Locked up with questions? Unlock the answers.

Important information to know after you've been arrested.

This pamphlet is a general introduction to the criminal justice system in Dallas County. ***It does not offer legal advice.*** Its purpose is to provide a basic explanation of court terms and describe how a criminal case progresses through the legal system.

What To Do If You Have Been Arrested

If you can make a bond (money to secure your release), then you will be released from jail, but only if you have no other holds. (A hold is a detainer placed on you by another governmental agency which requires you be held pending clearance of the hold. Example: If you had unpaid traffic tickets you could be held in jail until they were paid or you served them out with jail time.) If you cannot make a bond (or do not qualify for pretrial release), then you will remain in jail while your case is pending.

If you are Free on Bond

In many courts if you have been able to make a bond, then you will be expected to hire an attorney to represent you. However, in some courts if you can prove that you are indigent (unable to afford to hire an attorney), then you may request that the court provide you with a court-appointed lawyer. The court itself must pay for the services of the court appointed lawyer. The cost of this representation may be passed onto you at a later time, in the form of court fees. A court appointed lawyer may be either a private lawyer who takes court appointments or may be a public defender. (See Defense Attorney.)

If you are in Jail

If you are in Jail (Incarcerated and unable to make a bond) You may hire your own attorney or if you are indigent the court will automatically appoint an attorney to represent you. If you are unable to make a bond and are indigent, the court will appoint your lawyer within 24 hours of incarceration. You will be contacted by the lawyer but may not actually meet with the lawyer until the police file a case against you. This may take up to 72 hours.

If you are Not a U.S. Citizen

If you are arrested and you are not a U.S. Citizen, in most cases the INS (Immigration and Naturalization Service) will place a hold on you. This hold will keep you in jail, whether or not you are able to make a bond. The way in which your criminal case is handled will directly affect your resident status. This should be one of the main issues you discuss with your attorney. If at all possible, you should seek the advice of an attorney who specializes in immigration issues.

Different Levels of Offenses

At the Frank Crowley Courthouse, offenses are prosecuted at the lowest level of Class B misdemeanor up to highest level of First Degree felony. Examples of the level of each type of offense and the possible ranges of punishment are as follows:

Class B Misdemeanor - confinement for a term not to exceed 180 days in the county jail; and/or a fine not to exceed $2,000. Example: DWI ("drunk driving"), Criminal Trespass, Theft by Check $50 to $500, evading arrest or detention.

Class A Misdemeanor - confinement for a term not to exceed one year in the county jail; and/or a fine not to exceed $4,000. Example: a second DWI, Assault, Burglary of a Vehicle, Unlawfully Carrying a Weapon.

State Jail Felony - confinement for a term from 180 days to two years in a state jail; and an optional fine not to exceed $10,000. Example: Credit Card Abuse, Unauthorized Use of a Motor Vehicle, Reckless Injury to a Child.

Third Degree Felony - confinement for a term from two to 10 years in prison; and an optional fine not to exceed $10,000. Example: a third DWI, Indecency with a Child, Kidnapping, Possession of a Firearm by a Felon.

Second Degree Felony - confinement for a term from two to

20 years in prison; and an optional fine not to exceed $10,000. Example: Aggravated Assault or Kidnapping (if the victim is released unharmed), Arson, Robbery, Sexual Assault.

First Degree Felony - confinement for life or a term from five to 99 years in prison; and an optional fine not to exceed $10,000. Example: Murder, Aggravated Kidnapping, Robbery or Sexual Assault.

Capital Felony - punishment in prison for life or death penalty. If the State does not seek the death penalty, upon conviction, an automatic life sentence is imposed. Where the State seeks the death penalty, upon conviction, the jury must answer questions which may result in either a sentence of life imprisonment or the death sentence. Example: Murder during the commission of another felony such as kidnapping, rape or robbery.

How the Case is Filed and Processed

Misdemeanor Offenses:

- Misdemeanor cases are filed by the police agency with the District Attorney's Office.

- If the District Attorney's Office decides to prosecute the case, a document is created called an information. (The information is a written statement filed and presented on behalf of the State of Texas by the district attorney, charging the defendant with an offense.) It provides the defendant with notice as to the offense for which he stands charged.

- Once an information has been processed, a file is generated and the case is randomly assigned to one of 12 misdemeanor courts.

Felony Offenses:

- Felony level offenses are filed by the police agency with the District Attorney's Office.

- The District Attorney's Office then generates a charging instrument known as an indictment. (An indictment is the written statement of a grand jury accusing a person therein named of some act or omission which, by law, is declared to be an offense.) The indictment puts the defendant on notice regarding the charges being brought.

