

**A VICTIMS' AND SURVIVORS'
HANDBOOK TO VICTIM IMPACT
INFORMATION**

**IT'S
YOUR TURN**

TEXAS CRIME VICTIM CLEARINGHOUSE

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
VICTIM SERVICES DIVISION**

“IT’S YOUR TURN” was produced in the Texas Crime Victim Clearinghouse, Victim Services Division in December 1997. If you have any questions, call Marie Ruiz at 1-800-848-4284. This booklet may be reproduced without written permission. Any changes should be brought to the attention of the Texas Crime Victim Clearinghouse.

Concerned Texans:

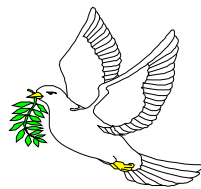
The Victim Impact Statement has become an important tool in the criminal justice process. It is used by district and county attorney's offices, judges, and parole board members. The story of the affect of the crime, told by the victim of the crime, is information that cannot be obtained from any other source. Statistics don't tell the story. The length of the offender's sentence doesn't tell the story. Only the victim, his or her family, or those directly affected can truly describe the loss, frustration and fear that crime imposes.

Unfortunately, the need to tell this story comes shortly after the loss, frustration and fears are first experienced! There isn't time to reflect, to gather inner resources, to organize one's thoughts and feelings to be certain everything is described in the most effective manner. The victim impact statement is thrust at the victim just when the pain is most intense, when nothing makes any sense, and the world is full of unfamiliar faces, words, and emotions. The victim does not ask for any of this!

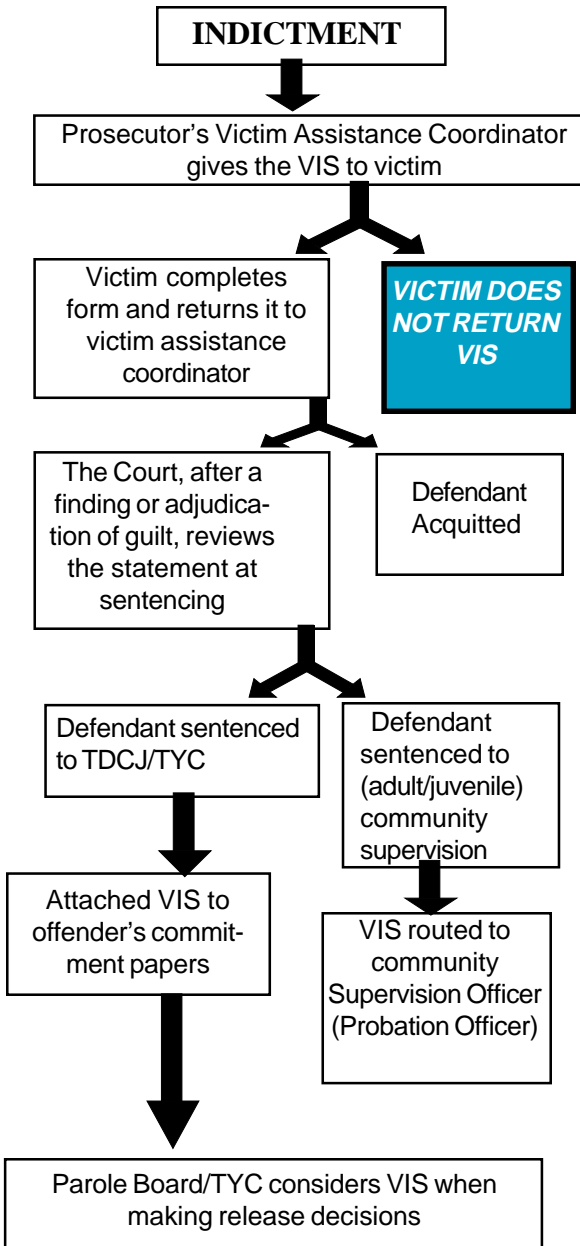
We hope this booklet will help. It will answer some of your questions, define some of the strange, new words, and hopefully make a little sense out of a situation that makes no sense. We are sorry that you have a need for a victim impact statement but hope you can realize how very important your voice is in the criminal justice system. Through no fault of your own, you are now involved in this very system. We will do our best to serve you with dignity and respect.

Sincerely,

*Raven Kazen, Director
Victim Services Division*



WHAT HAPPENS TO YOUR STATEMENT



IT'S YOUR TURN TO TELL YOUR STORY TO THE PEOPLE WHO DECIDE WHAT HAPPENS TO THE DEFENDANT. YOU KNOW BETTER THAN ANYONE ELSE HOW YOUR LIFE HAS CHANGED AS A RESULT OF THIS CRIME.



What is victim impact information?

Victim impact information is a detailed account of the emotional, physical, and financial effects the crime has had on the victim and family members.



Who can provide victim impact information?

The only person who can exercise this right is you!

Texas law allows victims of kidnapping, sexual assault, aggravated robbery, or any crime in which death or bodily injury occurs to provide victim impact information. Close relatives of deceased victims and guardians of victims can also exercise this right.

