

is required, you will be notified well in advance of the setting.

WHY DO SOME CASES GET DISMISSED?

If the assistant district attorney handling a felony case determines that there is not sufficient evidence to obtain a conviction, or that there exists some legal problem in the case, they may file a motion with the district judge asking that the case be dismissed. This action is taken only after the case has been completely investigated, and normally after the police have exhausted all avenues for obtaining additional evidence. The judge may grant the motion to dismiss if they are satisfied that the case cannot be proven in a trial, or that the legal problem in the case is indeed fatal to the prosecution of the case.

WHAT HAPPENS AT TRIAL?

In a trial, the district attorney presents the case for the State, attempting to prove beyond a reasonable doubt that the defendant committed the crime as charged. The defendant may present his or her side of the case, or may present no case at all. The jury (if one has been impaneled) or the judge must decide whether the State's case has been proven beyond a reasonable doubt by legally competent evidence.

If the defendant is found guilty, our law provides for a second stage of trial at which the defendant's punishment, within the range authorized by law, is fixed by either the jury or a judge. The defendant is permitted to determine whether they want their punishment set by the judge or the jury.

WHAT DO I DO AT THE TRIAL?

As a witness for the State, you have an important part in the trial. The truth of your testimony, the manner in which you give it, and the appearance you make while on the witness stand and in the courtroom are all factors which may be considered by the jury or judge in deciding the case. You will be questioned by the district attorney and then "cross-examined" by the attorney for the defendant. During the cross-examination, witnesses sometimes feel that their personal motives for testifying are under attack, but the process is not meant to demean you, nor as a personal attack upon you. The defense attorney is charged by law with representing his client well, and this often involves bringing close scrutiny to bear upon the testimony of others. If you are concerned about the trial procedures, you may contact the Victim Assistance Coordinator and she will answer your questions. A pretrial conference with witnesses is usually scheduled with the assistant district attorney prior to the trial date.

WHEN CAN I HAVE MY PROPERTY RETURNED?

Property which has been stolen during the commission of an offense can sometimes be restored to the owner prior to the trial. However, there are times when this cannot be accomplished, particularly if the property in some manner directly identifies the perpetrator of the offense (i.e. it has fingerprints on it, etc...). Request for return of property must be considered on an individual basis. Special consideration may be given to the owner in the event denial of such property has created a financial hardship. Property held until trial, and/or received into court as evidence in the trial, can usually be returned after trial. You may contact the Victim Assistance Coordinator for help on property return.

CAN I BE COMPENSATED FOR MY EFFORTS AS WITNESS?

As a general rule, Texas law does not authorize any compensation for witnesses testifying in criminal matters. Exceptions are made in cases where the witness is from outside the state, or from outside the county in which the trial is held, in which case travel expenses and a per diem are allowed.

WHAT IS A PLEA BARGAIN? WILL YOU PLEA BARGAIN MY CASE?

The term "plea bargain" is unfortunate in that it is misleading to the public and implies that the defendant and his attorney have managed to have his charges reduced or received a "bargain".

A plea bargain is an agreement between the attorney representing the State and the defendant and his attorney, that the State will recommend a specific punishment in the case, if the defendant will enter a plea of guilty. The agreement as to punishment is not binding upon the judge, who may reject the plea bargain agreement. The State and the defendant may then try to reach another agreement which includes a recommendation on punishment that the judge thinks is appropriate, or the defendant may simply plead guilty without an agreement with the State and the judge may impose the punishment they think is appropriate, or the case will be tried so that a jury may set punishment. There are advantages to both the State and the defendant in arriving at such an agreement in many cases. We will likely negotiate such a plea for about the same punishment that a jury would likely set under the facts of your particular case and there is no appeal from plea bargains.

WHEN WILL MY CASE GO TO TRIAL?

This is probably the hardest question to answer since there are so many variables. Generally, if a

defendant accepts our plea bargain offer there will be no trial and the case will be disposed of within two to six months of the defendant's arrest. If the case is to be tried before a jury, how long it takes to get to trial depends upon many factors. Most courts have a crowded docket... some more crowded than others. The courts generally try the oldest case first and give a preference to defendants who are in jail awaiting trial. Most cases are tried in a period from six months to two years from the defendant's arrest.

WHY IS A CONVICTED FELON RELEASED FROM PRISON BEFORE HE SERVES HIS FULL SENTENCE?

In most cases the defendant will be eligible for parole. We do not control this. How soon the defendant will be eligible for parole depends on the type of conviction. There are a small number of offenses where parole is not an option.

HOW ARE CRIMES CLASSIFIED IN TEXAS?

Texas law classifies offenses into two broad categories: felonies and misdemeanors. Felony offenses are the more serious, and involve possible commitment to the Department of Corrections. Felony cases are prosecuted in the district courts of this State, and the district attorney is responsible for all such cases.

The table below reflects the punishment range of felony offenses in Texas:

<u>Degree</u>	<u>Punishment Range</u>	<u>Example of Offenses</u>
State Jail Felony (SJF)	Not less than 6 mo. or more than 2 years. Fine up to \$10,000	Burglary/Building; Unauthorized Use/Motor Vehicle
Third	2 to 10 years; Fine up to \$10,000	Theft of Property \$30,000- \$150,000; Intoxication Assault; Kidnapping Intoxication Assault; Kidnapping
Second	2 to 20 years; Fine up to \$10,000	Robbery w/bodily injury; Arson; Theft \$150,000 - \$300,000
First	5 to 99 years, or Life; Fine up to \$10,000	Aggravated Sexual Assault; Aggravated Robbery
Capital Murder	Death by injection or life in Prison with no possibility of parole	Authorized for only one Offense: Capital Murder

PLEASE NOTE - For Further Information, Call:
Monday through Friday
8:00 A.M. - 5:00 P.M.
(936) 436-4623
VICTIM ASSISTANCE COORDINATOR
BETH MALAK



**INFORMATION FOR
VICTIMS
AND
WITNESSES**



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