- Once the paperwork has been generated the case is then set to be heard by the grand jury. (The grand jury is a panel of citizens who briefly review information provided by the police who then make a determination whether there is sufficient evidence to believe that an offense has occurred.)

- Any person charged with a felony offense has an absolute right to have his/her case indicted by the grand jury.

- Once filed, a felony case is randomly assigned to one of 15 felony courts. It may take two to three weeks before a case is actually heard by the grand jury.

- The grand jury will either issue a true bill of indictment or a no bill. True bill means that the grand jury found that there was enough evidence to believe that an offense did occur and the case will then be forwarded to the felony court to which it was assigned. A no bill means that the grand jury did not believe that there was enough evidence to proceed with the case as it was filed.

What Happens When I Go To Court?

If you are in jail you will be brought to the court on the jail chain (inmates are brought to the courts in groups through secured access tunnels). You will not be brought to court on your own request, but at the request of the court or the attorney representing you. In most courts this occurs within two business days after your arrest. If you are not brought down to the court or notified that an attorney has been appointed to your case, then you should request the sheriff in the jail allow you to send a kite to the court. (A kite is a form available to inmates in the jail which allows them to contact the court directly without going through the regular mail procedures.)

If you are set for a jury trial you will be dressed out in the clothes you were booked into jail in. Family or friends may bring you proper street clothes for the trial (see discussion of proper clothes below). The clothes should be taken to the jail, and the sheriff will keep them there until needed or your attorney will be able to give them to you the day of the trial. At all other times when you are brought to court you will be dressed in jail whites.

If you are on bond you will be notified by mail (at the address you gave the jail when you were released) as to which court your case has been assigned, the court date and the time you are to appear. On your court date, you should go directly to that court. Each court posts a docket sheet in front of the courtroom. The docket sheet lists the name of each person who has a court setting on any particular day, the name of their attorney and the type of setting (announcement, plea, trial). You must be in court on the day and time instructed or the court may forfeit your bond and issue a warrant for your arrest.(Bond forfeiture means you lose the money that you have posted as a guaranty to the court that you would appear on the setting date.) Some courts require that you come inside the courtroom, while others will tell you to remain in the hall directly outside the assigned courtroom until your name is called by the court bailiff. If you don't know where to go, it is always best to enter the courtroom and check in with the court bailiff or court coordinator.

How the Case Proceeds

Misdemeanor Cases: This process begins once the case has been filed by the police and the District Attorney's Office drafts an information.

Felony Cases: This process begins when the Grand Jury issues a true bill of indictment. Once the case has been indicted, the process begins.

The First Appearance Setting

- If on bond the person accused must appear in court. It will be determined at this setting if the defendant must hire an attorney or if they qualify for a court appointed lawyer.

- If in jail the person will be brought to the court on the jail chain. If the defendant cannot afford to hire an attorney and if a lawyer has not already been appointed for the defendant, one will be appointed at this time.

Announcement Settings

These settings allow both the defense lawyer and the assistant district attorney an opportunity to discuss the case and determine if the case will be dismissed, plea bargained (a plea bargain is a resolution of the case where both the State and the defendant agree to a certain punishment without involving either a judge or jury) or set for a jury or bench trial. (A bench trial is a trial to a judge without a jury.)

Generally, a case may be set for announcement two to three times. A person on bond may be required to appear in court every time the case is set on the court's docket, regardless of the type of setting and regardless of whether that person's attorney must also appear. If the person is in jail he or she will not be automatically brought to the court for announcement settings, unless the defense attorney has requested the court to bring the person to the court on the jail chain.

Final Announcement Setting

At this setting it is determined whether or not the person accused wishes to reach a plea bargain agreement with the Assistant District Attorney or to have a trial.

In many courts, once a case is set for a trial of any kind, any plea bargain offer is considered rejected and may not be offered again.

Plea Setting

If a defendant chooses not to have a jury or bench trial, then the case is set for a plea. At the plea setting a person enters a plea of either guilty or nolo contendre to the charges. (A plea of nolo contendre means that a person is not pleading guilty but chooses to "not contest" the charges brought against him. It has the same legal effect as pleading guilty to the charge.) A person who pleads to the charge may accept either the plea bargain offered by the State, or he may enter an open plea. (An open plea means that the defendant has rejected the plea bargain and asks the judge to set punishment.)

