

An Introduction to Civil and Criminal Proceedings and Circumstantial Inference

A General Overview of the Relevant Legal Principles from an Investigative Perspective

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Civil Proceeding or Criminal Proceeding

The law itself identifies the nature of the conduct that determines whether a matter should properly proceed as a civil proceeding or as a criminal proceeding. A tort is a civil wrong, whereas a crime is a criminal wrong.

Civil Wrongs and Criminal Wrongs

If A causes loss to B through negligence, it may constitute a civil wrong for which B can sue A for damages in the Civil Court. Torts involve compensation, not punishment. If A causes loss to B through the intentional or wilful damaging of B's property, then A has acted with criminal intent, has committed a crime, and could be charged in the Criminal Court, convicted, and punished.

SAME EVENT

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Civil Wrong

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Criminal Wrong

Compensation

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Punishment

Balance of Probabilities -

Beyond Reasonable Doubt

Standards of Proof

In both Courts there is a standard of proof. In the Civil Court, a judgment is decided on the balance of probabilities, which means "more likely than not" and is commonly understood as requiring proof greater than 50%. In the Criminal Court, the standard of proof for a guilty verdict is "beyond reasonable doubt", which in essence means that the Jury or Judge must be sure of the accused's guilt before a conviction can be entered.

STANDARD OF PROOF

Civil Court

Criminal Court

More likely than not

Judge or Jury



Balance of Probabilities

Must be SURE



Beyond Reasonable Doubt

Civil and Criminal Prosecutions

Civil cases are normally private proceedings, whereas criminal cases are normally prosecuted by the Police on behalf of the Crown, although private criminal prosecutions are permitted.

So, in the case of A causing damage to B through negligence, B need only prove the case on the balance of probabilities. In the Criminal Court, however, the prosecution must prove what it alleges, namely that A committed wilful damage, beyond reasonable doubt.

Why Criminal Cases Require More Evidence

The difference in the standard of proof necessarily means that the Court will often hear much more evidence in the criminal case in order to prove that A did, in fact, wilfully damage B's property. The Judge or the Jury must be sure of the guilt. So, in a more complicated case, what does this mean? What is required to make the Judge "sure"?

A complex criminal investigation necessarily means there must be no unanswered questions capable of causing the Judge to have a reasonable doubt.

A Simple Criminal Example

Consider a less complex criminal case. A is alleged to have wilfully damaged B's property. A admits throwing the rock but explains that the intention was simply to throw the rock back onto B's property from where A claimed it had come. However, a witness says they saw A aim and throw the rock through the window.

Direct Evidence

DIRECT EVIDENCE

Eyewitness

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"I saw A throw the rock."

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Judge decides whether the witness is believed.

At trial, the prosecution first calls B, who gives evidence that the window was broken and that a rock was later found inside the house. The rock is produced to the Court as an exhibit. The prosecution then calls the witness, who gives evidence that they saw A throw the rock at the house. However, during cross-examination the witness accepts they are not sure whether A actually aimed at the window. Finally, the arresting Police officer gives evidence that A admitted throwing the rock but said it was not intended to break the window.

That is the evidence, and the Judge must decide. It is a simple and straightforward criminal prosecution. The Judge will determine the case on the evidence of the witnesses.

Circumstantial Inference

Now suppose the situation is different. There are no witnesses who actually saw A throw the rock. Instead, a witness heard the sound of breaking glass, looked over, saw A standing near the broken window, and then saw A run away.

CIRCUMSTANTIAL EVIDENCE

Broken window

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Rock inside house

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A seen beside window

+

Blood on rock

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Blood on A's throwing hand

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Logical Inference

"A threw the rock through the window".

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Judge may become SURE beyond reasonable doubt.

To decide that case, the Judge would need to rely upon circumstantial inference evidence.

This then raises the question of whether all of the facts proved by the witnesses are sufficient to enable the Judge to infer, beyond reasonable doubt, that B did in fact throw the rock through the window and, of course, that the window was in fact broken by that rock.

The Need for Further Investigation

If the Police had carried out no further enquiry, there may not be enough evidence to satisfy the required standard of proof. However, if they had conducted further enquiries and found fragments of glass embedded in the rough cast rock, together with blood on the rock, and when they spoke to B they noticed that B had blood on his right hand and B admitted that it was his throwing hand, then this additional evidence might be sufficient to make the Judge sure.

Summary of the Criminal Example

In summary of the criminal example of A breaking B's window, the first example was proved through the direct evidence of an eyewitness who saw A throw the rock. In the second example, however, no eyewitness actually saw A throw the rock. Instead, moments after hearing the sound of breaking glass, a witness saw A standing near the broken window and then saw A run away.

This creates a circumstance from which it may be inferred that A was responsible because A was seen near the window when it was broken. However, that fact alone does not prove beyond reasonable doubt that A did throw the rock.

If A did in fact break the window, then for the inference to become effective more evidence is required. For example, blood on A's hand together with blood on the rock, even without a DNA match, would provide further inference that A had thrown the rock.

PROVED FACTS

Fact 1

Fact 2

Fact 3

Fact 4

Fact 5

Fact 6

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CIRCUMSTANTIAL INFERENCE

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Beyond Reasonable Doubt

The evidence would then consist of the witness hearing the breaking glass, looking over and seeing the broken window with A standing nearby, together with the blood on the rock recovered from inside the house and the blood on A's throwing hand. Those strands of evidence, when taken together, may be sufficient to convince the Judge beyond reasonable doubt that A threw the rock through the window. The verdict would then be reached, not through direct evidence, but through circumstantial inference drawn from the combined weight of those proven facts.