

Civil and Criminal Cases

Criminal Lawsuits

Categories

Civil Lawsuits

Government prosecutes individuals for violating the laws of the state

Parties involved

Solve conflicts between people or companies.

Fines, community service, probation and prison for the person found guilty.

Resolutions

Award pecuniary damages to the person entitled to financial compensation.

Civil Lawsuits

Complaint filed by an individual who feels wronged by another party

1. Property disputes: most common
2. Breach of contract
3. Divorce/family court
4. Negligence: an accident was caused by the careless actions of another person or business →
*many times, the appeal of a negligence suit will go directly to the state supreme court
5. Personal injury

Facts about Civil Lawsuits

The average length of a civil trial in the United States is **3.7 days**.



According to Statistic Brain, an estimated **10%** of all civil lawsuits in the United States are *medical malpractice lawsuits*.

An estimated **20%** of all civil lawsuits in the United States are *automobile accident related*.



An estimated **46%** of all jury trials in the United States are *won by the plaintiff*.

Civil lawsuits cost the United States an estimated **\$233 billion** annually.



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Suit in Equity

Type of Civil Law

Party is asking the judge to decide based on fairness where no law exists

Instead of monetary compensation, these are asking to prevent some action from taking place

-Injunctions: a court order to stop doing or compel someone to do something

e.g., prevent someone from reprinting copyrighted materials; or in cases of divorce, there are frequently mutual restraining orders requiring both parties to leave each other alone

One way to end a civil lawsuit BEFORE trial is to mediate a resolution



Civil Court Procedure

(Can take years to settle in court because of so many cases)

Adversarial Nature: presentation of evidence to an impartial judge/jury of like demographics with the accused & witnesses called

1. File a complaint (lawsuit) with summons issued: document that announces that the defendant is being sued, sets a court date and time for appearance in court

Both lawyers then check facts and gather evidence (known as “discovery”)

Sometimes parties at this point may agree to arbitration (binding agreement reached by a 3rd party)



ARBITRATION AND MEDIATION: KEY DIFFERENCES

	ARBITRATION	MEDIATION
When Does It Occur?	When required by an investment firm in a pre-dispute arbitration clause or when demanded by a customer in the absence of such a clause.	When all parties voluntarily agree to it.
Presided Over By	One or Three Arbitrators	One Mediator
Typical Amount of Time from Claim Filing to Case Resolution	14.4 months	3 months
Nature of Resolution	Legally-binding decisions are handed down by arbitrators. Decisions may be appealed in court under very limited grounds and strict time limitations.	Both parties must agree to a settlement.

Civil Court Procedure

2. Attorney's exchange pleadings

- Attorney answers complaint by citing reasons that the defendant is not responsible for the injuries claimed
- In civil cases the plaintiff must prove that the defendant is liable with a “greater weight of the evidence” or “preponderance of evidence”, meaning the judge or jury must be convinced only that they probably were responsible

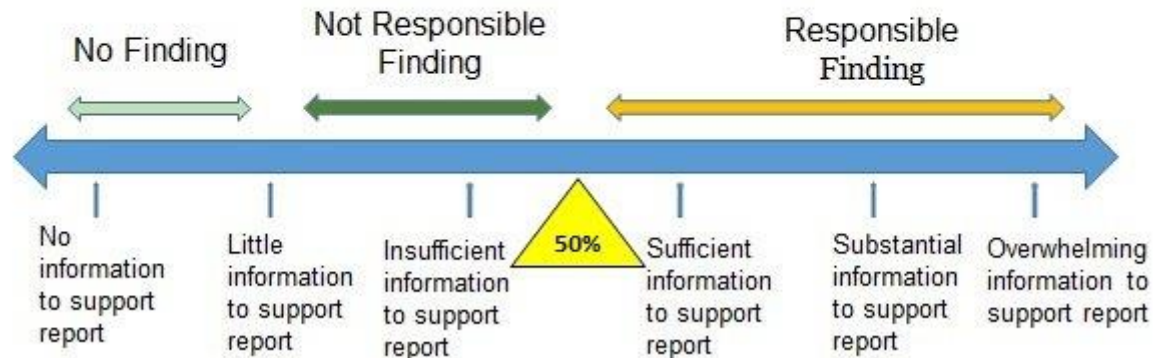
3. Judge or jury deliberate

4. Verdict is issued by jury or judge

- 5. Sentence given by judge – if plaintiff wins, remedy is set; if defendant wins, plaintiff pays the court cost

Preponderance of Evidence Standard

*A Requirement that **More than 50%** of the Evidence Points to Something*



Criminal Cases

Deal with cases involving violations of criminal code (below)

-Also known as Penal Codes because of the built-in penalties; set of written laws and punishments designed by each state and the federal government

Purpose: to deter crime

*Most criminal trials in the U.S. involve state laws that have been broken

§ 14-51. First and second degree burglary.