Trial Setting

Every person charged with a criminal offense has an absolute right to plead not guilty to the charge and have a trial by jury or a trial before a judge (bench trial). In either case, the State of Texas, through an Assistant District Attorney, must prove a person guilty of the offense charged beyond a reasonable doubt. In a misdemeanor trial there are six jurors who hear the evidence presented in the trial. At the felony level there are 12 jurors. There are three possible phases to each jury trial. They are: voir dire (jury selection phase); guilt/innocence phase (the time during the trial when evidence is presented); and, if the person is determined to be guilty, the punishment phase.

A jury's decision with regard to guilt or innocence must be unanimous (this means that all six or 12 people must reach the same conclusion as to the guilt or innocence of the person on trial). If the jury does not reach a unanimous verdict the judge may declare a mistrial (also known as a "hung jury") and the case may be retried.

A defendant who has been found guilty of an offense may choose whether the jury or the judge will set his or her punishment.

In a bench trial the judge determines the guilt or innocence of the defendant and sets the punishment.

Probation

Depending on a number of factors, a person may be eligible to have a jail sentence probated. (Probated means that they are not sent to jail but are released and supervised by the Department of Community Supervision.)

The Roles of Various Courtroom Personnel

Judge - Each Misdemeanor and Felony Court has an elected judge that presides over the court. In our system the judge is to be impartial and is to base decisions on the law and evidence that is presented in the courtroom. For this reason, the judge will not speak with a person accused of a crime or their friends or family. You should never attempt to contact the judge in person, on the telephone or in writing. You may speak to the judge if you are in the courtroom with defense counsel present.

Assistant District Attorney - An Assistant District Attorney is a lawyer employed by the District Attorney. There are two to three Assistant District Attorneys assigned to each court. They are responsible for the prosecution of all cases assigned to the court. They conduct jury and bench trials, as well as making plea bargain recommendations. They have no contact with the defendant other than through the defendant's attorney.

Defense Attorney - The defense attorney can be either retained (hired by the defendant) or appointed by the court to represent the defendant. Many of the courts that provide court appointed attorneys use both private lawyers and public defenders. Private lawyers may accept criminal cases for a fee and are paid by the county. Public defenders are lawyers who are employed directly by the county and are assigned to work in a particular court on a full-time basis.

Court Coordinator - This person works for the judge and handles the day to day business of the court. The coordinator is usually responsible for determining if a person is eligible to receive a court appointed lawyer and is well informed with regard to the policies and procedures of each individual judge. If you have questions regarding court appearances and any other similar matters concerning your case, you may contact this person.

Court Clerks - The clerks assigned to each court do not work directly for the judge, but rather, work for the county or district clerk's office. They process all the paperwork that is generated in the court. They determine a person's back time (time already spent in jail) and calculate applicable fines and court costs.

Court Bailiff - This person is an employee of the Dallas County Sheriff's Department. The bailiff is responsible for ensuring the safety of the court, handling jail prisoners or those taken into custody in the court. They may also call the docket of the court and inform the judge if a defendant has appeared in court on the proper day and time.

Courtroom Do's And Dont's

Proper Clothes - Any time you are to appear in court you should dress as though you are going to a job interview. Men should wear pants and a shirt with a collar. A suit, jacket or tie is always appropriate. Women should wear a dress, skirt or pants that are not too tight, too short, or low cut. It is never proper to wear shorts, t-shirts or sandals. Excessive make-up or jewelry should not be worn. In the courtroom itself, it is never proper to wear a hat, read a newspaper, eat, or chew gum.

Children and Court - While it is important for a person charged with an offense to have family members and/or friends present for a trial or sentencing on a case, it is seldom, if ever, beneficial to have small children present. If there is a possibility that you may be arrested at the court or sentenced to jail time you should not bring children to the court unless you have someone to care for your child in the event you are placed in jail. The court may actually contact CPS (Child Protective Services) to take the child into custody if a parent is going to jail.

Nothing stated herein should be construed or interpreted to grant rights or remedies not otherwise granted under federal or state law.

This information is provided as a public service and is not intended as a substitute for legal advice or representation by a lawyer.

FOR ADDITIONAL INFORMATION CONTACT:

The Dallas Bar Association - 214-220-7400
Dallas Criminal Defense Lawyers Referral Service - 214-747-0986

We gratefully acknowledge the following for their assistance:
Honorable Karen Greene
Honorable Bill Hill
Honorable Jane Roden
The Dallas Public Defender's Office
The Dallas District Attorney's Office

Cobie Russell, Series Editor

Copyright © 2002 by Cobie Russell
All Rights Reserved
Third Printing 2002