

Holistic Victim Services in the Case of Trayvon Martin

On April 12th, forty-four days after the fatal shooting of Florida teenager Trayvon Martin, criminal charges were brought against the shooter, George Zimmerman. For more than a month, however, this action was anything but certain. In the midst of this uncertainty, reporters and concerned citizens wondered whether Zimmerman would face charges at all. If not, they asked, what could the victim's family do? Some reports suggested that the family could pursue a civil case against the homeowner's association in the gated community where the shooting occurred, arguing that the association was negligent in its oversight of Zimmerman, who was acting in his capacity as "captain" of the "neighborhood watch" at the time of the shooting. Detractors of this approach argued that the family should not file a civil suit until a criminal proceeding had either taken place or was ruled out as an option to avoid the appearance of being "motivated by money."

This "controversy" is emblematic of the dilemma that many crime victims face. Victims of crimes in which the investigation is growing cold ask how long to wait for the criminal justice system to act; victims who are attacked in the media during the criminal process, and essentially put on trial themselves, wonder if they should resort to the civil arena because no justice seems forthcoming in the criminal arena; victims who find that the charges filed in the criminal matter do not address their primary harms wonder if the autonomy they have in a civil action might aid them more. Yet when victims do initiate civil suits they are often accused of being less than a "true victim" or less credible because they are "after money."

The idea that a victim must choose between pursuing justice in the civil courts or the criminal courts misunderstands the nature of the harm from victimization and misperceives the respective roles of the criminal and civil courts.

Fundamental to the harm that many victims experience from the crime perpetrated upon them is a loss of power. Understanding that when victims take steps toward re-empowerment they are taking steps toward healing, can help us understand why victims choose to go particular routes. Further, understanding what happens in each system can help.

It is clear that crime victims, including the families of homicide victims, may benefit from the criminal prosecution of the offender, in part, because during any such criminal investigation and prosecution victims have statutory and constitutional rights to be kept informed, conferred with, notified of proceedings, and heard throughout the process. Further, the criminal case is brought in the name of the State, which can empower a victim to know (s)he is not alone. Notably, however, there are a number of reasons that victims may decide to also pursue a civil case, and even to do so contemporaneous with the criminal case.



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Bringing a case to civil court can also be empowering for victims because victims and their families initiate and control civil cases; civil courts allow for discovery of information directly from the defendant to the victims so that the victim can personally learn more about what happened; the standard of proof in a civil case is lower than that of a criminal court; civil courts are often better equipped to address complex financial issues that victims face; and statutes of limitations may require filing of an action before time runs out. It is also important to note that the relief that can be requested in a civil court is not “just about money” – civil remedies can encompass notions of accountability that are broader than a criminal court’s assessment of guilt. For instance, in a civil court a plaintiff can ask for injunctive relief which can lead third parties to increase security and safety measures that may prevent future crime (e.g., one can ask a landlord to install better locks; or a school to add security guards).

The civil and criminal courts are components of a holistic justice system that together may provide comprehensive redress for victims of crime. Adopting a holistic perspective means remembering that victims have rights in both arenas, and that the choice (and the timing of the choice) to pursue one or the other is all part of crime victims’ right to access justice!