There are a number of ways to provide victim impact information. One way is to complete the Victim Impact Statement (VIS). After the defendant has been indicted, the Victim Assistance Coordinator in the prosecutor's office has the responsibility to provide a VIS to victims and survivors. After you complete the VIS, return it to the Victim Assistance Coordinator. The Coordinator will send it to individuals who will use it in making decisions about the defendant. Note: The VIS is not a legal document; it is not an affidavit.



Who will see the Victim Impact Statement?

In order for the VIS to have an impact, it must be seen by a number of participants in the criminal justice process.

The prosecutor may use information from the VIS to help present the case to a jury or judge. The information about expenses incurred as a result of the crime provides the prosecutor with a better idea about the amount of restitution to request as a part of the sentence.

When the offender has been found guilty, the judge considers the VIS before imposing a sentence. The statement is not considered by a jury. In the case of a plea bargain, the judge must ask whether a VIS has been returned, and if one has, must consider the statement before accepting the plea bargain.

The VIS becomes a formal part of the court record and can be seen by the defendant and his or her attorney. If the defendant's attorney objects to anything in the VIS, the judge may decide to discuss the statement in the courtroom.

Provisions are made to protect the privacy of victims and survivors. The address and phone number of the person completing the VIS is listed only on a form called the Victim Information Sheet, which can be detached from the actual Victim Impact Statement and ***not shown to the defendant.***

If the defendant receives community supervision (probation), the community supervision officer (adult/juvenile) will have access to the VIS.

If the defendant is sentenced to state prison, the statement goes with his/her commitment papers to the Texas Department of Criminal Justice Institutional Division.

When the offender becomes eligible for parole, the statement is one of the items the Board of Pardons and Paroles considers before voting to release the offender.

If the accused is a juvenile, the statement may be considered by the court or a person appointed by the court in the proceedings to determine the outcome of the case. If the juvenile is confined to a facility operated by the Texas Youth Commission, the statement becomes a part of the file the Commission considers as part of any release proceedings.



An important note about the VIS

You have the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning a defendant in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime and to be notified, if requested, of the defendant's release. To have these notices received from the Texas Department of Criminal Justice or Texas Youth Commission you need to complete the VIS and return it to your local victim witness coordinator.

If you want to receive these notices, simply return the Victim Information Sheet part of the VIS. You do not have to return a completed Victim Impact Statement to receive the notice; however, in not doing so, the Board of Pardons and Paroles will not have access to your impact portion.



How can the victim impact statement help you?

Those who have filed Victim Impact Statements feel that completing it was beneficial to them. While they may never know the exact impact of their words, they found strength in knowing that whatever the decision was, it was made by someone who was informed about how the crime affected its victims and survivors.

Victims and survivors who have completed the VIS felt it gave them a greater opportunity to participate in the criminal justice process.



Does your statement have an impact?

Interviews with judges and parole board members reveal that only about a third of the cases they handle include victim impact information. Victim impact information is important to these key decision makers:

Many judges have said it is important to have the statement as part of the information they consider at sentencing. Some Texas judges are such firm believers in the usefulness of victim impact information that they will not sentence a defendant unless the victim or survivor has been given an opportunity to provide information on victim impact. Of course, a judge cannot reveal publicly whether the statement affected his or her decision on the sentence.

Parole Board members have said they would like to see a VIS in every case they consider; some Parole Board members feel that those files without victim impact information are missing crucial information.

Of course, the actual impact of the statement will differ, depending upon the judge hearing the case, the parole board member reviewing the file, and the contents of the statement itself. Therefore it is very important to tell the effect the crime had and continues to have on your life.



Are there other ways to provide victim impact information?

YES, you have the right to provide victim impact information in two other ways:



THE PRESENTENCE INVESTIGATION REPORT...

After the defendant's guilt is determined, recommendations for sentencing are forwarded to the judge in a form called a presentencing investigation report (PSI). These reports are prepared by community supervision officers (formerly known as probation officers).



YOUR “RIGHT TO BE HEARD”...AN ORAL STATEMENT TO THE COURT

Sometimes in preparing a PSI, the community supervision officer will use information from the VIS to start the PSI section on victim impact. Victims and survivors have the right to provide additional impact information to be included in this report. This can be done in writing or in an interview with the community supervision officer. If you prefer to offer your victim impact information this way, or do this in addition to a written VIS, ask the victim assistance coordinator to put you in touch with the community supervision officer handling the case.

After the sentence has been pronounced, victims and survivors have the right to make an oral statement to the court. The statement will not have an effect on the sentence because the sentence has already been determined. However, people who have exercised this “right to be heard” have described a sense of closure at being able to tell the court, often in the presence of the defendant, what the consequences of the criminal act have been.

If this is a right you would like to exercise, tell the victim assistance coordinator. The coordinator will get word to the prosecutor handling the case.

By providing victim impact information, victims and survivors supply a perspective that no one else can. If the Victim Impact Statement is not part of the defendant’s file, decision-makers in the system will not have heard from the people most affected by the crime, the victim and his or her family members and survivors.

