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Informational Alert – Fraud, Is it criminal or civil?

by Stacie Harris, Economic Crimes Unit

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

A strong misconception is that all fraud is criminal. On the contrary, more than 80% of fraud committed is actually a civil matter. In some instances, fraud can be both civil and criminal.

Civil and criminal matters both have a burden of proof to meet. These 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/her side of the facts are 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 a criminal act from the start. If there is even the slightest doubt, by law the perpetrator 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 jail, or a prison sentence.

Civil matters may be pursued either with the assistance of a private attorney or, in some circumstances, in small claims court without an attorney.

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.

~ IDENTIFY A SCAM BEFORE A SCAM IDENTIFIES YOU! ~