There shall be two degrees in the crime of burglary as defined at the common law. If the crime be committed in a dwelling house, or in a room used as a sleeping apartment in any building, and any person is in the actual occupation of any part of said dwelling house or sleeping apartment at the time of the commission of such crime, it shall be burglary in the first degree. If such crime be committed in a dwelling house or sleeping apartment not actually occupied by anyone at the time of the commission of the crime, or if it be committed in any house within the curtilage of a dwelling house or in any building not a dwelling house, but in which is a room used as a sleeping apartment and not actually occupied as such at the time of the commission of the crime, it shall be burglary in the second degree. For the purposes of defining the crime of burglary, larceny shall be deemed a felony without regard to the value of the property in question. (1889, c. 434, s. 1; Rev., s. 3331; C.S., s. 4232; 1969, c. 543, s. 1.)

Types of Criminal Cases

1. Misdemeanors: minor crimes

2. Felonies: serious crimes

Crimes against Property

-Larceny, burglary (B&E), robbery (larceny under use of force)

-Vandalism: destruction of property

-Fraud, embezzlement, tax evasion, etc. are known as “white collar crimes” because they are typically committed by those in the corporate sphere

Crimes against property are the most common



Crimes against People

Taking the rights of another person → for that the severity increases

Murder: 1st, 2nd, 3rd degree



Manslaughter: accidental death

Rape

Kidnapping

Assault: violence with intent to harm

- **First-Degree Murder:** This is a premeditated and deliberate killing. If a person planned to kill another person and took action on those plans, they will likely be charged with first-degree murder.
- **Felony Murder:** Additionally, if a person is killed accidentally during the commission of a felony (for example, a robbery, rape, or kidnapping), the defendant would be charged with first-degree murder. Likewise, an accomplice to a felony murder would also be charged with first-degree murder.
- **Second-Degree Murder:** This is not a pre-meditated killing. Second-degree murder is when a person behaves in such a way that shows a reckless disregard for human life and thus results in the death of another person. For example, a person who intended to cause serious bodily harm, but ended up killing the other person, would likely be charged with second-degree murder.

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- **Voluntary Manslaughter:** the killing of another person with intent, but under circumstances where a reasonable person would become emotionally or mentally disturbed. The two common examples of voluntary manslaughter are “heat of passion” or “imperfect self-defense.”
 - **Involuntary Manslaughter:** the unintentional killing of a person without intent but as a result of criminally negligent or reckless conduct. Another type of involuntary manslaughter is a killing that happens during the commission of a non-felony crime.
 - **Vehicular Manslaughter:** the killing of another person with no intent, but which occurs because of a driver’s negligence or recklessness.
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Criminal Penalties

Penalties vary according to the seriousness of the crime committed

*Crimes against people WILL carry greater punishments

Role of Penalties

1. Deterrence: to prevent crimes
2. Rehabilitation: end behavior
3. Restitution: compensation for crime committed
4. Consequence for action



- **First-Degree Murder or Felony Murder:** Class A felony – life in prison with no parole or death penalty
- **Second-Degree Murder:** Class B1 felony – prison sentence of 192 months to life in prison; or Class B2 felony – prison sentence of 125 months in prison
- **Voluntary Manslaughter:** Class D felony – prison sentence of 51 months
- **Involuntary Manslaughter or Vehicular Manslaughter:** Class F felony – prison sentence of 13 months


Sentencing

Indeterminate Sentencing: decision with a minimum and maximum sentence

-“Three Strike Laws”: defendant receives mandatory life imprisonment if he or she is convicted in court of a serious violent felony after having two or more prior convictions in federal or state courts


New Jersey: "a person convicted of a crime . . . who has been convicted of two or more crimes that were committed on prior and separate occasions . . . shall be sentenced to a term of life imprisonment by the court, with no eligibility for parole."