State Resource and Referral Numbers

Crime Victims' Compensation
Division, Office of the Attorney
General 1-800-983-9933

Victim Services Division
Texas Department of Criminal
Justice 1-800-848-4284

MHMR Consumer Services and
Rights Protection
1-800-252-8154

The Abuse Hotline
Department of Protective and
Regulatory Services
1-800-252-5400

Parents Anonymous
Heartline
1-800-554-2323

Missing Persons Clearinghouse
Department of Public Safety
1-800-346-3243

Runaway Hotline
1-888-580-HELP

Women's Advocacy Project
Legal Assistance
1-800-777-3247

State Bar of Texas
Lawyer Referral Service
1-800-252-9690

Sexual Assault Prevention and
Crisis Services 1-800-983-9933,
Ext. 61270

Texas Council on Family Violence,
Inc. 1-800-525-1978

National Domestic Violence
Hotline 1-800-799-7233

Mothers Against Drunk Driving,
Texas State Office
1-800-777-6233

The Legal Hotline for Older
Texans (60+ years of age)
1-800-622-2520

Texas Crime Stoppers
Office of the Governor
1-800-252-8477

Governor's Ombudsman Hotline
Citizen Assistance
1-800-843-5789

Texas Crime Victim Clearinghouse
1-800-848-4284 or
512/406-5531

GLOSSARY

Acquittal - Finding of “not guilty”

Affirm - the ruling of an appeals court that upholds a conviction and sentence.

AFIS (Automated Fingerprint Identification System) - a computerized system that lets law enforcement officers take a fingerprint from a crime scene and determine whether it belongs to anyone whose fingerprints are on file within the state.

Appeal - the process of asking another court to review a trial court’s verdict. The object of an appeal is to obtain a new trial or a not guilty finding from the other court. The prosecutor and the victim do not have a right to appeal a not guilty verdict.

Appellate Court - the court that reviews what happened in the trial court to determine whether the trial court followed the law.

Arrest - the process of a law enforcement officer’s placing a suspect in custody.

Arrest Warrant - a written authorization from a magistrate ordering a law enforcement officer to arrest a suspect.

AVNS - Automated Victim Notification System for victim’s use to obtain inmate location and status information by telephone 24 hours a day.

Bail - the dollar amount which a defendant must give as security that he will appear in court for his case. Guaranteeing this dollar amount entitles the defendant to release from jail.

Bailiff - the officer who maintains order in the courtroom. Typically, a bailiff will announce the court into session, escort witnesses to the stand and shepherd the jury into and out of the courtroom.

Battered Women's Shelter - temporary housing for victims of battering and their children.

Bench Trial - a trial where the judge determines guilt or innocence. Both the prosecutor and the defendant must agree to waive a jury trial before the judge can hear the case.

Beyond a Reasonable Doubt - the legal requirement that evidence be of such a convincing nature that a person would be willing to rely and act upon it without hesitation in the most important of his own affairs. All criminal cases must be proved beyond a reasonable doubt.

Bifurcated Trial - the division of a jury trial into two parts - a guilt phase and a punishment phase. Evidence of prior convictions and other bad acts by the defendant is not allowed in the guilt phase but is permitted in the punishment phase.

Bill of Rights - the first ten amendments to the United States Constitution. These amendments prohibit unreasonable search and seizure. They also guarantee trial by jury with representation by an attorney and various other rights for criminal defendants. The Texas Constitution has a similar list of guarantees for a defendant. (See Crime Victims' Bill of Rights.)

Blood Alcohol Concentration (BAC) - amount of alcohol in an individual's blood. ABAC of .10 is considered legal intoxication.

Bond - the written agreement of a defendant to appear in court and abide by any other conditions set by the judge.

Boot Camp - a secure facility which features military style discipline along with rigorous work and exercise.

Brady Motion - a legal document filed by the defense attorney. It asks the judge to order the prosecutor to disclose to the defense attorney any evidence which might show that the defendant did not commit the crime or that he should get a lesser punishment. Brady was the defendant in the Supreme Court case that requires prosecutors to give such evidence to defense attorneys.

Brief - a written argument, filed by the defense attorney with an appeals court, setting out reasons why a new trial or not-guilty verdict should be granted. The prosecutor's written response is also called a Brief. Briefs are not necessarily short; there is a 50 - page limit.

Burden of Proof - the requirement that the prosecutor bring forward evidence to prove guilt. The defendant is not required to prove that he is not guilty.

Capias - an order of a court to arrest an individual.

Capital Murder - a murder where the possible punishment includes the death penalty or life imprisonment.

Cash Bond - the payment to the court of all or part of the dollar amount of the bail. This money is fully refunded to the person who deposited the money if the defendant appears for all of his court appearances.

Challenges for Cause - the right of both the prosecutor and the defense attorney to ask the judge to excuse a potential juror for a specific reason. The reason usually has to do with a bias or prejudice against the defendant or the law that would make the individual unable to be a fair juror in a particular case.

City Attorney - an appointed city official who prosecutes traffic and other minor offenses in the city courts.

Civil Law - the laws that deal with noncriminal matters such as contracts, wills, corporations and unintentional injuries.

Clerk - the person responsible for keeping all legal documents that are filed as part of a case. The clerk also will frequently administer oaths to witnesses. (Sometimes the judge will administer them.)

Code of Criminal Procedure - a collection of the major rules that govern investigations, arrests, trials and punishments. The rules are passed by the Texas Legislature.

