



Crime Victim's Law Alert of Pennsylvania

The news bulletin for crime victims and concerned citizens who want to stay up-to-date on the newest laws, latest developments, and key court decisions affecting crime in Pennsylvania.

Distributed free by the **Crime Victim's Information Center of Pennsylvania (CVIC)**, Daniel F. Monahan, Esq., Executive Director. Dan welcomes your questions and comments at **1-866-307-3888** or **Dmonahan@monahanlawpractice.com**.

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Your rights as a victim of crime

You may not know this, but...

Every Pennsylvania crime victim has the right to file a civil lawsuit to recover damages from the perpetrator or other parties whose unreasonable conduct resulted in a crime. Every year, the number of crime victims in America reaches nearly 30 million.

Often, the consequences of crime extend far beyond the criminal act. In many cases, crime victims are left with costs of medical care, surgeries, physical rehabilitation, counseling, lost wages, and property damage. In the United States, crime costs our society roughly \$450 billion every year.

Fortunately, you may have several ways to recover money for your injuries and expenses, including:

Restitution

A Pennsylvania criminal court may order a perpetrator to reimburse certain expenses incurred by you, your survivors, or persons who have become responsible for your maintenance and support as a result of a crime. Unfortunately, even when a Pennsylvania court orders restitution, it is often not collected. This lack of enforcement, combined with limits on the type of damages that may be included in a restitution order, often results in restitution falling far short of meeting your needs.

Pennsylvania State Crime Victim Compensation

Compensation may be available from Pennsylvania's crime victim compensation fund. These funds are designed to reimburse you for certain losses and expenses resulting from the crime, such as funeral expenses, medical bills,

counseling fees, lost wages, and other out-of-pocket costs you incur. The amount of compensation may be reduced by amounts that you have received from insurance or other sources. In addition, Pennsylvania state law provides limits on how much money can be given for an individual crime or a particular type of loss. There are also other restrictions on eligibility for crime victim compensation.

Civil lawsuit

Often, restitution and crime-victim compensation do not cover your full economic losses, and neither source pays anything for hard-to-quantify damages, such as pain and suffering. A civil lawsuit may provide you with more complete compensation.

In some civil cases, a third-party defendant may be legally liable. Third-party defendants are people or companies who may have contributed to or made it easier for the criminal offenders. For example, third-party defendants may be...

- **landlords** who failed to provide adequate security, such as locks on doors and windows and adequate lighting;
- **colleges** that failed to notify students of campus assaults;
- **shopping malls** that did not hire security guards or take other necessary measures, even when it was likely that criminals would attack customers;
- **people** who allowed children access to firearms or other dangerous instruments;
- **schools, churches, and child-care centers** that did not properly check the backgrounds of their employees; or
- **tavern owners or social hosts** who continued to serve alcohol to intoxicated persons who later injured other people in drunk-driving accidents.

MonahanLawPractice.com

Victim suffers catastrophic injury in parking lot robbery

Awarded \$102 million in negligent security case

By Daniel F. Monahan, Crime-Victim Lawyer and Board-Certified Civil Trial Advocate

The National Crime Victim Bar Association (NCVBA) applauded the decision of a Miami, Florida, jury to award \$102 million to Sami Barrak, a nightclub patron who suffered catastrophic injuries when he was shot in an attempted robbery five years ago. The jury returned the \$102 million verdict, the largest-ever jury award for a negligent security case, on November 28, 2007.

On July 31, 2002, Mr. Barrak and a friend were leaving Tootsie's Cabaret, a tenant at the Sierra Shopping Center owned by Report Investment Corporation. When the friend returned to retrieve an item left inside, Mr. Barrak waited in his car for him to return. An unknown person approached Mr. Barrak, tried to rob him at gunpoint, and after a brief exchange of unknown words, shot him in the neck. The assailant then fled, leaving Mr. Barrak a ventilator-dependent quadriplegic.

The jury found that Report Investment Corporation, Inc., owned and managed the property and therefore had the duty to maintain the property in a reasonably safe condition appropriate to the activities conducted on the property to

prevent harm to its patrons. At the time of the shooting, despite 26 violent crimes that had been reported on the same property during the seven years before Mr. Barrak was shot, Report Investment Corporation provided no security. In fact, the corporation admitted never having spent one dollar on security or safety. Tootsie's Café, on the other hand, was held not liable because the business employed a security guard.

The jury awarded Barrak \$1.4 million for past medical expenses, \$164,000 for past lost earnings, \$28 million for future medical expenses, \$650,000 for lost earning ability, \$2.5 million for past pain and suffering, and \$70 million for future pain and suffering.

Because of this verdict, Mr. Barrak will have the financial resources to pay for the medical care and specialized assistance he will need for the rest of his life. This result was possible only because he had access to the civil justice system and the services of an effective and dedicated attorney. This verdict means that businesses that neglect their patrons' safety by ignoring crime on their property will pay the consequences at trial.

Yours FREE! You're invited to request free copies of my two educational booklets

"Crime Victim's Guide to Recovering Damages for Your Injuries." You'll discover...many sources of damages other than the criminal; your rights as a crime victim in Pennsylvania; why you should file a civil lawsuit; key differences between criminal and civil liability; types of civil lawsuits; and much more. To receive this booklet, call my office toll-free at **1-866-307-3888** or send an e-mail to **Dmonahan@monahanlawpractice.com**.

