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ARTICLE

Civil-criminal hybridization: sexual violence plaintiffs' attorneys' efforts to blur the boundaries between civil and criminal law

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Abstract

Despite symbolic boundaries between civil and criminal law, sociolegal scholars note their conceptual and operational overlap, or hybridity. Values (e.g., restoration vs. punishment) and practices (e.g., monetary compensation vs. incarceration) thought distinct to each manifest in both, and contact with one legal system can generate involvement with the other. Scholars typically attribute hybridity's emergence to top-down mechanisms like legislation. This article presents interviews with sexual violence plaintiffs' attorneys who describe their efforts to improve case outcomes by incorporating criminal legal artifacts like police reports, police evidence and criminal convictions into civil litigation and inserting civil legal artifacts, including costly evidence, victim support and monetary compensation, into criminal prosecutions. Building on organizational theories of boundary work, this article argues that attorneys, in taking purposive action to win their cases, blur distinctions between civil and criminal law from the bottom-up, a distinct mechanism through which civil-criminal hybridity emerges.

Keywords civil-criminal hybridity; boundary work; organizational theory; sexual violence

Bottom-up hybridity: how sexual violence plaintiffs' attorneys blur the boundaries between civil and criminal law

The U.S. Constitution, federal and state law, the legal profession, and academic disciplines distinguish between the civil and criminal legal systems (Young et al. 2024). The civil legal system resolves disputes between individuals and/or organizations and makes harmed parties whole (Ball 2010) while criminal law maintains social order by punishing wrongdoers on behalf of "the people" (Drane and Neal 1980; Epstein 1977). Given their distinct functions, each legal system demands different standards of evidence and affords different protections to involved parties.

While clear on paper, these distinctions break down both conceptually and operationally upon inspection. The civil legal system often punishes alleged wrongdoers, and the criminal legal system increasingly attempts to restore those harmed by defendants' actions (Cheh 1990; Coffee 1992; Dickman 2009). Furthermore, criminal legal

system involvement often leads to civil legal problems, and vice versa (Beckett and Herbert 2010; Young and Billings 2023). Scholars worry that civil-criminal hybridity, which circumvents some constitutional protections and compounds system-involvement, may harm involved parties, and thus work to understand its origins and enactment (Sugie and Turney 2017; Yung 2013).

Much documented hybridity, such as criminal fines (Michael et al. 2024), civil commitment (Ball 2010) and punitive social welfare practices (Roberts 2022), is legally codified and then carried out by frontline actors.[1] In this article, I ask how hybridity is not only enacted by frontline actors but generated by them. To answer this question, I conceptualize civil-criminal hybridity as a case of what sociologists and organizational theorists label "boundary work" (Gieryn 1983). Boundaries between categories of "objects, people, practices, and even time and space" are rarely static (Lamont and Molnár 2002, p. 168; Langley and Tsoukas 2016). Rather, boundaries, such as those between professions (Abbott 2014), racial categories (Lamont 2002) and social classes (Bourdieu and Passeron 1990), expand, contract and combine over time and across place. Boundaries' movements often result from purposive actors' bottom-up boundary work (Langley et al. 2019). I extend these insights to the case of civil-criminal hybridity by asking how frontline actors blur the boundaries between civil and criminal law.

Empirically, this article draws on interviews with plaintiffs' attorneys who represent victims of sexual violence in civil lawsuits. Victims, often frustrated by or fearful of insufficient or harmful criminal legal interventions (Lonsway and Archambault 2012; Orchowski et al. 2022; Rossner and Taylor 2024), are increasingly turning to the civil legal system where they can sue offenders or other responsible parties for monetary damages (Bublick 2006; Lininger 2008; Loya 2015). Interviews with plaintiffs' attorneys reveal that, although the lawsuits they file are civil, they rely heavily on artifacts of the criminal legal system, including police reports, police evidence and criminal convictions, to prove their cases. Because plaintiffs' attorneys believe such criminal legal artifacts benefit them, they also collaborate with criminal prosecutors in their production by encouraging their clients to report to the police, providing prosecutors with costly evidence, supporting victims through the prosecution and proposing prosecution tactics. Together, these practices result in civil-criminal hybridity as plaintiffs' attorneys invoke objects and beliefs native to the criminal legal system in their civil lawsuits while also attempting to insert norms and practices dominant in the civil legal system into criminal prosecutions.

I discuss the implications of these findings for sexual violence research on civil remedies, sociolegal research on civil-criminal hybridity and organizational research on boundary work. First, plaintiffs' attorneys' preference for victims with settled or ongoing criminal actions may stymie access to civil justice for victims who eschew involvement with the criminal legal system, a disproportionate number of whom are socially marginalized in the U.S. (Slatton and Richard 2020). Second, for sociolegal scholars, these findings reveal that, while much civil-criminal hybridity likely emerges through top-down mechanisms like legislation, it is sometimes also generated through the actions of purposive actors. While this study's data are not generalizable beyond a relatively limited sphere of legal action – attorneys in court settings – they nevertheless direct sociolegal scholars' attention to civil-criminal hybridity's emergence, both from the top-down but also from the bottom-up. Lastly, in showing that plaintiffs'

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attorneys blur distinctions between civil and criminal law to benefit their cases, I reveal for organizational theorists that blurred boundaries result from but may not be the intention of people's agency.

Civil-criminal hybridity

The distinction between civil and criminal law extends back hundreds of years in the U.S. (Cheh 1990). At core, the civil legal system outlines and resolves disputes over individuals' and organizations' rights and responsibilities (e.g., contract law, estate law, property law, immigration law) and restores those harmed by violations or failures thereof (e.g., tort and civil rights law).[2] The criminal legal system, conversely, punishes antisocial behavior on behalf of society broadly (Ball 2010; Drane and Neal 1980; Epstein 1977).[3] The norms and practices of each are tailored to their distinct purposes. The civil legal system, which often renders monetary judgments in favor of harmed parties, demands a comparatively low burden of proof from litigants (Coffee 1992). In the criminal legal system, conversely, the state, acting on behalf of the people, prosecutes violations of criminal laws imagined as constitutive of social order. Prosecutions' consequences, namely the loss of freedom or life, are more severe than the monetary costs imposed by the civil legal system, so the criminal legal system requires a higher burden of proof and affords meaningful constitutional protections to defendants (Fitzgibbon and Lea 2018; Rosky 2003). Despite how clear these distinctions appear on paper, sociolegal scholars note conceptual and operational overlap between the civil and criminal legal systems.