Community Corrections Facility (CCF) - a residential facility designed to house probationers. There are six types of CCF's: restitution centers, court residential treatment facilities, substance abuse treatment facilities, boot camps, mentally impaired facilities and intermediate sanction facilities.

Community Service - a requirement of probation that the probationer provide unpaid labor for a nonprofit organization or government agency.

Community Supervision - the official name for probation in Texas.

Community Supervision and Corrections Department (CSCD) - the official name of the adult probation departments. The 119 local CSCD's cover the whole state.

Competence to Stand Trial - the requirement that a defendant have enough mental capacity to have a very basic understanding of the trial proceeding and to communicate with his attorney. If a defendant is not competent to stand trial, he can be committed to a mental institution until he is competent.

Complaint - a sworn, written document that charges someone with committing a crime.

Concurrent Sentences - the practice of allowing two or more sentences to be served at the same time. The sentencing judge determines whether sentences run concurrently or consecutively.

Confession - the defendant's statement admitting that he committed the offense.

Consecutive Sentences - the requirement that an additional sentence be served only after a sentence from an earlier trial has been completed. The sentencing judge determines whether sentences run concurrently or consecutively.

Consent Search - a search where the person who legally controls the property agrees to allow law enforcement officers to conduct a search. When an individual consents to a search, the officers do not need a search warrant.

Continuance - a postponement of a court hearing or trial.

Controlled Substances Act - a collection of the drug laws and their punishments. These laws are passed by the Texas Legislature.

Counts - different crimes committed by a defendant which are charged in separate portions of an indictment or information.

County Attorney - an elected county official who prosecutes misdemeanor crimes in the county courts of his county. The county attorney also advises the county commissioners and other county officials about legal matters.

County Court - a trial court that hears most misdemeanor cases and the appeals from criminal cases in justice and municipal courts. The judge of this court also is the chief executive of the county government.

County Court at Law - court created by the Legislature in most of the larger counties to hear most misdemeanor cases and the appeals from criminal cases in justice and municipal courts. County Court at Law judges do not have administrative duties as county judges do.

Court - the institution created by a governing body and given the power to try criminal cases.

Court Administrator - the person who schedules cases for a court.

Court Appointed Attorneys - the attorneys who are assigned by a judge to defend indigent defendants. The local county pays these attorneys an amount that is usually less than their normal fees. If the defendant is convicted, the judge can order that he pay this money back to the local county.

Court of Appeals - one of fourteen appellate courts that review criminal convictions to determine whether the defendant received a fair trial. Each court serves a different geographical area of the state.

Court of Criminal Appeals - the highest court that can review a criminal case in Texas. Appeals of death penalty cases go directly to the Court of Criminal Appeals. The court also may decide to review decisions of the Court of Appeals. The Court of Criminal Appeals meets in Austin and has nine judges, each elected statewide.

Court Reporter - the individual who is responsible for recording down every word spoken in the courtroom.

Court Residential Treatment Facility (CRTF) - a residential facility designed to house probationers. CRTF's provide many general rehabilitation programs.

Crime Victim - anyone who is directly affected or injured by the criminal conduct of another. Most laws giving rights to crime victims limit "crime victim" to victims of violent crimes only.

Crime Victim's Bill of Rights - a portion of the state constitution that guarantees certain rights to crime victims.

Crime Victim's Compensation Act - a law that lets victims of violent crimes get reimbursed for financial losses that are not reimbursed from other sources.

Crime Victim Liaison - an employee of each local law enforcement agency. The liaison ensures that all victims receive the information and services that the law guarantees them.

Criminal Laws - the group of laws that define crimes and set their punishment. The Texas Legislature makes the criminal laws of Texas.

Cross-Examination - the process of questioning the witness by either the prosecutor or defense attorney, whoever did not call the witness to testify. Cross-examination occurs after direct examination.

Culpable Mental State - the legal requirement that a defendant have voluntarily committed a crime by either intending or knowing that he was committing it or by acting in a reckless or negligent manner.

Death Penalty - the execution of a convicted murderer by the State. In Texas, the death penalty is administered by an injection of lethal poison.

Defendant - the person accused of a crime.

Defense Attorney - the lawyer who represents the defendant in court. It is his job, within certain ethical rules, to prevent the defendant from being convicted and, if he is convicted, to obtain the lightest possible punishment for him.

Deferred Adjudication - a form of probation. The judge hears evidence of the defendant's guilt but does not actually convict him of a crime. Conditions of a deferred adjudication are the same as a regular probation.

Direct Examination - the process of questioning a witness by the lawyer, either the prosecutor or defense attorney, who called the witness to testify. Direct examination occurs before cross-examination.

District Attorney - an elected local official who prosecutes felony crimes in the district courts of the geographical area he represents.

District Court - the principal trial court in Texas. District courts hear all felony cases and those misdemeanor cases involving official corruption.

DNA (deoxyribonucleic acid) - material located in all living cells that forms a “blueprint” for that organism. Since these blueprints are unique, scientific comparison of DNA in living cells left at a crime scene (such as blood, hair, or semen) with a suspect’s DNA can help to identify the person who committed the crime.

Docket - the list of cases that a court will hear on a given day or week.

Docket Call - the calling of all the cases set to be heard by the judge at a certain time. Docket calls are often used to determine whether a defendant has an attorney and whether he wants to plead guilty or have a trial.

