care for minor children. The award can also be made if the claimant needs to seek employment because the crime removed the wage earner from the home. This could occur in one of two ways:

- 1) The wife of a homicide victim may need to assume the responsibility of breadwinner
- 2) A battered woman may seek employment after filing charges against her spouse who had been her financial support. By having her child care expenses reimbursed (to the limit allowed) by the Crime Victims'

Compensation Fund, she is able to keep more of her paycheck for her family.

Dependent care would be a factor if an eligible victim had been the caregiver for an elderly parent or a disabled adult child, and the crime leaves the victim unable to continue to provide that care.

Slide 42: Crime Scene Clean Up and Items Rendered Unusable

Part One:

CVC will pay for crime scene clean up, a \$750 maximum limit, and will either pay for work done by a commercial company or will reimburse for cleaning supplies when the work is done by volunteers. Reimbursement is made for reasonable and necessary costs of cleaning the crime scene.

“Cleaning a crime scene” means to remove, or attempt to remove, blood, dirt, stains, odors or other impurities caused by the crime or the processing of the crime scene. The intent is not to “return the crime scene to normal.”

Part Two:

As part of their rights, victims are guaranteed the prompt return of their property that was taken for evidence. Often, victims’ items are damaged in the crime and this provision is the only one for property of the victim. The award is based on the reasonable replacement cost of the item(s) but cannot exceed \$750.

Awards are made for the reasonable replacement cost of items seized as evidence or rendered unusable by the criminal investigation. Items should be reflected in the law enforcement agency’s property inventory and may include clothing, bedding or other items.

Slide 43: Catastrophic Injuries Coverage

The Catastrophic Injury benefit covers durable medical equipment, rehabilitation technology, long-term medical expenses, home/vehicle wheelchair accessibility, rehabilitation, lost wages, job training, home health care and training in use of special appliances. The first three benefits were included in the last catastrophic benefit increase for crimes occurring on or after 9/1/2001.

Slide 44: Emergency Awards

CVC pays emergency awards up to a \$1500 maximum. All applications are evaluated to see if they qualify. They may be considered for situations that pose an undue hardship. The decision is made by CVC staff based on the “best interest of the victim.”

An example of this might be a victim of family violence (whose husband was employed) who is now having difficulty verifying his income may apply for an emergency award while his income is being verified.

Any money paid in an emergency award must be subtracted from a future award.

Slide 45: Sexual Assault Exam Reimbursement

CVC reimburses law enforcement agencies for sexual assault exams ordered by law enforcement to be used for evidence collection in a criminal investigation. This reimbursement provision is the only instance where an agency directly files for compensation reimbursement. In the past, law enforcement agencies had to pay for the medical fees related to sexual assault exams, but now they can apply to the Office of the Attorney General (OAG) for compensation. This is a separate process and agencies should refer to the OAG website for further details [<http://www.oag.state.tx.us/victims/victims>].

Slide 46: Appeals Process

Victims or claimants have the right to appeal a decision of eligibility or awards. There are three levels to an appeal: Reconsideration, Final Ruling Hearing and District Court. If a victim or claimant appeals a decision, their appeal will go to reconsideration. If denied, then there will be a final ruling hearing, and if denied there, the victim may file in district court.

The victim or claimant has 60 days to request reconsideration. They have 30 days to request a final ruling. They have 40 days to file a written notice of dissatisfaction and 40 days to file in District Court.

Slide 47: How You Can Help

You can best assist victims by informing them about the Crime Victims' Compensation program and encouraging them to apply early. Continue assisting victims and their families by helping complete the application, and stay in touch with them to help with any questions that may arise throughout the process.

DON'T MAKE PROMISES YOU CAN'T KEEP

Note the frequent use of the word "eligibility" and "application." It is important that you do not say anything in describing the program to imply that victims get compensation merely by sending in the application. The Crime Victims' Compensation program has certain eligibility requirements that must be met for an award to be made. When describing the program to victims, be sure to use words like "you **may** be eligible."

You cannot commit the Office of the Attorney General to paying any bills. If there is ever a question about whether or not a victim may qualify for benefits under the program, encourage them to apply.

ADVOCATE FOR VICTIMS

As with other rights given to victims of crime in Texas, compensation is designed to ease some loss to the victim of what the perpetrator took away. There are some things that can never be restored, but by affording victims their rights, advocates are providing assistance in lessening the burden of a traumatic event and helping to prevent secondary trauma.

LET VICTIMS KNOW ABOUT COMPENSATION

Victims have a right to be informed about this program, and you have the responsibility to tell them.

ASSIST IN COMPLETING THE APPLICATION

Help the victim complete the claim and attach all required documentation for a smooth process. Send in the offense report with the victim's application. This will save a great amount of time.

TELL VICTIMS TO KEEP TRACK OF EXPENSES

While victims and claimants are waiting to learn if they are eligible for the program, they should keep track of any bills they have incurred as a result of the crime. Have the victim or claimant make copies of all bills and paid expenditures. Keep the originals and send copies to CVC.

Once an eligibility decision is made, Crime Victims' Compensation will contact the victim and find out what medical and other reimbursable out-of-pocket expenses the victim has or anticipates. Payment will then be processed for allowable expenses.

Slide 48: Summary OAG Slide

Thank you for your time and commitment to victims of violent crime in Texas. Contact information for the Crime Victims' Compensation Program is:

Office of the Attorney General
Crime Victim Services Division
Crime Victims' Compensation Program
PO Box 12198
Austin, Texas 78711-2198

Main Phone Numbers: (512) 936-1200 or 1-800-983-9933
General Fax Number: (512) 320-8270
Priority Applications Fax Number: (512) 370-9837
Presumptive Eligibility Fax Number: (512) 370-9995
Website Address:

National Association of Crime Victim Compensation Board web site has links to each state's CVC program. Feel free to contact us if you have any questions or concerns.