

## **Civil Remedies for Victims of Crime**

### **Overview of Presentation by Susan B. Ramsey on August 25, 2022**

As a long standing member on the National Crime Victims Bar Association, I was privileged to speak with several colleagues about Civil Remedies for Victims of Crime., In some ways, tort actions (civil actions) filed by victims of crime as a means of reparation are nothing new. These actions have been available to crime survivors since the early 1900s. Today's crime victims and their survivors are able to bring tort actions far more frequently than did victims in previous decades. In addition, today's survivors can file a wider array of tort causes of action and can seek redress from a wider range of actors than their earlier peers were able to.

#### **Criminal Justice System**

In the criminal justice, the survivor of sexual assault or other crime is a "witness" in the State's case against the perpetrator-defendant. The case is brought by a governmental prosecutor. Such cases begin with a police agency investigation, FBI, a 911 call, or report by the survivor to law enforcement. Since the case is brought by the "government", a survivor's wishes concerning the prosecution, may or may not be considered. In a criminal case, a jury is asked to consider the guilt of the perpetrator (Guilty vs. Not Guilty). The offender is "presumed innocent", and the Government must prove its case "beyond a reasonable doubt". If the perpetrator is found not guilty, the Government cannot prosecute again for the same offenses.

#### **Restitution in the Criminal Justice System**

Each governmental entity has their own way of managing restitution for crime victims. Ordinarily, restitution must be requested before or at the time of the sentencing of the perpetrator. The amount will be ordered by the Judge as part of the criminal defendants sentencing. Restitution can be for items such as medical expense or related, out of pocket expense for the survivor.

#### **Victims Assistance Programs**

Most Governmental agencies have a department that help **crime victims** with **financial assistance** for medical care, lost income, mental health services, funeral expenses and other out-of-pocket expenses directly related to the injury. If needed, they can also be referred to support organizations within their home area. Many prosecutors' offices will assist a crime victim apply for such benefits.

See National Association of Crime Victim Compensation Boards <http://www.nacvcb.org/>

## **Civil Justice System**

In a civil case, a survivor controls his/her case. It is the survivor who decides whether to sue, accept a settlement offer or go to trial. When a survivor wins a civil case, no one will be sent to prison. Rather, a civil jury will determine whether an offender/perpetrator, or a third party, is liable for the injuries a survivor sustained because of the crimes, actions, inactions of the named defendants. In the civil justice, liability must be proven by the “preponderance of evidence” as opposed to “beyond a reasonable doubt.” Preponderance of the evidence means that the Plaintiff/ Survivor must prove that there is a more than 50% or greater likelihood that the defendant(s) committed all the elements of the wrongs they have been sued on. As one example, many people are familiar with the O.J. Simpson murder trial. He was found “not guilty” of the murders of his former wife Nicole Brown and her friend Ron Goldman by a criminal jury. However, the families of Nicole Brown and Ron Goldman filed civil cases against Mr. Simpson and in 1997 the families were awarded \$33.5 million by a civil jury. An early example of holding a third party responsible for the actions of an unknown assailant is *Garzilli v. Howard Johnson's Motor Lodges, Inc.*, 419 F. Supp. 1210 (E.D.N.Y. 1976). Ms. Connie Francis (Garzilli) is an internationally famous singer well known in the 1960's. In 1974, she returned to the stage at the Westbury Music Fair in Westbury, NY. She was staying at a local Howard Johnson Hotel and her room was broken in by an unknown assailant. The jury found that the Hotel was negligent in that there had been previous reports of guests not being able to secure the doors of their rooms. This is exactly how the perpetrator was able to enter her room while she slept. The jury awarded Ms. Francis \$2.5 million dollars in damages..

## **Statutes of Limitations**

In each state there are mandated time limits for filing a civil case. If a civil lawsuit is not filed within these strict times, a survivor could be forever prevented from filing a lawsuit. In recent years many states have enacted extended time limits for victims of certain crimes, or acts. For example, a progressively larger number of states have extended the time limit for child victims of abuse to file lawsuits. These laws can be complicated, and an Attorney should be consulted with any questions concerning these limitations.

## **Types of Civil Lawsuits**

There are several different claims that can be brought by survivors in addition to the examples referenced above. With respect to claims against the offender/perpetrator, these claims often include “counts” of sexual assault, assault, battery, false imprisonment, intentional or reckless infliction of emotional distress, fraud, conversion, negligence, and wrongful death. In some civil cases a “third party” may be held responsible for the injuries a plaintiff/survivor endured and suffers. For example, shopping malls or other businesses that fail to take safety precautions for their customers, particularly after they are warned of crime in/or surround their premises. Schools, childcare centers, other institutions that do not properly conduct background checks of their employees, or just transfer their employees to another location when a claim or suspicion of child abuse has occurred.

## Resources

<https://victimconnect.org/learn/criminal-and-civil-law/>

<https://victimsofcrime.org/>

<https://www.rainn.org/about-national-sexual-assault-telephone-hotline>

800.656.HOPE (4673)

<https://www.thehotline.org/>

800.799.SAFE(7233)

TTY 800.787.3224

Ms. Ramsey's professional experience began as a Registered Nurse in the Intensive Care Unit at Yale New Haven Hospital. While pursuing her Bachelors' Degree, she was a Counselor with the New Haven Rape Crisis Program. During her time with the Program, Ms. Ramsey counseled sexual assault survivors and performed seminars for local police departments, universities, and high schools. During her time working as a registered nurse, Ms. Ramsey attended law school. Ms. Ramsey graduated from City University of New Law School at Queens College.

She has spoken and presented publications for numerous organizations, including nursing and professional lawyer associations. She has published several articles for nursing journals and legal publications. Ms. Ramsey is an active member of the American Association of Nurse Attorneys, National Crime Victims Bar Association, American Justice Association; Palm Beach County Bar Association; Palm Beach County Justice Association and the Florida Justice Association.

Ms. Ramsey has received several awards for community service, including the Arnold Markle award by the Judicial District in New Haven, Connecticut, for her work with survivors of sexual assault. Ms. Ramsey is currently a member of the Palm Beach County State Attorney Addiction Recovery Task Force, Pro Bono Counsel to the Florida Association of Recovery Residences. She is an active participant in grass roots organizations which support individuals who suffer from Substance Use Disorder.

Ms. Ramsey is privileged to actively litigate cases on behalf of survivors involving catastrophic injuries and wrongful death. These cases include injuries suffered by survivors of sexual assault, professional negligence, product liability and medical negligence.