Drug Testing - urine testing to determine whether an individual has recently used drugs or alcohol. Drug testing is often used as a condition for pretrial release, probation, or parole.

Early Termination - the conclusion of a probation, for good behavior, before the entire term has been completed.

Electronic Monitoring - an automated system that determines whether or not a defendant leaves his home. This system is used to monitor defendants who are ordered to remain at home during certain times or for a certain period. Electronic monitoring is sometimes used as a condition of pretrial release, probation, or parole.

Enhancement - use of a prior conviction to increase the punishment range on a new conviction.

Entrapment - illegal inducement by a law enforcement officer, who causes someone to commit a crime that he was not predisposed to commit.

Evidence - all of the testimony and physical items which can be considered by the judge or jury in deciding a case.

Examining Trial - a hearing where the state is required to call witnesses to establish probable cause to believe that the defendant committed the crime he is charged with. An indictment eliminates the defendant's right to such an examining trial.

Excited Utterance - a hearsay statement made while a person is under the immediate influence of an excited or startling event. These statements (such as a 9-1-1 tape) are allowed into evidence even though they are hearsay.

Exhibit - any piece of evidence that is brought into the courtroom and marked for identification.

Expert Witness - a witness who has some special education or experience that allows him to be able to interpret evidence for a jury. Unlike other witnesses, an expert witness can give his opinion about the evidence. Physicians and chemists are examples of frequently used expert witnesses.

Extradition - the process of bringing a defendant from the state where he was arrested to the state where he is charged with a crime.

Felony - a more serious criminal offense. This crime has a maximum possible punishment of confinement in a state prison or state jail or the death penalty. (See also Misdemeanor.)

Fine - a form of criminal punishment. The cash amount paid by a defendant. Fines go to the general fund of the governing body of the court.

Fingerprint - an impression left on an object when it is touched by a finger. The impression shows the ridges in the skin. The pattern of these ridges is different for every person.

Foreman - the individual who leads the trial jury or grand jury in its decision making process. Grand jury foremen are selected by the district judge; trial jury foremen are selected by the jury members.

Furlough - a temporary leave of absence granted to prison inmates.

Good Time - extra time credits given to nonviolent offenders that make them eligible for parole or release after serving a small fraction of their sentence.

Grand Jury - a group of twelve citizens who must determine whether the state has enough evidence to bring criminal charges against a person. Grand jurors meet for usually two to six months. Every felony defendant in Texas must be indicted by a grand jury unless the defendant specifically gives up this right.

Grand Jury Commission - a group of three to five citizens selected by a district judge for the purpose of selecting a grand jury. The commissioners select twenty citizens who are notified to appear

before the district judge. The first twelve who are qualified to serve then become the grand jury.

Guilt Phase - the first part of a criminal trial where the jury determines whether or not the defendant is guilty. (See Punishment Phase.)

Guilty Plea - a defendant's plea in response to a prosecutor's charges. By such an admission that the charges are true, a defendant waives the right to have a prosecutor prove the charges. Before judges can accept a guilty plea, they must satisfy themselves that a defendant's plea is both voluntary and done knowingly. Judges normally question a defendant before they accept a guilty plea.

Habeas Corpus - a legal challenge to a conviction that can be brought after the trial and all appeals are over. There is no time limit for filing a habeas corpus. The term is also used for a motion to reduce the amount of bail before the trial.

Habitual Criminal - a defendant with two or more separate prior prison sentences.

Hate Crime - a crime where the victim is selected because of the defendant's bias or prejudice against the victim or group.

Hearing - a court proceeding where the judge hears evidence and arguments from the attorneys. In common usage, a hearing is any such proceeding except the actual trial where the guilt or innocence of the defendant is decided.

Hearsay - a statement made outside of court that was heard by the witness. Hearsay is not allowed in a courtroom unless it is one of the exceptions to the hearsay rule. Statements by defendants and statements by victims made immediately after an exciting or startling event (such as the crime) are allowed to be used as evidence. (See Excited Utterance.)

Homicide - the unlawful taking of another person's life. This is a general term that includes capital murder, intentional murder, manslaughter, intoxication manslaughter and criminally negligent homicide.

Hung Jury - a jury that is unable to reach a unanimous verdict even though they have made every effort to discuss the evidence and arrive at a unanimous verdict.

Indictment - a piece of paper that contains the legal charges against a defendant. An indictment can be issued only by a grand jury after it has found that the prosecutor has presented enough evidence to convince the jurors that the crime was probably committed by the defendant. Indictments are required in all felony cases; they are occasionally used in misdemeanor cases.

Indigent - a defendant who is too poor to pay for an attorney. Indigent defendants are provided attorneys by the judge who hears their case.

Individual Voir Dire - the process of questioning potential jurors one at a time outside of the presence of the other potential jurors. Individual voir dire is used in all cases where the prosecutor is seeking the death penalty.

Information - a piece of paper that contains the charges of illegal conduct against a defendant. An information, signed by a prosecutor, does not involve a grand jury. Informations are used for most misdemeanor offenses and in felonies where the defendant gives up his right to a grand jury indictment.