Conceptually, the civil and criminal legal systems have distinct functions: restoration and punishment, respectively. On the ground, however, the civil legal system often punishes defendants and the criminal legal system seeks to restore harmed parties. People charged with civil immigration violations, for example, may be detained in jails designed to house people serving criminal sentences (Muchow 2024; Ryo and Peacock 2020), and sex offenders labeled "sexually violent predators" may be civilly committed (i.e., involuntarily confined to a hospital) after serving their criminal sentences (Ball 2010; Miller 2010; Yung 2013). Thus, while the civil legal system purportedly resolves disputes and rights wrongs, it sometimes doles out punishments in ways indistinguishable from the criminal legal system. The punitive turn in civil law is particularly concerning to scholars because civil defendants lack the constitutional protections afforded to criminal defendants (Yung 2013). Just as the civil legal system punishes, so too does the criminal legal system restore. For example, victim restitution and fines are now a ubiquitous part of criminal sentencing (Dickman 2009; Martin et al. 2022; Michael et al. 2024). Though the criminal legal system purportedly punishes criminal defendants to safeguard public safety, it also attempts to restore individuals harmed by defendants.

Beyond conceptual hybridity, in which values and practices native to one system appear in the other, sociolegal scholars also note hybridity in operation. Specifically, involvement with one legal system makes involvement with the other more likely (Young and Billings 2023). Often, this cyclical relationship is institutionalized, as when failure to abide by civil court orders to pay fines, make child support payments or stay away from particular individuals or places results in incarceration (Beckett and Herbert 2010; Foster 2020; Haney 2022; Suk 2006). Criminal legal system involvement

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can also lead to civil actions, as when a parent's incarceration invites scrutiny from the civil child welfare system (Roberts 2022) or when failure to pay criminal fines leads to civil fines or the denial of state benefits (Martin et al. 2022). Even when not formally mandated, people's involvement with one system can informally lead to involvement with the other. For example, people with criminal records struggle to find employment and housing. This, in turn, might lead to civil problems like debt or eviction (Lageson 2020; Lageson and Stewart 2024). Scholars note, then, that values, practices and even people overlap between the civil and criminal legal systems.

Beyond describing hybridity, both conceptual and operational, scholars theorize its origins. Much research points to hybridity's legislative roots. For instance, some local laws require private landlords to conduct criminal background screenings of prospective tenants and exclude or evict those with certain kinds of criminal legal system contact (Reosti et al. 2024). Similarly, welfare fraud investigators are required to implement federal and state fraud control directives by assembling evidence of Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) welfare recipients' rule violations, such failure to adhere to work requirements or misrepresentation of household size, for later review by criminal prosecutors (Headworth 2021). Across these cases and others presented above, hybridity is enacted by individual people but established by law.

Though such top-down hybridity is more thoroughly documented, limited scholarship describes hybridity's emergence from the bottom-up or via the purposive actions of frontline actors. In his ethnographic study of emergency medical technicians, for example, Seim (2020) shows that police officers regularly write 72-hour psychiatric holds to offload disordered people (e.g., people who are publicly intoxicated, under the influence of drugs, or unhoused) from the criminal legal system onto the social welfare system. Similarly pursuing their self-interest, Chiarello (2023) illustrates that pharmacists asked to fill opioid prescriptions report "suspicious" patients and physicians to law enforcement to minimize their legal liability. Though enabled by laws, neither police officers nor pharmacists are directed to redefine disorder as a civil matter or expose patients to criminal surveillance. Instead, both groups take action that produces de facto blurriness between civil and criminal legal systems. While not framed as civil-criminal hybridity, this research does suggest that hybridity's origins may be more complex than currently described by sociolegal scholarship.

Boundary work

The production of civil-criminal hybridity, whether from the top-down or bottom-up, can be usefully understood as boundary work. Boundaries are distinctions between categories of "objects, people, practices, and even time and space" (Lamont and Molnár 2002, p. 168). All boundaries, including those between the civil and criminal legal systems, are socially constructed and therefore change over time and across place. Gieryn (1983), pointing to scientists' discursive efforts to distinguish themselves from "pseudoscientists" and thereby hoard authority, resources and opportunities, uses the language of "boundary work" to describe this process. Consistent across the boundary work literature is attention to the role of actual people, albeit with varying degrees of reflexivity (Apesoa-Varano and Varano 2014; Mørk et al. 2012), in making and remaking boundaries. I extend this focus to the case of civil-criminal hybridity, exploring

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how frontline actors blur the boundaries between civil and criminal law from the bottom-up.

Most documented cases of boundary work are, like Gieryn's, competitive. After climate scientists' private communications were leaked in 2009 (i.e., "Climategate"), for example, laypeople questioned climate science's legitimacy (Garud et al. 2014). Through various governmental investigations, scientists rebuilt the boundaries delineating their expertise from laypeople's by discursively affirming scientific norms. Similar cases of boundary contestation and renegotiation include auditing professionals' repudiation of the government's attempts at regulation (Hazgui and Gendron 2015), auto manufacturers and private corporations' encroachment on the state's jurisdiction over consumer protection (Talesh 2009) and civil rights adjudication (Edelman et al. 1993), radiologists' monopolistic claim to MRI, CT and PET scans' generation and interpretation (Burri 2008), and retail health clinics' efforts to wrest some medical work from doctors and assert their legitimate practice by nurses (Galperin 2020), among many others. Though competitive boundary work is generally common, civil-criminal hybridity is better understood as configurational and, as I will argue, collaborative boundary work (for this typology, see Langley et al. 2019).

Configurational boundary work involves outside actors' creation or transformation of existing boundaries to resolve disputes, facilitate partnerships or make room for new activities. Charlene and Lawrence (2010) offer an influential example of conflict between logging companies and environmentalists in Canada. Both groups asserted claims to the stewardship of old-growth forests. To resolve this conflict, logging companies spun out an external project to work in collaboration with environmentalists and other stakeholders (e.g., First Nations, the public, the government) to develop more sustainable "eco-system-based management" forestry practices amenable to all groups. In this example, external actors reconfigured forestry by combining knowledge, interests and practices across preexisting boundaries to create a new space of activity. Much documented civil-criminal hybridity results from configurational boundary work. U.S. federal welfare reform, for example, punishes unmarried fathers who fail to pay child support or reimburse the costs of welfare provided to their children's single mothers by garnishing their wages and revoking their driver's licenses (Haney 2022). Ironically, garnished wages rarely find their way to single mothers, and the sanctions imposed on fathers, which inhibit their ability to secure employment and housing, further alienate them from their families. Welfare reform, then, does more to punish fathers for failing to align with normative familial arrangements than to restore harmed mothers. Here, external actors, namely legislators, reconfigure the boundaries between civil and criminal law by using the civil legal system to punish, a value native to the criminal legal system. While such configurational civil-criminal hybridity is common, the case of civil-criminal hybridity I present in this article is more accurately described as collaborative, rather than competitive or configurational, boundary work.

