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## **Scam Alert – February 2008**

by Stacie Harris, Economic Crimes Unit

### **Fraud – Is it criminal or civil?**

To stop fraud, we must first understand it. Fraud is defined as deception made for personal gain.

Not all fraud is criminal. More than 80% of fraud committed is actually a civil matter. In some instances, fraud can be both criminal and civil.

Although civil and criminal matters both have a burden of proof to meet, the requirements to prove each are very different.

In a civil matter, the burden is called "preponderance of the evidence". One side or the other must convince a judge or jury that his or her side of the facts is more convincing than the others and that they are entitled to a judgment.

In a criminal matter, the burden is called "beyond a reasonable doubt" and is much more difficult to prove. To prove a criminal case to a judge or jury, there can be no doubt in their minds that the perpetrator intended to commit the act from the start. If there is even the slightest doubt, by law the defendant must be judged not guilty.

The outcome in a civil court is generally limited to monetary damages. In a criminal court, the outcome may involve a fine and/or a jail or prison sentence.

Criminal fraud should be reported to the police or sheriff's department. An investigation will be conducted and written reports are then submitted to the District Attorney's Office for review of possible criminal charges. If the District Attorney's Office determines that the incident is a civil matter or the facts and elements of the matter cannot be proven "beyond a reasonable doubt", more than likely no charges will be filed. At that point, you may want to contact a private attorney of your choice for legal advice as to whether your matter is more of a civil issue and if it would be more appropriately pursued in civil court. Civil matters may be pursued either with the assistance of a private attorney or, in some circumstances, in small claims court without an attorney.

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