

HANDOUT 4: Civil Law vs. Criminal Law

Civil cases differ from criminal cases in a number of ways:

- Parties Involved
 - Do you see a connection between your feelings and views and government laws and policies? Why or Why not? Explain your answer in detail.
 - In a criminal case, the Crown or the government in the name of Regina is charging the accused with a crime. The style of cause would read Regina vs. Lee for example.
 - In a civil case, one party is suing the other parties. Either party could be an individual, a company or the government. The party suing is called the Plaintiff and the party being sued is called the Defendant. The style of cause would read Nolette vs. Leung.
- Reason for the Case
 - In a criminal case, someone has broken the law and is being charged with an offence. Most offences are in the Criminal Code of Canada. Other offences may be in other pieces of federal or provincial legislation.
 - In a civil case, the parties are involved in a dispute and cannot come to an agreement. They may be suing the other for the repayment of debt, breach of a contract, damages incurred because of non-performance or for personal injuries suffered.
- Pre-Trial
 - In serious criminal cases, a preliminary inquiry is held in Provincial Court before the case is put over for trial. The Crown will present all its evidence and the accused is entitled to cross-examine the Crown witnesses. The accused does not have to present any evidence at this time.
 - In a civil case, the parties are examined before trial by the other side in a process known as discovery. There may also be pre-trial mediation and trial conferences in the hope of settling or making the trial more streamlined.
- Trials
 - In criminal cases, a trial may be by a judge alone or by a judge and jury. If there is a jury there are 12 jurors who all must decide guilty or not guilty. If they cannot decide it is called a hung jury and a new trial will take place. The jury does not take part in the sentencing of the convicted offender.
 - In civil cases, a trial is usually by judge alone but the parties may request a jury. The jury has 8 members and only 6 out of 8 have to decide that the

defendant is liable. The civil jury also gives its recommendation on how much money should be paid in the case if the plaintiff is successful.

- **Burden of Proof**
 - In a criminal trial, the finding of guilt or innocence must be beyond a reasonable doubt. The judge or jury must be sure that the accused is the one who committed the crime.
 - In a civil trial, the burden of proof is on the balance of probabilities which means that it is more probable that one side is correct. The judge or jury listen to both sides then they weigh the evidence and make a decision.

- **Judgment**
 - In a criminal trial, the judge is responsible for sentencing the convicted offender and will follow guidelines for sentencing set out in the Criminal Code of Canada. Although the judge can order a fine or restitution it is more likely that the sentence is time spent on probation or in time spent in jail.
 - In a civil trial, the judge taking into account the jury's recommendation is responsible for setting the damages in a case. Civil cases are about the amount of money paid by one party to the other.

- **Records**
 - In a criminal case, the convicted offender has a criminal record.
 - In a civil case, there is no criminal record. In some cases the settlement could affect the future business and personal interests of the party who is found liable.

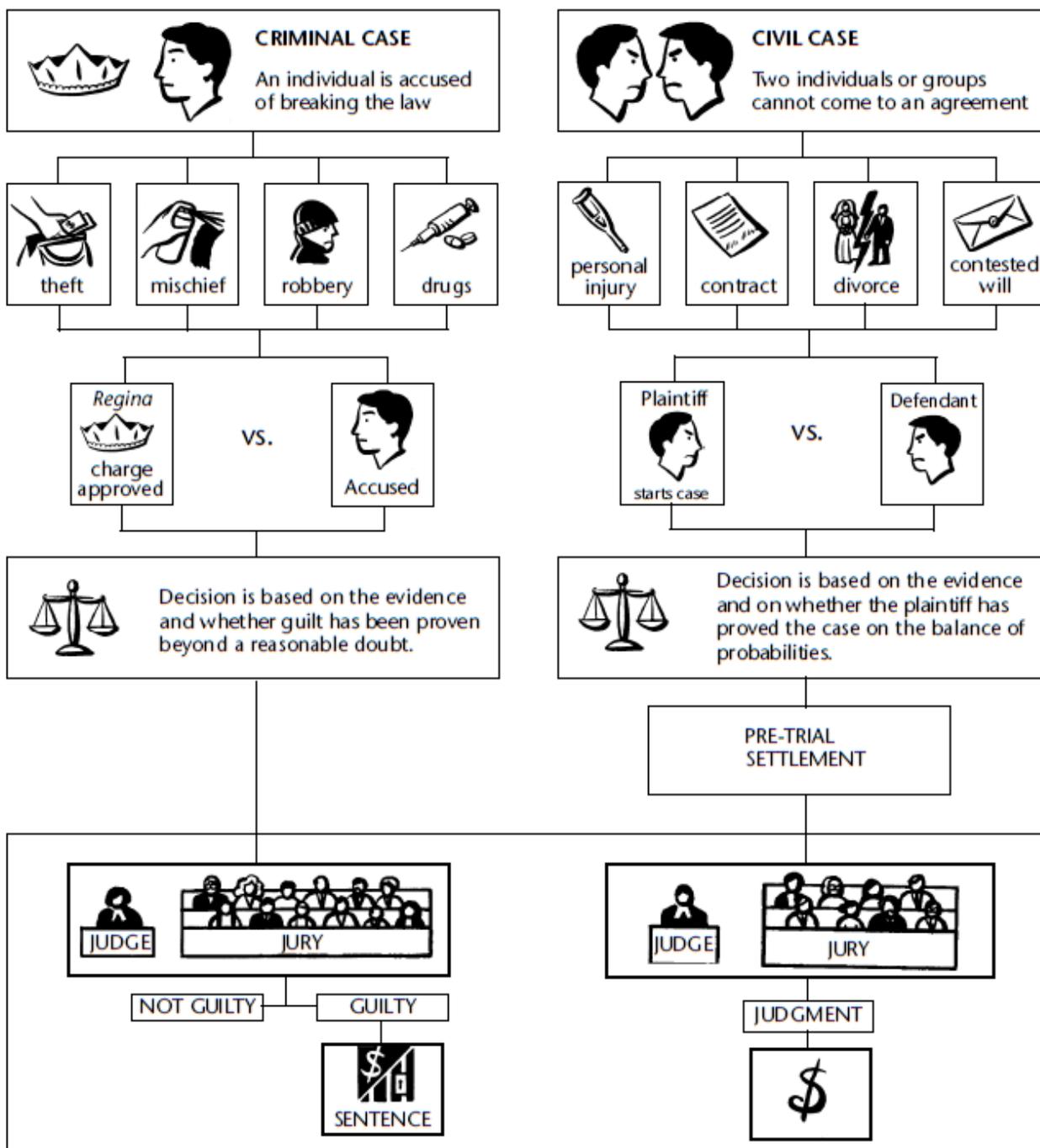
Civil and Criminal Counterparts

Some situations may result in cases being heard both in a criminal proceeding and in a civil proceeding. An example of this would be a car accident where the person at fault could be charged with dangerous driving and that person could also be sued for damages to pay for the injuries suffered.

The civil counterparts of criminal cases are as follows:

Criminal Cases	Civil Counterparts
Theft	Conversion
Attempted murder	Battery
Fraud	Breach of contract
Criminal negligence	Personal injury
Assault	Personal injury
Mischief	Damages

Criminal Law vs. Civil Law



The vast majority of criminal and civil cases are heard by a judge alone.
Cases with a jury are in the minority.