Organizational research typically presents organizations and occupations as in competition for cultural legitimacy and material resources. In some instances, however, organizations and occupations benefit from collaboration across boundaries. Healthcare workers, for example, often collaborate across professional boundaries to treat complex conditions like cancer (Meier 2015; Pouthier 2017), sometimes going so far as to perform work more squarely rooted in others' areas of professional expertise,

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such as when nurses help physicians make diagnoses (Apesoa-Varano 2013; Liberati 2017). Similarly, international nongovernmental organizations share personnel and downplay differences in resources, values and practices between themselves and their local partners to deliver aid more effectively (Wadham et al. 2019; Ybema et al. 2012). Even in for-profit contexts where we might imagine competition to be fiercer, companies' collaborations can be mutually beneficial, as when technology companies with complementary expertise in hardware and software combine resources (e.g., staff, knowledge, money) to develop innovative products (Davis 2016) or when international and local law firms blur the boundaries of expertise and legal jurisdiction by, among other mechanisms, moving personnel recursively between firm types to expand their markets (Liu 2008).

I argue that civil plaintiffs' attorneys' interactions with criminal prosecutors constitute collaborative boundary work. While my primary contribution, as described above, is to sociolegal research on civil-criminal hybridity, this article also advances organizational research on collaborative boundary work. Human agency is at the core of boundary work research. Scholarship shows that, while constrained by their cultural and structural environments, individual people create, maintain or contest boundaries. Some research describes boundary work as pragmatic. Middle managers who translate technical work for executives (Azambuja et al. 2023) or intelligence officers who interpret data scientists' activities for police officers (Lauren et al. 2022), for example, maintain strict boundaries to maintain their indispensability to each group. Despite this evidence of pragmatism, however, the extent to which people's boundary work is purposeful remains underexplored (Langley et al. 2019).

Methods

The case of civil sexual violence litigation

To better understand the production of civil-criminal hybridity, I turn to the empirical case of sexual violence litigation. Victims can pursue remedies for sexual violence, an umbrella term capturing rape, sexual assault, sexual abuse and sexual harassment, through either the criminal or civil legal systems. Criminal legal remedies for sexual violence are more familiar given many decades of organizing by activists to imagine incarceration as the appropriate punishment for offenders and to demand tougher and more consistent intervention by police and prosecutors (Echols 1989; Gruber 2020; McGuire 2011). Despite increased law enforcement responsiveness, many victims, especially socially marginalized victims, still choose not to report to the police, and those who do report are often frustrated by stubbornly low charging and conviction rates and perceived police insensitivity (Baumer et al. 2003; Felson and Paré 2005; Goodmark 2023; Lonsway and Archambault 2012; Orchowski et al. 2022; Slatton and Richard 2020). Beyond the experiences of individual victims, anti-carceral feminists worry that the state uses the issue of gender-based violence to expand surveillance and punishment, especially of groups marginalized along lines of class, race and citizenship status, to the detriment of victims and their social networks (Bumiller 2008; Kim 2020).

Recognizing issues endemic to the criminal legal system, and sometimes encouraged by victim advocates and legal scholars, victims are increasingly turning to the civil legal system as a supplementary or alternative action (Bublick 2006; Daly and

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Bouhours 2010). Proponents of civil remedies for sexual violence suggest they offer victims control and compensation unavailable to them through the criminal legal system (Cantalupo 2015; Lininger 2008; Zalesne 2002). Unlike in the criminal legal system where victims are only witnesses, victims in the civil legal system are party to their cases and therefore direct, in consultation with their attorneys, litigation strategy. Victims, who suffer economically from violence (Barrett et al. 2014; Loya 2015), may also benefit more from monetary compensation, the typical outcome of civil litigation, than they do from their offender's incarceration, the hallmark outcome of criminal prosecution (Slyder 2017).

Some victims, namely White women abused by strangers, have been empowered to sue offenders civilly since the early 1900s under tort law (i.e., law remedying wrongdoing resulting in harm against individuals).[4] Given legal limitations, civil sexual violence lawsuits remained rare until remedies expanded due to the passage of civil rights protections for women in schools and workplaces, which defined sexual violence as a form of sex discrimination given its potential to hinder academic and professional success (Cahill 2001; MacKinnon 1979; 2016; Saguy 2003; Uggen and Blackstone 2004). Civil rights legislation enabled victims to bring sexual violence actions against some organizations, rather than against individual offenders. Since the U.S. Supreme Court ruled against the 1994 Violence Against Women Act's attempt to categorize all sexual violence as sex discrimination, however, civil rights remedies remain limited in most states to victims abused in educational and occupational settings (Goldscheid 2005).

More recently, entrepreneurial attorneys have returned to tort law to bring sexual violence cases. Building on increased public attention to "institutional abuse," particularly of children, in the 1980s (Best 1993, 1997; Finkelhor 1984; Finkelhor et al. 2015; Whittier 2009), today's tort lawyers sue organizations rather than individual offenders who rarely have sufficient assets to justify litigation.[5] Under tort law, organizations like schools and daycares, summer camps, and churches may be liable for abuse if their negligence in hiring or supervising employees or responding to allegations of abuse allowed violence to occur or continue (Jenkins 2001; Keenan 2013). Following path-breaking recoveries against the Catholic Church in the early 2000s (Lytton 2007), these sorts of cases have taken off, increasing, by some estimates, exponentially over just the past few decades (Bublick 2006).

Though victims can file civil lawsuits without ever having reported their victimization to the police, many choose to both report to the police and file civil lawsuits.[6] Criminal and civil cases rarely proceed simultaneously, however. Since criminal defendants are afforded constitutional protections not extended to civil defendants, such as the Fifth Amendment right against self-incrimination, criminal trial judges often stay civil lawsuits until the completion of the criminal prosecution to preserve defendants' constitutional rights (Lininger 2008). Furthermore, jurors in criminal trials question the motivations of victims pursuing simultaneous civil cases, worrying they are lying about their experiences of violence to secure a payday (Golding et al. 2016). To avoid tainting the criminal prosecution, then, civil plaintiffs' attorneys may delay filing until the criminal prosecution's conclusion (Lininger 2008). Since sexual violence is a harm litigable in both civil and criminal courts (though rarely at the same time), it provides an ideal case for understanding boundary work, and especially boundary blurring, at the intersection of civil and criminal law.