"Consumer's Guide For Injured Victims." You'll find practical advice accident victims can use to recover the money they deserve without problems, hassles, or delays. This guide includes...17 Secrets of Getting a Fair

Settlement For Your Injuries; 7 Common Misconceptions About Injury Cases; 8 Costly Mistakes to Avoid When Selecting a Personal Injury Trial Lawyer; 17 Tough Questions to Ask Before You Hire a Lawyer; and much more. To receive this booklet, call my office toll-free at **1-866-307-3888** or send an e-mail to **Dmonahan@monahanlawpractice.com**.

If you have a friend or colleague...

...who would like to receive this newsletter, please give us the person's name and address, and we'll add them to our distribution list. Thanks.

Dan

Change in the law needed to impose civil liability on colleges and universities

By Daniel F. Monaban, Crime-Victim Lawyer and Board-Certified Civil Trial Advocate

Before you lick that last stamp on your child's college application, read this...

When you're deciding on the differences between a public and private college or university for your son or daughter, tuition is not the only issue you need to consider.

With increasing incidents of school violence—and in light of the tragedy that took place at Virginia Tech last spring—whether your child attends a **public** or **private** university in Pennsylvania could have a consequence you have never considered.

Statistics of school violence and near-weekly media reports about more school shootings haunt parents who in the past years considered schools and colleges safe havens for their children. Choosing a school, of course, involves a variety of important decisions. Today, one of them must be your child's security.

When a Virginia Tech student shot 30 victims, and then himself, at the Blacksburg, Virginia, campus, everyone asked how such tragedies continue to occur and who might be responsible. We continue to raise those questions because the killings have not stopped.

In the months since the Virginia Tech shootings, we have witnessed several more violent incidents on college campuses. In early October 2007 at Moravian College in Pennsylvania, a student was stabbed twice in the back on campus during an apparent robbery attempt. In Montreal, a gunman went on a shooting spree at Dawson College, killing an 18-year-old female student and wounding 19 others. In September 2007, a Delaware State University student shot two other students in the center of campus.

According to legal scholars, victims of campus violence face an uphill battle in bringing civil lawsuits against university or other state officials. This is because governments and their agencies, like Virginia Tech, are protected from civil lawsuits under the concept of "sovereign immunity." This term means no one can sue a sovereign government, such as a state, without the government's consent. This doctrine originated with the old adage "The king can do no wrong."

So, in spite of what many people think, these lawsuits are not get-rich-quick schemes. In fact, a victim (and his lawyer) must jump through many legal hoops to win one of these cases. They are very difficult and time-consuming.

The law in Pennsylvania is no different. When considering a lawsuit against an institution of higher education, the first question to be decided is the school's status as either a private entity or a public university or college.

Pennsylvania statutes provide immunity from lawsuits to government entities, including schools and public universities, except in a few specific cases. Consistently, the Pennsylvania courts have held that in cases alleging failure to prevent criminal misconduct,

schools cannot be sued because the alleged negligent conduct did not fall within the exceptions in the statute.

For instance, in *Ziccardi v. Philadelphia School District*, a student was attacked and shot while entering school, suffering serious and permanent personal injuries. The appellate court in Pennsylvania held that the school district could not be held responsible because of the immunity granted by the statutes. Pennsylvania courts continue to take this position in case after case.

School violence has been with us for some time. However, for decades no one looked at the typical college because colleges were not legally obligated to provide safe campuses or to report their safety issues.

Today, while colleges continue to portray themselves as super-safe sanctuaries, all too often they are not. As a result, the United States Congress passed a law known as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act," named after a Lehigh University student who was murdered on the Bethlehem, Pennsylvania, campus in 1986.

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(continued on back page)



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*Written and published by
Crime-Victim Lawyer Dan Monahan*

To request your free copies,
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Make sure you consult a qualified lawyer so you can discuss the facts of your case.

Change in the law needed to impose civil liability on colleges and universities

(continued from page 3)

Immediately, the Pennsylvania legislature followed suit and was the first state to pass its own legislation regarding disclosure of campus security measures. The law, known as the *Uniform Crime Reporting Act*, requires each institution of higher education to report crime statistics to the State Police on an annual basis. Also, each institution is required to publish and distribute upon request a report to every person who submits an application for admission and to each new employee. Further, the institution is required to advise applicants of the availability of that report.

In addition to the reports of criminal actions and other emergencies occurring on campus—including the names of persons arrested, the charges filed, and the disposition of the charges, when available—the institution is required to provide information about security policies and procedures that include:

- (1) the office responsible for security on campus;
- (2) the type and number of security personnel as well as a description of their training;
- (3) their enforcement authority and working relationship with state and local police;
- (4) their policy on reporting criminal activity to them; and
- (5) the procedures and facilities for students to report criminal actions.

Applicants may also discover statements of policy on alcohol and illegal drug use, possession of weapons by security personnel and any other person, student and employee criminal records, security considerations for campus facilities,

and a description of communication media used to inform the campus community about security matters. In addition, schools must provide information on student housing, including types and availability, assignments, visitor policies, entrance security, and other security measures, as well as the identity of programs to inform students of housing security during school terms and low-occupancy periods. These reporting requirements may permit injured parties to overcome any burden regarding the university’s foreseeing such criminal activity.

Unlike the immunity protection afforded public institutions like Virginia Tech, private colleges and universities have been held civilly liable for failure to provide adequate security for college students.



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