

The New Jersey Crime Victim's Handbook

*A Crime Victim's Guide to Criminal
and Civil Justice in New Jersey*

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CHAPTER FIVE

THE CIVIL JUSTICE SYSTEM: AN OVERVIEW FOR CRIME VICTIMS

While the criminal justice system resolves only criminal cases, the civil justice system resolves all other types of cases. From property disputes to tort claims, the civil justice system decides the rights, liabilities, and responsibilities of people and businesses.

Tort claims are claims brought by people who are hurt by others. Victims of crime are commonly mistaken about their rights and end their search for justice at the conclusion of the criminal case. If a criminal defendant is never arrested or prosecuted, or even if a criminal defendant is acquitted, the crime victim can still prevail in a civil lawsuit. The civil justice system can accomplish what the criminal justice system cannot - financial recovery for pain and suffering and future damages such as future lost earnings and future medical expenses.

A crime victim's privacy can be protected in many ways throughout the civil justice process. Names and addresses can be redacted from pleadings, and all or part of the record may be sealed, including depositions and written discovery. Settlements can involve confidentiality agreements.

Filing a civil lawsuit is not easy, especially for crime victims. On the one hand, filing a civil lawsuit may provide vindication and justice. Doing so sheds light on a particular



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criminal and gives the crime victim an opportunity to be heard. On the other hand, factors such as length of time it takes to conclude the civil case or having to discuss the crime and its effects multiple times can be discouraging. At the end of the day, the choice to file a suit belongs solely to the crime victim.

What Happens in a Civil Case?

Just like in a criminal prosecution, the first step in the civil justice system process involves careful investigation. It is crucial to assess liability of all potential parties. In many cases, the person who actually committed the crime is not the only person who bears legal responsibility for the crime and resulting injury. Others responsible may include school districts, religious institutions, landlords, bars, hotels, etc.

Once the investigation is complete, the next step is filing a lawsuit. The lawsuit names the crime victim or the victim's estate as the plaintiff. The criminal defendant and potentially others are the civil defendants. In most cases a lawsuit begins with the filing of a complaint, a formal document which accuses the defendant(s) of causing damages to the plaintiff.

After the Complaint is filed and the defendant(s) are served with a copy, the discovery phase begins. In this phase, the parties exchange any and all information related to the case, information about potential witnesses, and any documents or things related to the case. The parties may also subpoena documents from non-parties, such as medical providers or other witnesses. Then after discovery is complete, depositions will take place. In a deposition, a party



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or witness testifies about their knowledge of facts related to the case.

How are Civil Cases Resolved?

After depositions are complete, the parties prepare their respective cases for either trial or settlement. Like in the criminal justice system, the majority of civil cases are resolved by way of agreement, or settlement. If the parties cannot reach a settlement, then there usually will be a trial. However, rather than going to trial, the parties may agree to resolve the case by going to a mediation or arbitration. These are cost-effective alternatives to trial and may be appropriate depending on the circumstances of the case.

A civil trial follows the same format as a criminal trial. The plaintiff presents his or her case first. After the conclusion of the plaintiff's case, the defendant(s) presents his or her case and then the plaintiff may rebut. At the conclusion of all the evidence, a judge or jury will render a verdict. Either side can appeal a verdict and some cases may settle during the appeal process or afterwards.

Restraining Orders

Victims of domestic violence can obtain a restraining order protecting them from further domestic abuse. Restraining orders are either temporary or final. A Temporary Restraining Order is effective for 10 days, whereas a Final Restraining Order is permanent. After a temporary order is issued, there must be a hearing on a final order within 10 days. At that hearing, the judge will determine if the victim is



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at risk for continued acts of domestic violence. Violation of a restraining order constitutes Contempt and subsequent violations require a minimum period of incarceration. Many local agencies offer assistance to victims of domestic violence and help filing petitions for a restraining order.



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