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Data and analysis

Data for this study come from a larger mixed methods project on civil remedies for sexual violence. The larger dataset includes 70 in-depth interviews with civil plaintiffs' attorneys, defense attorneys and forensic experts, 55 hours of observation of relevant continuing legal education seminars and decisions of 166 state and federal civil cases between 2017 and 2022. Data analysis revealed plaintiffs' attorneys ($n = 44$) as most active in blurring boundaries between the civil and criminal legal systems, so I only use their interviews in this article.

Civil sexual violence actions, broadly construed, may include restraining orders, divorces, custody agreements and housing disputes. Many of these actions, however, help victims navigate the aftermath of violence rather than adjudicate the act of violence itself. In this article, I define "civil remedies" more narrowly as actions, namely civil rights or tort lawsuits, in which violence itself – its occurrence, cause and consequences – takes center stage. While victims of violence may find help for restraining orders, divorces and custody agreements at legal aid clinics and rape crisis centers, federal funding restrictions bar such organizations from helping victims pursue monetary damages, thereby precluding the tort and civil rights cases of interest here (Bublick 2006). Instead, victims interested in pursuing civil rights and tort claims that lead to monetary damages typically must retain private counsel.

Victims may hire an attorney directly. Few, however, have sufficient resources to do so, and instead retain counsel on contingency (Gross and Syverud 1996; Rua 2019; Slyder 2017). Under contingency fee arrangements, attorneys forego payment and front the costs of litigation, such as filing fees and expert witness testimony, but take a cut, generally around one third but sometimes as much as one half, of their clients' eventual winnings (Hyman et al. 2015). Contingency fee attorneys, whose earnings depend entirely on their caseloads, often advertise their services directly to potential clients (Kritzer 2004). To recruit plaintiffs' attorneys for this study, then, I started with the three largest online attorney review and advertising platforms: justia.com, findlaw.com and superlawyers.com. Across all three sites, I, along with an undergraduate research assistant, searched for attorneys by specialty, either using drop-down search terms native to sites like "sexual assault – plaintiff" or through open Boolean searches for specialization in "personal injury" AND "sexual violence" OR "sexual assault" OR "sexual abuse" OR "rape." Searches were conducted in each U.S. state or, when required to provide additional specificity, in major metropolitan centers within each state. All attorneys were contacted via their publicly listed email addresses, found either on local bar association or private firm websites, with a description of the project and an invitation to participate. Introductory emails also detailed confidentiality protections for participants, as required under the project's human subjects approval. Specifically, I provided each participant with a pseudonym and masked potentially identifying information, such as niche specializations or participation in blockbuster cases (e.g., the first to sue X organization or the first to settle for Y amount).

Some attorneys with relevant expertise, namely those who take sexual violence cases but do not consider them core to their practice (e.g., general personal injury attorneys) and those who do not need to advertise (e.g., high-profile attorneys), may have been missed in my search of online advertisements. To account for this limitation, I also contacted lead attorneys on recently decided sexual violence cases. Cases were identified through a Westlaw search for state and federal civil cases referencing

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"sexual violence" OR "sexual assault" OR "sexual abuse" OR "rape" between 2017 and 2022. My original search generated 719 results, which I then reviewed by hand to apply inclusion and exclusion criteria. Family law cases, cases brought by alleged offenders themselves (e.g., against child welfare agencies for allegedly wrongful investigations), and cases that cited relevant cases but were not themselves relevant were excluded. This resulted in a final sample of 166 cases. I then contacted, where possible and relevant, lead attorneys on each case by email. As a final supplemental recruitment strategy, I asked attorneys who agreed to participate in interviews, or who responded to the introductory email but refused to participate, to refer me to other attorneys known to take sexual violence civil cases. Ultimately, 250 potential participants (inclusive of plaintiffs' attorneys, defense attorneys and expert witnesses) were contacted and 70 interviews were conducted.

I conducted all interviews personally between March 2022 and February 2023, 44 of which were with the plaintiffs' attorneys who comprise this article's subsample. Plaintiffs' attorneys ranged in age from 31 to 73 with an average age of 48 years old, though four chose not to disclose. The subsample lacks racial diversity and gender parity. Thirty-eight attorneys were White, two Hispanic, Latino/a or Latinx, one Black and one multiracial, with two choosing not to disclose. Twenty-five attorneys listed "male" as their gender, seventeen "female" and two chose not to report. Though problematic on its face, this lack of racial diversity and gender parity makes sense in the context of the project since the legal profession skews White and male (American Bar Association 2023). The subsample captures meaningful geographic diversity. Attorneys hailed from all four U.S. regions, with twenty-five from the Western United States, seven from the Midwest, six from the Northeast and six from the South. Thirteen of the attorneys practiced personal injury law and thirteen were specifically sexual violence litigators, listing child sexual abuse, sexual harassment or sexual assault as their primary expertise. Smaller numbers of attorneys had general or mixed practices ($n = 10$) and civil or human rights practices ($n = 5$). One attorney each practiced commercial law, family law and sports law. Attorneys brought, on average, 26 years of professional experience to their interviews with me.[7]

Each interview was conducted either on Zoom or over the phone and lasted, on average, just under an hour. Interview questions, appended below, sought to capture participants' lawyering or day-to-do practice of the law (Cahn 1991). For example, and of particular relevance to this article, I asked attorneys how civil litigation complements criminal litigation. This question, asked broadly, allowed for various interpretations. While some attorneys discussed what the civil legal and criminal legal systems each offer victims, others described how their civil work influences criminal prosecutions and vice versa. When attorneys identified overlaps between the two systems, I asked follow-up questions (e.g., "what's your relationship with prosecutors like?") thereby revealing their involvement in the production of hybridity. All interviews were recorded using Zoom's native recording software and an external recording device for redundancy. Two undergraduate research assistants transcribed each interview word-for-word.