Insanity - a legal defense to criminal charges. The defendant must prove that, at the time of the crime, he had a severe mental disease or defect that caused him not to know that his crime was wrong. Insanity is very seldom successfully used in Texas.

Institutional Division - the name of Texas prison system, officially, the Institutional Division of the Texas Department of Criminal Justice.

Intentional - a requirement for specified crimes; the state must also prove that the defendant desired to commit the crime.

Intermediate Sanction Facility - a secure facility, similar to a county jail, where probationers can be confined for up to six months instead of having their probations revoked.

Intoxication - the loss of normal use of a person's mental or physical abilities caused by use of alcohol or drugs.

Investigation - process of determining the facts related to a crime including who committed the crime.

Jackson v Denno Hearing - a hearing, usually pretrial, to determine whether any confession made by the defendant was voluntary. If the confession was not voluntary, the judge will rule that it may not be used during the trial. The hearing gets its name from the Supreme Court case which requires such a hearing.

Jail - county-run facility designed both to hold defendants awaiting trial and to incarcerate defendants convicted of misdemeanors. (See also State Jail.)

Judge - the official who presides over a courtroom. The judge determines what the law is and how it applies to a case. If there is no jury, the judge also determines the facts of the case.

Juror - a member of the jury.

Jury - a group of citizens who must determine whether a defendant is guilty or not guilty. This jury also sets the punishment if the defendant requests that they do so. A felony jury has twelve members and a misdemeanor jury has six members. Jury decisions in Texas criminal cases must be by a unanimous vote.

Jury Trial - a trial where the guilt or innocence of the defendant is determined by a jury. Both the prosecutor and the defendant have a right to a jury trial on the issue of guilt. The defendant has the option of having either the judge or the same jury determine his sentence.

Jury Charge - a written instruction by the judge which explains to the jury the law that applies to the case, what facts the jury is to decide and general instructions about how the jury is to work.

Justice Court - a court created by the Legislature to hear traffic and other minor criminal cases which occur in areas outside of cities served by municipal courts.

Knowingly - a requirement for some specific crimes that the state prove that the defendant was aware that he was committing

the crime.

Magistrate - a term that applies to any judge when he is performing administrative duties such as signing search warrants, setting bail or warning defendants of their legal rights.

Mandate - the final written order of an appellate court ordering that a conviction be upheld, a new trial granted or a finding of not guilty be entered.

Mandatory Supervision - automatic release from prison of non-violent offenders when their total calendar time plus all good time credits equals their total sentence.

Manslaughter - the unintentional but reckless taking of another person's life.

Miranda Warnings - information about the legal rights to remain silent and to have an attorney. Law enforcement officers must tell a suspect about these rights before they may question him after an arrest. The name comes from the criminal defendant, Ernesto Miranda, who was involved in the 1966 Supreme Court case that required these warnings be given.

Misdemeanor - a less serious criminal offense. This crime has a maximum possible sentence of either confinement in a local county jail or simply a fine. (See also Felony.)

Mistrial - a declaration by the judge ending the trial because something happened that made a fair trial impossible or because of a hung jury. Normally, a case can be tried again when the first trial results in a mistrial.

Motion to Suppress - a legal document filed by the defense attorney before trial. The motion sets out some legal reason (usually misconduct by law enforcement officers) why some or all of the evidence against the defendant should not be allowed to be used at the trial.

Motion to Revoke - a written statement filed by the prosecutor setting out violations of a probation and asking the judge to revoke the probation.

Municipal Court - a court created by a city government to hear traffic and other minor cases of criminal conduct that occur within the city.

Murder - the intentional, unlawful taking of another person's life.

Negligence (or Criminal Negligence) - a requirement for some specific crimes. The state must prove that the defendant should have been aware that his actions could have dangerous consequences.

No Bill - the action of a grand jury when they vote not to indict a defendant. This action ends any further criminal prosecution.

Nolo Contendere - a defendant's plea in response to the state's charges. Nolo contendere means the defendant does not contest the charge and does understand that he will be found guilty.

Not Guilty - a defendant's plea in response to the state's charges. This plea forces the prosecutor to prove the charges.

Notice of Appeal - a defendant's act of information the trial court that he wants an appellate court to review his conviction.

Objection - a legal argument by either the prosecutor or defense attorney. It asks the judge to rule against allowing a question to be asked or another event from occurring in the courtroom.

Opening Statement - an oral summary of the evidence made by the prosecutor or defense attorney at the beginning of the trial.

Oral Argument - an appearance by the defense attorney and prosecutor before an appellate court. Both sides can explain their briefs and answer any questions from the judges. No new evidence can be considered during an oral argument.

Overruled - a judge's ruling on an objection. What is being objected to can continue. (See Sustained.)

Parole Division - an administrative part of the Texas Department of Criminal Justice. It supervises parolees much as CSCD's supervise probationers.

Parole - the supervised release of a defendant after he has served a portion of his sentence in prison. Parole release is subject to conditions set by the Board of Pardons and Paroles. Violation of these conditions can result in arrest and a return to prison.

Board of Pardons and Paroles - an eighteen member governor-appointed board that makes decisions about whether to grant, deny or revoke paroles.

Parole in Absentia - the practice of paroling inmates directly from a county jail even though they were sentenced to prison.

