

I'm interested in the Sexual Assault Counseling program at The Listening Ear.

I would like to:

- ___ Have a SAC counselor speak to my community group.
- ___ Learn more about SAC services.
- ___ Become a Listening Ear volunteer.
- ___ Donate \$ _____ to SAC and The Listening Ear.

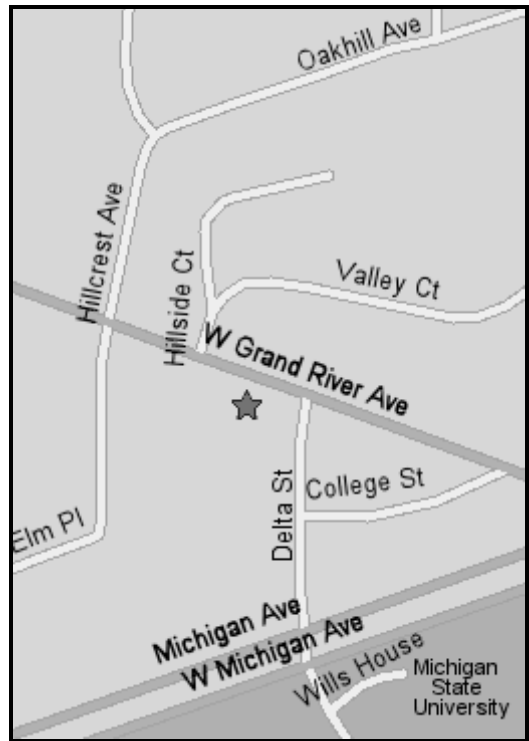
Name _____
Street _____
City _____
State _____ Zip _____
E-mail _____

Please mail this sheet to:

The Listening Ear, Attn: SAC
313 West Grand River Ave.
East Lansing, MI 48823-4213

"Pressing Charges in Civil Court" is a publication of The Listening Ear. It may be freely redistributed so long as the content remains unchanged.

The Listening Ear is a non-profit crisis center located in East Lansing, Michigan. We have served the public 24 hours a day, 365 days a year without interruption since 1969.



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*Sexual
Assault
Counseling*

**Pressing Charges
in Civil Court**

The Listening Ear
313 West Grand River
East Lansing, MI 48823-4213

(517) 337-1717

24-hour Crisis Center

The decision to press charges after being raped is a difficult one, and it is a decision all survivors must make for themselves. The Listening Ear provides this information *only* to assist in that decision.

The civil court is an alternative to criminal charges. It involves a lawsuit against the rapist and/or third parties who may have been responsible for the rape. There are advantages and disadvantages to this approach.

Disadvantages of Civil Court

- No Rape Shield Laws - *In criminal court, a survivor's previous sexual history can not be used in the trial. This protection does not exist in the civil court.*
- No Jail Time - *Civil suits can award financial damages to the survivor, but the rapist and third parties will not be sentenced to jail time.*
- Longer Process - *Civil suits can take a much longer time to resolve than criminal cases.*
- Attorney Fees - *Survivors will need to hire an attorney. This can be done on a contingency basis, in which the lawyer works for a*

percentage of any award (generally about one-third of the damages). Because sexual assault cases may be harder to win, some lawyers are reluctant to accept them.

Advantages of Civil Court

- Lower Standard of Proof - *In criminal court, a defendant must be proven guilty "beyond a shadow of a doubt." This can be especially difficult in rape cases, which attempt to weigh the defendant's word against the plaintiff's - often with no other witnesses. In civil court, only a "preponderance of probability" is required - a lower standard that may be easier to establish.*
- Does Not Require a Unanimous Jury - *Unlike criminal cases, winning a civil case does not require a unanimous decision in favor of the plaintiff. Since so many people still believe in rape myths, this can be a significant advantage.*
- Third-Party Responsibility - *Civil court allows you to sue any third party which may have been responsible for contributing to the rape. Third-party responsibility*

can be difficult to prove, but even an unsuccessful lawsuit may force parties to take sexual assault more seriously.

Examples of Civil Suits

Sterling Heights (1997)

A 77-year old man was forced to pay \$50,000 to the young man he sexually abused. This occurred after the perpetrator was sentenced to 20 years in prison through the criminal court system.

Jackson v. White Castle (1994)

Defendant was found liable for failing to control or eject unruly patrons and notify the police when patrons were in danger.

Phillips v. Deihm (1995)

Defendant was found liable for failing to act to prevent the sexual abuse of the child under their supervision.

Texas Dept. of Mental Health v. Lee (2000)

Hospital was found liable for failing to secure Lee's "freedom from mistreatment, abuse, neglect, and exploitation."

Other 3rd parties which may be liable include Universities, Employers, Landlords, Schools, Fraternities/Sororities, Churches, and other organizations.