Guided by abductive analysis, I coded each transcript line-by-line. Abductive analysis is an iterative process whereby qualitative researchers move back-and-forth between their data and the literature, seeking to identify features of the data unexplained by existing theory (Tavory and Timmermans 2014). During my first "open"

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round of coding, I applied descriptive codes to each line of data to capture high-level themes in participants' work. During later rounds of coding, I searched for patterns within and connections between high-level themes, thereby illuminating their operation. Throughout, I noted findings that were surprising – and therefore theory-generating – in light of existing literature. For example, during my first round of coding, I identified "how criminal prosecution benefits civil litigation" and "how civil litigation benefits criminal prosecution" as common themes in plaintiffs' attorneys' descriptions of their work. Within each theme, I later identified common mechanisms (e.g., sharing evidence, supporting victims, informing strategies, etc.) through which benefits accrue. Given dominant understandings of the civil and criminal legal systems as distinct, the significant overlaps identified in my data are "surprising." Upon returning to the literature, I learned that I am, of course, not the first to note surprising overlaps between the civil and criminal legal systems, which led to my engagement with burgeoning scholarship on civil-criminal hybridity (Young et al. 2024).

Findings

Plaintiffs' attorneys largely understood boundaries between the civil and criminal legal systems as clear and natural. Tracy, for example, explained that "our [firm's] view is the thing that's going to make the biggest difference, so that more children don't get harmed, is that that person is incarcerated and criminally held accountable because it gets them off the streets" (July 15, 2022, p. 4).[8] Here, Tracy emphasizes public safety as a unique function of the criminal legal system. The civil legal system, conversely, only offers "redress for that particular survivor and for the harm done to them" (July 15, 2022, p. 4). In addition to noting, like Tracy, the distinct punitive and restorative functions of the criminal and civil legal systems, attorneys also discussed distinctions between the operation of each system, reviewing, for example, variations in rules of evidence and legal protections afforded to each party.

Despite defining and constructing as natural boundaries between the civil and criminal legal systems, however, attorneys, in their attempts to win cases on behalf of their clients, blurred distinctions between each. In the following section, I first show how plaintiffs' attorneys incorporate artifacts native to the criminal legal system (e.g., police reports, police evidence and criminal convictions) to establish the "truth" in their civil lawsuits. Second, because plaintiffs' attorneys believe successful criminal prosecutions benefit their civil lawsuits, they attempt to positively influence prosecutions' outcomes by providing prosecutors high-quality, costly evidence, supporting victims through their criminal cases and shaping prosecutors' strategies. Again, in each instance I note where values and practices rooted in the civil legal system, such as victim agency and monetary compensation, bleed into the criminal legal system thereby blurring distinctions between the two.

Incorporating criminal legal artifacts into the civil legal system

While sexual violence victims can technically proceed with civil litigation without having first reported to the police, plaintiffs' attorneys interviewed for this project

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claimed they rarely do. As Richard said, ""80 to 90% of our cases have some sort of ongoing or past criminal component" (April 19, 2022, p. 2). In part, the frequency of dual civil and criminal cases may be explained by victim and case characteristics. Victims are more likely to report to the police when they and their cases align with social constructions of the "ideal victim" (i.e., sober, sexually "pure," unknown to the offender, etc.) (Christie 2018; Patterson et al. 2009; Rua 2019). Furthermore, victims who imagine the law as an appropriate and accessible tool for addressing problems may be more likely to both file a police report and pursue civil litigation (Chua and Engel 2019; Nielsen 2000). Some of the frequency of dual litigation, however, is likely explained by plaintiffs' attorneys' preference for clients with ongoing or settled criminal cases. This preference derives from plaintiffs' attorneys' belief that criminal legal artifacts – including police reports, police evidence and criminal convictions – strengthen their civil lawsuits.

Police reports

In many criminal cases, but especially in sexual violence cases, victims are key witnesses (Hlavka and Mulla 2021; Konradi 2007). As such, victims' credibility, or judges' and jurors' assessments thereof, plays a large role in determining case outcomes. Police reports bolster victims' credibility in civil litigation, as Conner explained.

> [T]he defense is going to go, "If this really fucking happened, if this happened to my daughter, I'm walking down to the fucking police station that night and we're fucking reporting this shit." That's what people, some people, think. And some jurors will go, "I'm just skeptical of this because that didn't happen," so no, I don't reject cases out of hand [if they lack a police report], all the time, [though] sometimes I will. But I always encourage my clients to go to the police, or go to some sort of authority, to report what happened to them. (April 21, 2022, p. 11)

Victims' lack of a police report, though common given many victims' reticence to turn to law enforcement (Baumer et al. 2003; Felson and Paré 2005), signals, in some plaintiffs' attorneys' telling, either a lack of suffering or honesty. If victims are genuinely hurt and telling the truth, they, according to this reasoning, file a police report. Because police reports are objects created by agents of the criminal legal system for use in the criminal legal system, their invocation by plaintiffs' attorneys during civil lawsuits constitutes boundary blurring. Moreover, plaintiffs' attorneys' incorporation of police reports as evidence of victims' honesty reinforces a "criminal-legal logic," or the belief that policing, prosecution, incarceration and surveillance are the appropriate tools for responding to most social problems, during civil proceedings (Chiarello 2023; Deer and Barefoot 2018; Stuart 2016).

Though not formally required of civil plaintiffs, police reports are perceived to be so valuable in establishing victims' credibility that many plaintiffs' attorneys, like David, admitted, "If we get a call and a client's telling us about childhood sexual abuse, first question, 'Have you contacted the police?' And if not, we advise them to do so" (January 27, 2023, p. 12). By informally requiring plaintiffs to report their victimization to the police, plaintiffs' attorneys institutionalize (i.e., routinize or take for granted,

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see Zilber 2002) the police report, a criminal legal object, as the preferred symbol of credibility in the civil legal system, thereby blurring boundaries between the two systems.

Police evidence

While plaintiffs' attorneys can and do conduct their own investigations, as I discuss further below, "Two investigations are better than one," as Tim said (May 9, 2022, p. 9). Over the course of their investigations, and often at prosecutors' direction, police officers may generate evidence useful for plaintiffs' attorneys' civil cases. As Richard explained, "We've had cases where we didn't think there was enough for a civil case, but then there's a criminal prosecution and investigation, they get a bunch of information and then we are able to file a civil case" (April 19, 2022, p. 2). Law enforcement's evidence may be particularly valuable because the police have investigatory tools unavailable to plaintiffs' attorneys. As Woody offered, for example, the police may be legally empowered to place pretext calls during which victims call offenders to elicit a recorded confession.

> If they do a pretext call in a he said/she said case and they get an admission, that's gold. Sometimes if I think we can't win a he said/she said case, I will have the client go to the police or go to the licensing board just for that reason. (April 12, 2022, p. 17)

A pretext call that yields a confession can go far in establishing the "truth" in both criminal and civil cases. Other investigatory tools available uniquely to law enforcement include search warrants, easy access to surveillance footage and interrogations during which police deploy legal and extra-legal means to coerce information from suspects (Brooks 2023). These tools, and the evidence they generate, are unique to the criminal legal system, made possible only by its governing laws. By incorporating the products of practices native to the criminal legal system into their civil lawsuits, then, plaintiffs' attorneys generate civil-criminal hybridity.