Parole Officer - an individual who monitors defendants while they are on parole.

Parole Protest - a request to the Parole Board to deny an inmate parole.

Peace Officer - someone licensed by the State of Texas to enforce laws. Peace officers must be employed by a law enforcement agency, undergo a 400-hour training course and pass a written examination. Licenses are issued by the Texas Commission on Law Enforcement Officer Standards and Education.

Penal Code - a collection of the major crimes and their punishments. These laws are passed by the Texas Legislature.

Penalty Paragraph - the portion of an indictment that details prior prison sentences. If the prosecution proves this paragraph during the punishment phase, the possible sentence increases.

Peremptory Challenges - the right of both the prosecutor and the defense attorney to eliminate a potential juror without stating a reason. Both sides have an equal number of such challenges. The number varies from three in a misdemeanor trial to fifteen in a death penalty trial.

Personal Bond - a bond where the defendant has to post no cash or other security. The judge may impose conditions. Some counties supervise personal bond releases much as they supervise defendants on probation. They may charge a small fee.

Petition for Discretionary Review - a written request, from either the prosecution or defense, for the Court of Criminal Appeals to change a ruling made by the Court of Appeals. Very few of these requests are granted each year.

Plea - the defendant's formal response to the state's charges against him. He can enter a plea of "no guilty," "guilty," or "nolo contendere" (no contest). If a defendant refuses to enter a plea, the judge enters a "not guilty" plea for him.

Plea Bargaining - the process where the prosecutor and defense attorney negotiate the outcome of a criminal case. Typically, a plea bargain includes what charge the defendant will be convicted of and what his sentence will be. In Texas, a plea bargaining agreement must be in writing and the judge may either accept or reject it.

Predicate - the facts which must be proved before the judge can allow an exhibit to become part of the evidence in a case.

Pre-Parole Transfer - the practice of transferring an inmate from prison to a less secure facility a few months before he becomes eligible for parole.

Preponderance of the Evidence - a legal requirement that evidence show a fact more likely than not is true. For example, a defendant must prove insanity by a preponderance of the evidence.

Pre-Sentence Report - a written report prepared by a community supervision officer which provides background information about the defendant, the crime and its impact on the victim. The judge uses this information in sentencing the defendant.

Presumption of Innocence - a legal presumption that all defendants are innocent until they are proven guilty.

Pre-Trial Hearing - a proceeding in court before the actual trial. The judge hears evidence and arguments from attorneys about legal issues affecting the trial.

Privilege - the right of an individual not to testify about certain matters. For example, a defendant has a privilege not to have his attorney testify about things the defendant has told him.

Probable Cause - a reasonable belief based upon all of the facts that some event or conclusion is true. Law enforcement officers need probable cause to obtain search warrants and arrest warrants.

Probation - the suspension of a sentence for a convicted defendant subject to his obeying conditions imposed by the judge. Violation of these conditions subjects the defendant to arrest and incarceration. Probation is officially known in Texas as community supervision.

Community Supervision Officer - an individual who monitors defendants while they are on community supervision (probation).

Promiscuity Defense - a legal defense that excused defendants accused of statutory rape of fourteen, fifteen and sixteen year old victims if the victim had some level of prior sexual activity. For crimes occurring after August 31, 1994, this defense was abolished.

Prosecutors - the attorneys who represent the State in criminal cases. Prosecutors may be district attorneys, county attorneys or city attorneys, depending on what level of court they prosecute cases in.

Protective Order - an order from a judge designed to make an individual do something or stop doing something. These orders are used to protect victims from future acts of family violence.

Punishment Phase - the second part of a criminal trial where the jury, having already found the defendant guilty, determines the sentence. Evidence of other convictions and bad acts of the defendant can be introduced at the punishment phase; such evidence is not allowed at the guilt phase.

Rape Crisis Center - a victim support agency that provides direct services to victims of sexual assault.

Rebuttal - evidence offered by either the prosecutor or defense attorney to explain or contradict evidence offered by the other side.

Recklessly - a requirement for some specific crimes. The state must prove that the defendant was aware that his actions could have dangerous consequences but chose to ignore the risk.

Record - the official recording of the trial as it is preserved by the court reporter. The record includes everything that is said at trial along with all of the exhibits.

Relevance - a legal requirement that testimony or a piece of evidence make a fact in the case either more likely or less likely to be true.

Restitution - payment by a defendant to a victim or government agency for costs associated with the crime, investigation or prosecution.

Restitution Center- a non-secure residential facility where probationers are required to obtain an outside job and use their wages to pay room and board, support their dependents and make financial restitution to their victims.

Reverse - the ruling of an appeals court that grants a new trial or enters a non-guilty verdict.

Revocation - the act of the sentencing judge or Board of Pardons and Paroles in ending a probation or parole because of a violation of one or more conditions. For a probation, the judge then sentences the probationer to a period of confinement. For a parole, the Board then returns the parolee to prison.

Right Not to Testify - a criminal defendant's right not to testify or even be called as a witness in his own trial. The jury is instructed of the fact that a defendant has not testified is not to be considered as any evidence of guilt.

Rule of Witnesses - the rule that allows either the prosecutor or the defendant to exclude from the courtroom all witnesses except when they are testifying. This rule does not apply to the defendant but it does apply to victims.

