**The Difference between Torts and Crimes**

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**Information**

**THE DIFFERENCE BETWEEN TORTS AND CRIMES**

**This document tells you the following:**

* **What is a crime?**
* **What is a tort?**
* **In what kind of court is a criminal case heard?**
* **In what kind of court is a tort case heard?**
* **What two things must a plaintiff prove in order to win a tort case?**
* **Can the same act be both a crime and a tort?**

Protecting citizens from harmful acts is basic to an orderly society. To protect citizens, governments pass laws making wrongful acts crimes. A crime can be described as a wrongful act that injures or interferes with the interest of society.

However, many acts that result in harm to others are not crimes. Accidentally hitting another car with your own is not a crime, even though it could cause harm. It is a tort. **Generally speaking, a tort is a wrongful act that injures or interferes with an individual's person or property. A tort can be intentional or unintentional (negligence), or it can be a tort of strict liability.**

**TORTS AND CRIMES**

Consider these three events:

1. Mary sells heroin to Jack.

2. Steve, not looking where he is going, knocks Mrs. Frayle down.

3. During an argument, Linda slaps Beth in the face.

Which do you think would be a crime? Which a tort? Understanding the difference between crimes and torts is important because the law treats them in different ways.

**TORTS:** A tort is a wrongful act that injures or interferes with another's person or property. A tort case is a civil court proceeding. The accused is the "defendant" and the victim is a "plaintiff." The charges are brought by the plaintiff. If the defendant loses, the defendant has to pay damages to the plaintiff.

**CRIMES:** A crime is a wrongful act that the state or federal government has identified as a crime. A criminal case is a criminal proceeding. The accused is also called a 'defendant". The victim is the person who has been hurt or the state of Georgia or other governmental entity. The charges are brought by the government. If the defendant loses, the defendant must serve a sentence. A fine is paid to the government and there is possible restitution to the victim.

The state has made selling heroin (event 1) a crime. Mary would be prosecuted for this crime in a criminal proceeding by a district attorney representing the people of the state. If found guilty, Mary could be fined and sent to jail. The victim of a crime is not a party to the legal action. Jack would not be suing Mary. Rather, he would be one of several witnesses for the state in the case against her in court.

**Tort cases are heard in civil proceedings.** The legal process is quite different from criminal proceedings. The civil process provides a legal means for victims of harmful acts to be compensated for the harm done to them. Event 2 is a tort. Mrs. Frayle has been injured by Steve's act. In order to recover money for the harm or damage she has suffered, the civil process requires that Mrs. Frayle sue Steve. Furthermore, she must bear the cost in terms of time, energy, and money for doing so.

In such a legal action, the victim of the tort is usually called the plaintiff. The plaintiff begins a court action against the alleged (or supposed) wrongdoer, usually called the defendant or tortfeasor. In event 2, Mrs. Frayle would be the plaintiff. Steve would be the defendant.

**To win a tort case, the plaintiff must prove two things: (1) the defendant committed the tort and (2) as a result of the tort, the plaintiff or the plaintiff's property was injured.** If a plaintiff (like Mrs. Frayle) can prove both, she is entitled to recover money damages from the defendant to compensate for the injury. The defendant (Steve) is liable, which means he is responsible for paying the damages.

**The same act may be both a crime and a tort.** Event 3 is an example of an act that is both a crime and a tort. Linda may face a criminal action by the state and a civil action by Beth, the individual who was injured.

Why are two different legal actions against one wrongful act possible? In effect, criminal law provides a way of punishing people who commit crimes. It acts to protect all citizens from such wrongdoing. Criminal law is not concerned with the individual victim. The law of torts, on the other hand, provides a way to compensate victims of wrongful acts.

In reality, victims of crimes like burglary, rape, and armed robbery rarely sue the wrongdoers, primarily for practical reasons. For instance, if the wrongdoer has no money or property from which to collect, a lawsuit would accomplish nothing.

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