Criminal convictions

Though criminal convictions are rare (Lonsway and Archambault 2012), they are the artifact of the criminal legal system most useful to plaintiffs' attorneys. In civil cases, plaintiffs' attorneys generally have the dual burden of proving that violence occurred and that some actor with money (e.g., an organizational defendant with insurance coverage) bears some responsibility in failing to prevent it (Bublick 2006). A criminal conviction effectively removes the former burden from attorneys' shoulders. As Eli explained, "If you've got a criminal prosecution for the deed, your case has been proven for you, at least to an extent" (April 7, 2022, p. 7). The presence of a criminal conviction proves that violence occurred, especially, as MacKenzie described, because of the difference between the criminal and civil standards of proof.

> If a prosecution happens, that makes a civil attorney's job much easier because the burdens of proof are different. I already know you did it, we all know you did

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> it, and now you're going to pay in a different way for how you did it. (April 12, 2022, p. 5)

Whereas the civil legal system requires only that attorneys prove their cases by the preponderance of the evidence (i.e., more likely than not), prosecutors must prove theirs beyond a reasonable doubt. If the truthfulness of a victim's claims has already met the higher criminal burden, then the underlying matter need not be litigated again at the lower civil standard. As both an object of the criminal legal system and a symbol of its legal and normative standard of proof, plaintiffs' attorneys' reliance on criminal convictions during their civil lawsuits blurs distinctions between the two systems.

Introducing civil legal artifacts to the criminal legal system

Though civil lawsuits typically follow criminal prosecutions temporally (Lininger 2008), civil plaintiffs' attorneys may be involved in both. In some cases, plaintiffs' attorneys serve as victims' private counsel during criminal prosecutions to ensure their rights are not violated. Often, however, the plaintiffs' attorneys worry criminal trial jurors may read victims' retention of private counsel as evidence of their plans to later sue for money. Because criminal trial jurors suspect financially motivated victims of lying (Golding et al. 2016), plaintiffs' attorneys generally refrain from formalizing their relationship with victims until criminal prosecutions' conclusion. Nevertheless, plaintiffs' attorneys may still attempt to intervene in the criminal prosecution to maximize its chances of success, thereby ensuring their access to the criminal legal artifacts they believe may benefit their eventual civil lawsuits.

Civil plaintiffs' attorneys attempt to influence criminal prosecutions in three ways. First, plaintiffs' attorneys provide prosecutors with high-quality evidence generated for their eventual civil cases. That civil litigation results in monetary compensation enables plaintiffs' attorneys to devote significant resources to individual cases and incentivizes victims' participation in litigation. Second, plaintiffs' attorneys, informed by the civil legal system's victim-centeredness, support victims through the criminal legal process which may protect criminal prosecutions from victim attrition or disillusionment. Lastly, plaintiffs' attorneys encourage prosecutors to pursue strategies likely to result in victims' monetary compensation, a restorative practice rooted in the civil legal system.

Providing evidence

Criminal prosecutors, particularly in large jurisdictions, are often overburdened and underfinanced. Though no national standards detail ideal caseloads for public prosecutors' offices, many legal scholars, criminal justice advocates and attorneys argue that prosecutors, tasked with handling hundreds or even thousands of misdemeanors and felonies every year, are short on time and money (Gershowitz and Killinger 2011). This scarcity forces prosecutors to decide which cases to pursue and how doggedly to pursue them. Prosecutors' decisions are, at least supposedly, rooted in the criminal legal field's shared commitment to public safety (Bessler 1994).

Plaintiffs' attorneys, conversely, are businesspeople who craft caseloads they expect will generate financial returns (Kritzer 2004). Since plaintiffs' attorneys can

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prioritize profit rather than public safety, they often have more money than state prosecutors to devote to their comparatively few cases. Consequently, civil investigations sometimes yield more and higher quality evidence (e.g., depositions, expert testimony and documents) than criminal prosecutions. Miriam drew this comparison between her private office and the district attorney's during her interview.

> If I go forward with my litigation, I'm going to spend money to take depositions, to get the evidence to prove the case. I have more resources than the district attorney is going to be willing to spend on any individual file. I'm perfectly happy to share deposition testimony with the district attorney's office, it's sworn testimony, there's nothing privileged or confidential about it. (May 18, 2022, p. 8)

In some instances, the evidence plaintiffs' attorneys provide to prosecutors, like the type described by Miriam above, may be of marginal utility. While Miriam potentially saved prosecutors some time and money in conducting depositions, prosecutors or their partners in law enforcement likely could have conducted those interviews themselves. In other instances, however, plaintiffs' attorneys described providing evidence which may have made the difference between a prosecutor filing charges or not. Woody, for example, said that publicity generated for his civil cases can surface additional victims beneficial for prosecutors.

> Sometimes we could get publicity better than the DA can in a case because we can sometimes talk the client into going on air with their real name and all that. Publicity can bring forth more cases. People – other victims – are scared to go into the DA and they're more willing to come to us, and it's advantageous because they're going to get money for doing it, potentially. So, we've turned up other victims, which improves the DA's case. (April 12, 2022, p. 17)

Whether through paid or earned media, plaintiffs' attorneys can devote their relatively abundant resources and time to generating attention. As Woody suggested, publicity, as Catholic Church litigation has shown (Lytton 2008), can encourage additional victims to come forward. The monetary remedies of the civil legal system, in addition to enabling plaintiffs' attorneys' publicity, may incentivize victims' engagement with legal processes. Though victims are likely not centrally motivated by money, plaintiffs' attorneys still cite remuneration as a desired outcome for some victims. Additional victims produced by plaintiffs' attorneys can strengthen criminal prosecutions because, as Alice said, "When you've got multiple people who say the same thing happened to them, that's helpful too, more so than just one person where nobody else can corroborate it." (August 4, 2022, p. 7). By offering evidence, the production of which was made possible by the civil legal system's monetary remedies, to criminal prosecutors, plaintiffs' attorneys may blur the distinctions between the civil and criminal legal systems.