Rules of Evidence - the written rules which tell a judge whether or not certain testimony or physical items can be allowed as evidence in the case. The rules are written by the Court of Criminal Appeals.

Search - the process of a law enforcement officer looking for contraband or other evidence of a crime.

Search Warrant - a written authorization from a magistrate allowing a law enforcement officer to search a particular thing or place for specified pieces of contraband or evidence.

Self-Defense - legally permitted use of force to prevent harm from another person.

Serve All - the action of the Board of Pardons and Paroles of denying parole and requiring the inmate to serve his entire sentence without further review.

Sheriff - an elected county official who operates the county jail and provides primary law enforcement services for unincorporated areas of a county.

Shock Probation - a sentence that first incarcerates the defendant in prison or jail for up to one hundred eighty days and then begins his probation period.

Stalking - a form of harassment where the defendant repeatedly follows or contacts a victim for the purpose of annoying or threatening the victim.

State Jail - a minimum security state prison that has more rehabilitation programs available than conventional prisons. (See also Jail)

State Jail Felony - the lowest level of felony. It is punishable by a sentence of six months to two years in a state jail and is automatically probated. A fine of up to \$10,000 may also be imposed.

Statement of Facts - the verbatim text of every word spoken at trial by the attorneys, witnesses and judge. This test is prepared by

the court reporter and is forwarded to the appellate court when a case is appealed.

Subpoena - a written order requiring a witness to appear in court on a certain day at a certain time.

Subpoena Duces Tecum - a written order requiring a witness to appear in court and bring specified documents or other items to court.

Substance Abuse Treatment Facility (SATF) - a residential facility designed to house probationers. SATF's specialize in providing drug treatment programs along with a number of general rehabilitation programs.

Substance Abuse Felony Punishment Facility (SAFPF) - a secure prison-type facility designed to provide intensive inpatient drug treatment for probationers.

Surety Bond - a bond that pledges a dollar payment if the defendant fails to appear in court. Most surety bonds are written by bail bonding companies that require the defendant to pay a nonrefundable fee of 10% to 20% of the dollar amount of the bail.

Sustained - a judge's ruling on an objection. What is being objected to cannot continue. (See Overruled.)

Termination - the conclusion of a probation that has not been revoked.

Testify - the act of being a witness in court and answering questions from an attorney about what the witness knows of the facts in the case.

TDCJ Victim Services Division - a part of the Texas Department of Criminal Justice that provides help to crime victims and their families after the perpetrator is prosecuted and begins to serve his/her sentence. The parole review process, furlough issues, victim notification of inmate release-these are all major areas facing victims at this stage in the criminal process.

Texas Crime Victim Clearinghouse - a part of the Texas Department of Criminal Justice and Victim Services Division that gives victims information and referrals. The office also trains various groups on victim-related topics through an annual conference.

Texas Department of Criminal Justice - the agency that controls the entire state correctional program including probation, prison and parole.

Transcript - the clerk's official collection of all written motions and all written orders issued by the judge. The transcript is prepared and forwarded to the appellate court when a case is appealed.

Trial - the court proceeding to determine the defendant's guilt and punishment.

Trial Court - courts where trials of accused defendants are held. If the defendants are found guilty, the trial courts are also where their punishments are set.

Trial de Novo - an appeal from justice court and most municipal courts. It is conducted as an entirely new trial at the county court level.

True Bill - the action of a grand jury when they vote to indict a defendant. At least nine votes are required to “true bill” a defendant. After voting a true bill, an indictment is prepared and signed by the grand jury foreman.

Unanimous Verdict - a requirement in a Texas criminal case that the decisions about guilt and about the sentence be agreed upon by all members of the jury.

Venire - the group of potential jurors from which a jury is picked.

Venue - the county in which a case may be prosecuted. In most criminal cases, the case must be prosecuted in the county where the crime occurred.

Victim - the person who is harmed by the crime.

Verdict - the decision of the jury.

Victim Assistance Coordinator - an employee of each district and county attorney’s office who is responsible for ensuring that crime victims receive all services the law guarantees them.

Victim Assistance Resource Directory - a book published by The Texas Crime Victim Clearinghouse that lists hundreds of resources available for crime victims and professionals.

Victim Impact Statement - a written form which a victim may use to explain to the judge and Board of Pardons and Paroles the effects, financial and otherwise, of the crime. Prosecutors provide these forms to victims of violent crimes. The prosecutor gives the completed form to the judge before he sentences the defendant.

Voir Dire - the process of jury selection. Both the prosecutor and the defense attorney ask a group of potential jurors a series of questions.

Waiver - the act of giving up a legal right. If a defendant waives a legal right, he must do so knowingly and intelligently - that is, he must understand the right and the consequences of giving it up.

Witness - a person who, after being sworn to tell the truth, tells the judge or jury about facts he knows about the case.

Work Release - a type of sentence where the defendant is confined in jail but is released each day to go to work.

Wyndham School District - the in-prison school district run exclusively for inmates. Its programs roughly parallel the courses, both academic and vocational, of the public school system.

For more information about victim impact,
contact the victim assistance coordinator in your
prosecutor's office or the Texas Crime Victim
Clearinghouse at 1-800-848-4284

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