

A MESSAGE

FROM YOUR CRIMINAL DISTRICT ATTORNEY

Being a victim of or a witness to a crime can be a devastating experience. When you or a member of your family becomes a victim of crime, our office wants to help. The last thing you need when you find yourself in this situation is to be further victimized by the criminal justice system. It is time that the emphasis be on the rights and needs of the victim and not on the rights of the criminal.

The criminal justice system of Texas, like that of other states, is quite closely tuned to providing constitutional safeguards for the rights of the victims of criminal behavior. It can also be time consuming, confusing, and frustrating.

In this publication we have tried to answer the most frequent questions posed by victims and witnesses in criminal cases. For the questions you may have which are not answered in this pamphlet, please contact our office. Our office has a full-time person whose total responsibility is to insure that our prosecutors and staff are sensitive to the victim. Her title is Victim Assistance Coordinator. She can refer you to community resources available to crime victims, update you on the status of your case, acquire hard-to-find answers to your question, or just lend a sympathetic ear or helping hand.

Subject to the legal limitations under which we must operate, my staff will do all that it can to minimize the inconvenience and lack of communication which often characterize a victim's or witness' contact with our system. I hope that you will rely upon us to represent your interest and to protect your rights in this manner. We want to minimize the frustrations of being a victim of a crime. The bottom line is that my office is here to help you.



**WILL DURHAM
CRIMINAL DISTRICT ATTORNEY
WALKER COUNTY, TEXAS**

WHAT SHOULD I DO WHEN A CRIME HAPPENS?

First, call the police or sheriff's office and make a full report. In most cases, a law enforcement officer will meet with you in person to obtain important details.

HOW DOES MY CASE GET TO YOUR OFFICE FOR PROSECUTION?

All local law enforcement agencies present felony or misdemeanor cases to our office for what is called "screening" before a case is filed. The law enforcement agency investigating your case will bring it to us when their investigation is complete,

and normally, you do not need to be present for this action.

WHAT IS A COMPLAINT/INDICTMENT?

A complaint is a legal document charging a specific person with the violation of a criminal law. The filing of a complaint or indictment begins the processing of the case through the criminal justice system.

WHAT DO YOU MEAN WHEN YOU SAY THAT A CASE IS "SCREENED?"

Before a complaint or indictment is filed it is reviewed by an assistant district attorney who determines whether there is sufficient evidence to prove that an offense was committed, and whether there is sufficient evidence to show probable cause (a legal term) to believe that the person accused committed the crime. Certain other legal questions may also be explored at this time, such as whether an arrest without a warrant was legally justified, whether additional investigation is required. Although some cases are refused for prosecution at this stage, most are filed as received from police. Screening felony cases ensures that fewer criminals escape justice on legal technicalities later in the process.

WHAT IS A WARRANT OF ARREST?

A warrant of arrest is an order signed by a judge, authorizing a peace officer to arrest a person charged with having committed a crime.

WHAT HAPPENS TO THE ACCUSED?

The person accused of the crime is now called the defendant. Soon after arrest by a peace officer, the defendant is taken before a judge who informs the defendant of the reason they have been arrested, and the offense for which they were arrested. The judge is required to set an amount of bail and to advise the defendant of their rights. Unless the defendant can post bail in the amount set by the judge, they remain in custody and are normally transferred to the County jail to await further action in the case.

WHAT IS THE PURPOSE OF BAIL?

Bail is allowed in virtually all cases, including felonies. The amount of bail is not set by the district attorney but by the judge. It's sole legal purpose is to guarantee the defendant's appearance in court for later proceedings. The judge is required to consider not only the seriousness of the offense charged against the defendant, but also the defendant's ability to raise money to make bail, in setting the amount. Bail may not be set so high as to punish a defendant by keeping him in jail pending his trial.

WHAT IF SOMEONE THREATENS ME TO DROP CHARGES?

Such a person is obstructing justice and may be guilty of a felony offense called "Retaliation". Call the law enforcement agency which investigated the case originally and contact the Victim Assistance Coordinator as soon as possible so that the threats can be documented and action taken to prevent future incidents.

HOW IS A CASE PROCESSED IN THE DISTRICT ATTORNEY'S OFFICE?

After a case is screened and a complaint prepared in our office, we begin preparation of a file. This file will contain information provided by the law enforcement agency investigating your case, as well as other information developed by our staff. After the file is assembled, it will be assigned to one of my assistants, normally within a few days of the filing of the complaint.

After the case has been reviewed by the assistant to whom it is assigned, it is sent to the grand jury for consideration. The period between filing of the case in our office and submission to the grand jury will vary because of many factors, but will generally be from three to six weeks as the grand jury typically meets once per month.

WHAT IF A DEFENSE ATTORNEY CONTACTS ME ABOUT THE CASE?

You may discuss the case with him, but we would like to know in advance if you plan to do so, and we would like to have someone from our staff present when you do. You are not required to discuss the case with a representative of the defense and may decline to do so. Please remember that the attorney representing the defendant is performing a legal duty when they investigate the case, but also remember that what you say can damage our case if taken in the wrong context. If you wish, you may simply refer the attorney to our office for any information they want and decline to discuss the case with them.

DOES THE JUDGE APPOINT INVESTIGATORS FOR THE DEFENSE IN CRIMINAL CASES?

Yes and no. In some cases, private investigators assist defense attorneys in case preparation. If the defendant is indigent, the judge may appoint an attorney and an investigator to aid the defendant. However, in no case will the investigator be working for the judge; they will report their investigation to the defense attorney, and it may be used to damage our case in trial. Require anyone who claims to be investigating "for the judge" or "for the court" to show identification and be sure to examine it closely. Call our office BEFORE you talk about the

case if you have any doubts.

WHAT IS A GRAND JURY?

A Grand Jury is a body of twelve citizens who considers whether indictments should be returned in felony cases. Their term of service is typically for six months. Grand Jurors are selected at random from driver's license and voter's registration. The District Attorney has no control over the selection process. Grand Jury Proceedings are not open to the public, and witnesses take an Oath of secrecy before testifying.

WHAT DOES A GRAND JURY DO?

Texas law requires action by the grand jury before a felony case can be filed in district court. If the grand jury believes that there is sufficient evidence to prove that person has committed a felony, it votes to issue what is called a "true bill", or an indictment. At least nine grand jurors must vote in favor of an indictment, or the case is "no billed," which terminates the case. The district attorney assists the grand jury in hearing evidence and preparing indictments, but the actual deliberations on cases are secret and only the grand jurors are present when voting is in progress.

WHAT SHOULD I WEAR TO COURT?

Please dress neatly and conservatively when making an appearance in court. Your manner of dress can have an impact upon jurors who listen to your testimony and who may be called upon to determine disputed facts. We only want you to tell the truth as you remember it, but we do want you to make a good impression.

WHAT IS AN EXAMINING TRIAL?

An examining trial is a hearing before a judge to determine whether probable cause exists to send a felony case on to the grand jury. In Texas, an examining trial is not held unless demanded by a defendant. Once the grand jury has returned an indictment, the defendant loses the right to an examining trial. If such a hearing is set in your case, you will be notified to appear, if your testimony is necessary. This is rare.

WHAT IS A PRETRIAL HEARING?

After the case has been indicted or filed, the case will be scheduled for a pretrial setting. This setting will normally be two weeks or more after filing. At the pretrial setting the defendant and his attorney usually advise the judge whether the defendant wants a trial or will plead guilty, and if a trial is desired, whether a jury is required. Certain motions concerning legal issues may be heard at the pretrial setting. Occasionally, a witness may be needed on a pretrial motion, and if your presence