Supporting victims

Given the centrality of victims' testimony to successful prosecutions, victims' attrition from the criminal legal process or decision not to cooperate with prosecutors

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can cause prosecutions to fail (Daly and Bouhours 2010). Victims' frustration with the criminal legal system explains much attrition. As discussed above, victims often feel disrespected or ignored by law enforcement officers and prosecutors whose primary duty is to the state rather than the victim (Lonsway and Archambault 2012; Markovits 2010). Victims' rights advocates in the 1980s won victims increased protections during prosecutions, including the right to some information and access to victim services (Glenn 1997; Tobolowsky 2001). And yet, victims in the criminal legal system remain witnesses rather than parties to the case. Consequently, victims have limited information and decision-making power in the criminal legal system, both normatively and legally.

In the civil legal system, on the other hand, victims are the client. Plaintiffs' attorneys, as their clients' advocates, ensure victims, wherever possible, have full information and decision-making power. The second way plaintiffs' attorneys attempt to influence criminal prosecutions, then, is by supporting victims. Informed by the civil legal system's normative and legal victim-centeredness, plaintiffs' attorneys like Conner provide emotional support and information to victims as they participate in criminal prosecutions.

> DAs are funny because they're all about winning, winning, winning, winning, winning, and so all they want to do is go in there and fucking throw the guy in jail. But what they hate dealing with is the back-and-forth with the victims and all that hand holding. Like I told you, it's emotionally [Conner pauses] it's fucking taxing, and these women want to be heard, and sometimes you got to sit there and you have to act like a therapist or a best friend and just listen to them talk and cry and be there for them, and that's a lot of fucking time, right? And a DA is like, "I ain't got that time," so I go, "Look, I'll keep the client abreast of everything [that] is going on, I'll be the go-between, the information portal for you," and so, like, [the DA says] "Fucking great, because this takes all that bullshit off my table that I don't want to deal with." (April 21, 2022, p. 12)

Conner sees victims as his central responsibility, whereas prosecutors, at least in his telling, feel frustrated by victims' need for emotional support and information.

For prosecutors deeply embedded in the criminal legal system, restoration of harmed individuals takes a backseat to punishment of wrongdoers. Of course, as introduced above, prosecutors are purportedly tasked not simply with punishment but with the pursuit of justice (Bessler 1994). For example, they must not hide evidence that may benefit the defendant even if it hurts the prosecution. And yet, prosecutors are politicized in the United States and care deeply about their conviction rates, suggesting punishment, not justice, is highly valued in the criminal legal system (Gordon and Huber 2009; Lynch 2023; Nadel et al. 2017). Below, MacKenzie similarly contrasts her civil legal victim-centeredness with prosecutors' punitiveness.

> I understand from DAs that they have this frustration like, "Oh, the victims always recant, none of them want to go forward. They say one thing one day, they say another the other." [DAs] have a real jaded view from their perspective, and it's all quite true, probably most of the time, but it's only one small part of the big picture. I've always tried to build bridges to support survivors,

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> so that they can participate in the criminal process, because if they're thinking about how are they going to get to work and who's going to watch their kids and 27 other problems that are more important to them than showing up at the courthouse, they can't manage all of that. There are ways to support survivors so that they can participate in both if that's what they choose. (April 12, 2022, p. 4)

Like Conner, MacKenzie notes that, for DAs, victims are valuable only for the evidence they provide to the criminal prosecution. MacKenzie, conversely, sees victims' wellbeing, not offenders' punishment, as the goal. She addresses victims' needs, such as for childcare, to facilitate their participation in the criminal legal process. Echoing research on boundary work, MacKenzie characterizes her support for victims as an attempt to "build bridges" between the civil and criminal legal systems. By blurring the boundaries between the two, specifically by introducing civil legal victim-centeredness to the criminal legal process, Conner and MacKenzie may decrease victim attrition and noncompliance, thereby improving prosecutions' chances of success.

Shaping strategy

Providing evidence and supporting victims are comparatively indirect ways that plaintiffs' attorneys attempt to influence criminal prosecutions. More directly, plaintiffs' attorneys try to shape prosecutors' strategies, such as charging instruments and the terms of plea agreements, informed again by the civil legal system's financial motivations. First, consider Jamie, who recently worked with a prosecutor on a case involving a daycare worker's sexual abuse of multiple children.

> [My client] wasn't on the original charging instrument, so I got the DA to add my client to the charging instrument [and] make sure that when the guy pled guilty, he would plead guilty to one count for each victim …. The insurance company was trying to argue that it was all one occurrence, and it wasn't. (April 14, 2022, p. 2)

Insurance policies, which often cap damages for each occurrence, sometimes argue that abuse involving the same victim over an extended period of time, or multiple victims at the same time, constitutes a single "occurrence," thereby limiting their exposure. Guided by the financial motivations of the civil legal system, Jamie encouraged the criminal prosecutor to require the defendant to plead guilty to separate counts so that he could demand the insurance company pay the full per-occurrence amount to each victim, including his client.

Jamie admitted that, because prosecutors have multiple ways to get consecutive time at sentencing, "[the defendant] was going to get a really lengthy sentence" (April 14, 2022, p. 2) regardless of whether he pleaded to separate counts. Consequently, in this instance, Jamie's incorporation of civil legal financial motivations into the criminal legal system likely did not meaningfully shape the prosecution's outcome. Jamie provided another anecdote, however, in which he introduced the civil legal system's

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goal of restoration via monetary compensation into plea negotiations between himself, the DA, and the defense attorney.

> [The] DA said, "We'll go as low as 70 months, if your client is okay with that" … I basically say, "Look he needs more time than 70 months. Would you be okay if he did 10 years?" [The DA] said "Yeah." So, I met with the defense attorney, the defendant, and the prosecutor, and we all sat down. I said, … "We don't need to waste time here. Ten years in prison and everything your client owns." After quite a bit of rigmarole over the next couple weeks, [the defendant] finally did that, and he paid my client 1.6 million dollars. He emptied out his retirement account. He sold everything [and] went to prison for ten years. (April 14, 2022, p. 11)

Jamie did not challenge the criminal legal system's punitiveness. Instead, he supported the criminal legal system's desire to punish the offender, proposing nearly twice the jail time the DA originally proposed. In addition to punishment, however, Jamie introduced his civil legal focus on monetary remedies to the criminal legal process by demanding the defendant pay his client "everything [he] owns." Karen has similarly "found ways that we can really work together." For example, "we've had cases where we resolved all the cases together. We resolved the criminal and the civil together. The judge actually made as part of the criminal sentence, their restitution was to pay my civil case" (May 6, 2022, p. 7). Jamie and Karen actively blur the boundaries between the civil and criminal legal systems by advocating for the inclusion of monetary compensation, a hallmark restorative practice of the civil legal system, alongside incarceration, the strongest punitive tool in the criminal legal system's toolbelt, in the criminal legal process.[9]