-Parole: early release from imprisonment; granted by a parole board – critics of the parole system argue that many sentences end up shorter than intended and overcrowding has only caused parole offers to increase

Greater Criminal History 

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)	CRIMINAL HISTORY SCORE						
	0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree (intentional murder, shootings)</i>	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ²	426 363-480 ¹
<i>Murder, 3rd Degree (unintentional murder)</i>	150	165	180	195	210	225	240
<i>Assault, 1st Degree</i>	86 74-103	98 84-117	110 96-129	122 108-141	134 120-153	146 132-165	158 144-189
<i>Agg. Robbery, 1st Degree (with Weapon or Assault)</i>	48 41-57	58 50-69	68 58-81	78 67-93	88 78-103	98 88-103	108 98-129
<i>Felony DWI; Financial Exploitation of Vulnerable Adult</i>	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 ^{1, 2}
<i>Assault, 2nd Degree (Other than Dwelling)</i>	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary, Simple Robbery</i>	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	12 ¹	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	12	15	18	21	24	27	30
<i>Theft Crimes (\$5,000 or Less); Check Forgery (\$251-\$5,000)</i>	17	19	21	23	25	27	29
<i>Assault, 4th Degree; Fleeing a Peace Officer</i>	17	19	21	23	25	27	29

Recommended Executed Prison Sentence (Months)

Greater Offense Severity 

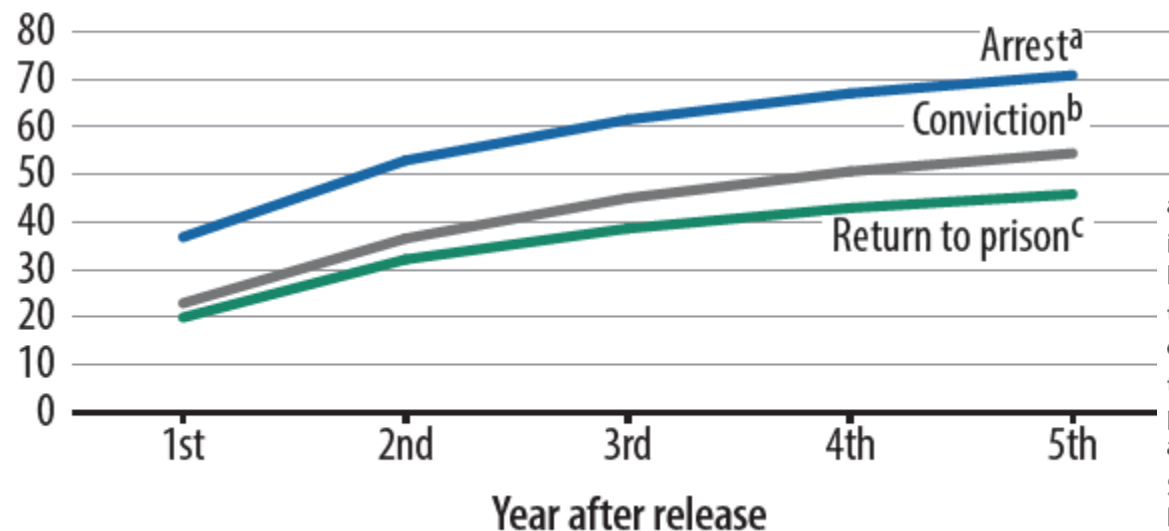
¹ 12¹=One year and one day

Recidivism Rates in the U.S.

- As of July 2021, 62% of those released from state prisons in 2012 across 34 states were arrested within 3 years, and 7 in 10 (71%) were arrested within 5 years
- Forty-three percent of persons released from prison in 2012 had 10 or more prior arrests, compared to 31% who had 5 to 9, and 26% who had 4 or fewer
- In-jail programming and services as well as supportive community services upon release outside of jail have shown a 10% recidivism rate compared to a 34% recidivism rate without

Cumulative percent of state prisoners released in 2012 who had a new arrest, conviction, or return to prison after release, by year following release

Percent



^aEstimates are based on prisoners released across the 34 states in the study who had a new arrest.

^bEstimates are based on prisoners released across the 31 states that could provide the necessary court data.

^cEstimates are based on prisoners released across the 21 states that could provide the necessary data on persons returned to prison for a probation or parole violation or an arrest that led to a new sentence.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2012 data collection, 2012–2017.