Conclusion: bottom-up civil-criminal hybridity

Informed by organizational theories of boundary work, this article asked how frontline actors blur the boundaries between civil and criminal law. To answer this question, I interviewed plaintiffs' attorneys who represent victims of sexual violence in civil litigation. Interviews revealed that plaintiff's attorneys use artifacts native to the criminal legal system to benefit their civil lawsuits. Police reports, police evidence and criminal convictions produced and made legitimate by laws and norms unique to the criminal legal system lend victims' narratives credibility during civil lawsuits. Their routine incorporation within the civil legal system, beyond helping individual plaintiffs secure positive judgments, may blur evidentiary norms and burdens of proof between the civil and criminal legal systems. To ensure access to these potentially useful criminal legal artifacts, plaintiffs' attorneys also attempt to positively influence the outcomes of criminal prosecutions by offering civil legal artifacts to the criminal legal system. Drawing on their relatively abundant resources – stemming from the civil legal system's monetary remedies – plaintiffs' attorneys produce and share evidence with prosecutors. Additionally, guided by the civil legal system's victim-centeredness, plaintiffs' attorneys provide emotional support to victims as they navigate the criminal legal process, which potentially reduces victims' attrition and noncompliance. Lastly, plaintiffs' attorneys encourage prosecutorial strategies that lead to victims'

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monetary compensation, a practice core to the civil legal system's restorative goal. While plaintiffs' attorneys did reference several examples of prosecutors' uptake of civil legal artifacts, lacking interviews with prosecutors, I cannot assess their general incorporation of the civil legal artifacts on offer. Because boundary blurring is a collective effort (Liu 2018), future research might successfully attend to prosecutors' interactions with civil litigators.

These findings first inform research on civil remedies for sexual violence. While sometimes uplifted by legal scholars and victim advocates as a promising alternative to criminal prosecution (Bublick 2006; Daly and Bouhours 2011; Lininger 2008), this article illustrates one of the ways in which many victims' access to civil justice is deeply constrained. Specifically, this article demonstrates that plaintiffs' attorneys' preference for victims involved with the criminal legal system may disadvantage the many victims, disproportionately socially marginalized (Laxminarayan et al. 2013; Tillman et al. 2010), who choose not to report to the police. Rather than an alternative to criminal prosecution, I show that civil litigation functions as a complement to it. Furthermore, in encouraging victims to report to the police, attorneys may expose victims to the injuries sometimes caused by the criminal legal system (Goodmark 2023).

Next, and most centrally, this article contributes to research on civil-criminal hybridity. Increasingly, sociolegal scholars have documented the conceptual and operational overlap between the civil and criminal legal systems (Young et al. 2024). While enacted by individual people, much of this hybridity originates in the law. For example, the criminal legal system's punitiveness enters the civil legal system when judges, empowered by federal welfare reform, punish fathers behind on child support payments by civilly garnishing their wages and revoking their driver's licenses (Haney 2022). Civil legal values appear in the criminal legal system, too, when, for example, state laws require judges to include victim restitution as part of criminal sentences (Dickman 2009). In addition to the top-down hybridity well-described in the literature, this article illustrates that hybridity can also emerge from the bottom up, through frontline actors' purposive actions. Importantly, plaintiffs' attorneys practicing law in court settings wield significant discretion over their caseloads and litigation strategies. Whether frontline actors in other legal contexts (e.g., contract law, mediation and arbitration, compliance work) similarly blur boundaries is an important question for future research, especially because hybridity may exacerbate inequality in access to justice (Ball 2010; Sandefur Rebecca 2014; Sugie and Turney 2017; Yung 2013). For those normatively interested in improving access to justice, understanding how hybridity emerges (e.g., from the top down and bottom up) across legal contexts is paramount to its amelioration or encouragement.

Lastly, this article engages the boundary work literature. As discussed above, boundary work is the process through which people transform distinctions between categories of "objects, people, practices, and even time and space" (Lamont and Molnár 2002, p. 168). Organizational scholars' observation that people actively transform boundaries informs my interest in bottom-up hybridity. Demanding comparatively less focus by organizational scholars is people's intentionality in transforming boundaries. The plaintiffs' attorneys I interviewed work to improve their case outcomes by incorporating criminal legal artifacts into their civil cases and attempting to insert civil legal artifacts into prosecutions. Despite generating civil-criminal hybridity in

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practice, however, attorneys narratively affirm distinctions between the civil and criminal legal systems. For organizational scholars, this suggests that boundary work may sometimes be an outcome but not the goal of people's purposive action.

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Notes

1. I conceptualize frontline actors as similar to Lipsky's (1983) "street-level" workers. For Lipsky, street-level workers are public-facing bureaucrats responsible for implementing policy. "Frontline actors" more broadly describes people embedded within organizations responsible for policies' implementation but not design.
2. While I recognize that the universe of civil actions is large, I largely focus here on the civil legal system's restorative function.
3. Many scholars are skeptical that the goal of the criminal legal system is public safety. Some question whether policing and incarceration make us safer (Davis 2003), while others note that the criminal legal system may operate as a tool of social control over socioeconomically or racially marginalized groups (Alexander 2012; Wacquant 2009). For the purposes of this paper, however, I adopt the criminal legal system's own rendering of its purpose.
4. See, for example, *Weinlich v. Coffee*, 176 P. 210, 210-11 (Colo. 1919), as cited by Bublick (2006), which found that married women who lived with their husbands – and thus were not "seductresses" – could recover following forcible rape, assuming their assailant was someone other than their husbands.
5. Like other tort lawyers (Kritzer 2004), civil sexual violence attorneys typically work on contingency, meaning clients pay the costs of litigation and their attorneys' fees out of their winnings. For attorneys to recoup costs and profit from litigation, then, they must represent clients who stand a chance of recovering large judgments against defendants. Organizational defendants, which are typically insured against negligence, are more promising targets than individual offenders.
6. I propose several explanations for this pattern below.
7. The world of civil sexual violence litigation is small. Many attorneys referred me to one another, demonstrating a high level of social network closure. To protect participants' confidentiality, I avoid linking individual attorneys, even using their pseudonyms, to specific demographic characteristics, geographic regions, areas of expertise or years of experience.
8. In parentheticals, I include the date of interview and transcript page number.
9. As described above, restitution is increasingly included in criminal sentences independent of the involvement of civil attorneys (Dickman 2009; Martin et al. 2022; Michael et al. 2024). My data reveal one pathway by which its inclusion occurs.

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