

**OFFICE OF THE
DISTRICT
ATTORNEY**



**HENRY L. GARZA
DISTRICT ATTORNEY
27TH JUDICIAL DISTRICT OF TEXAS
BELL COUNTY**



HENRY GARZA

DISTRICT ATTORNEY

27TH JUDICIAL DISTRICT OF TEXAS
BELL COUNTY

Dear Friends:

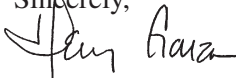
No community, state or nation has ever retained its freedom for any length of time without a rule of law. Never has this become more true than today as we watch the events that have taken place since September 11th, 2001.

In this great country, we are fortunate to have more individual liberties and rights than any other nation on earth. The protection of these rights and liberties through the administration of justice is the primary responsibility of your District Attorney.

This publication is designed to acquaint you with the office of the District Attorney, the state laws for which it is responsible, and the components of our state and local criminal justice system which administer these laws.

We all share the longing for greater safety for ourselves and our families. It is my deep personal belief that the crime rate can be decreased if the citizens of our community are well informed and dedicated to the proposition of strong law enforcement.

Your continued support of this office and of our law enforcement agencies is deeply appreciated.

Sincerely,


Henry Garza
District Attorney
27th Judicial District of Texas

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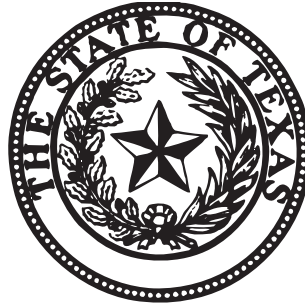
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ACKNOWLEDGMENTS

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Further appreciation is expressed to the Bell County Commissioners Court for their continuing support of this Office.

A special thanks to the National District Attorney's Association for granting permission to use this wonderful cover.



THE DISTRICT ATTORNEY

The District Attorney for the 27th Judicial District represents the people of Bell County in felony cases arising in the state District Courts of the county. He is the chief lawyer for the people in such matters, and with his staff of twelve lawyers, prosecutes all serious criminal matters. Neither the District Attorney nor his staff have any civil jurisdiction, nor are they permitted to practice civil law outside their official capacities. Misdemeanor (minor) offenses and traffic offenses are prosecuted by the County Attorney.

The District Attorney is an elected official, whose authority arises under the executive power of the State of Texas. He is commissioned by the Governor to act as the people's lawyer within his district. His term of office is for a period of four years. Although the 27th Judicial District is composed of two counties, Bell and Lampasas, the jurisdiction of the District Attorney is limited to Bell County, with all prosecutorial authority in Lampasas County now vested in the County Attorney there.

Bell County has a population of more than 237,000 persons, including a substantial part of the 45,000 military personnel who are assigned to Fort Hood, which is located near Killeen, in the western part of the county. The county seat and courthouse are in Belton in the central portion of the county. Temple, also in the central part of Bell County, is a manufacturing, commercial and medical center.

Approximately twenty law enforcement agencies investigate felony cases for prosecution by this office. Upon completion of an investigation, those agencies file complaints alleging felony offenses through the District Attorney's Office. These agencies include: city police departments, the sheriff's department, state troopers, narcotics investigators, and the Texas Rangers. In some instances, federal officers also file state charges with this office.

Two primary considerations govern the actions of the District Attorney and his staff: First, it is the duty of the District Attorney *not just to convict, but to see that justice is done* (Art. 2.01, Texas Code of Criminal Procedure). Second, the overwhelming importance of the public prosecutor arises from the authority, granted by state law, to determine whether prosecution should be commenced in any particular case, and if commenced, pursued to a successful conclusion (Art. 5, Sec. 21, Constitution of Texas).

DISTRICT ATTORNEY'S STAFF

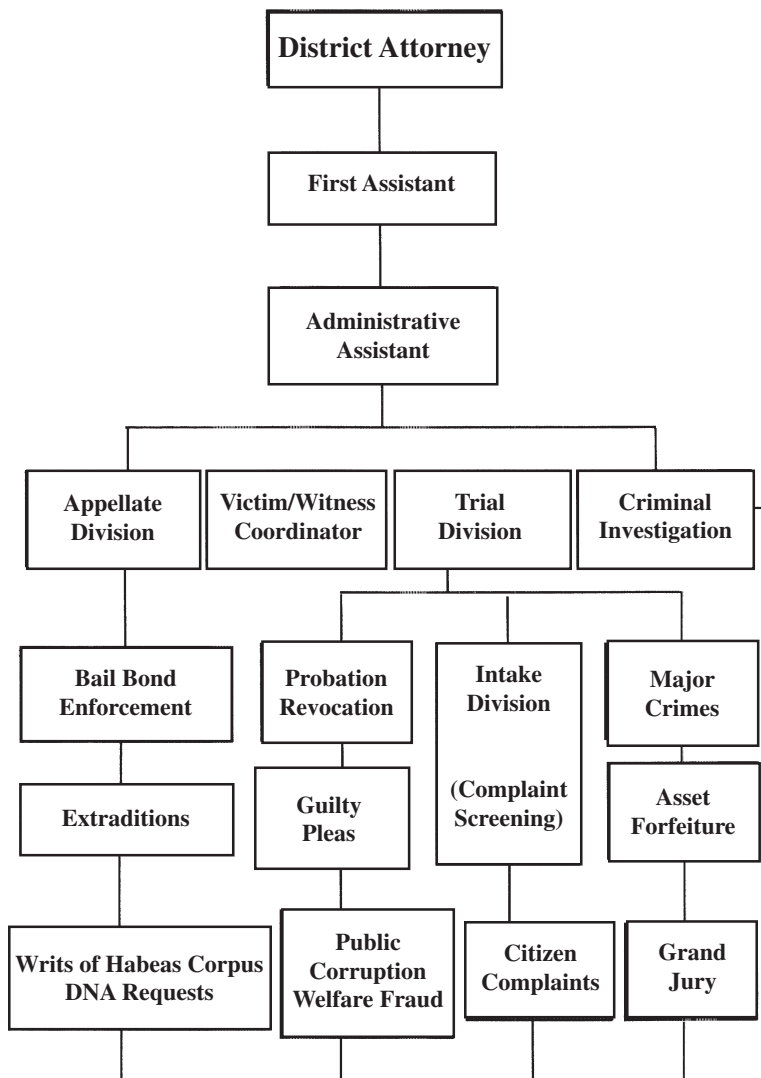
The large population of the county, coupled with the presence of the largest military post in the world, necessitate a substantial and competent staff of prosecutors and support personnel in the District Attorney's Office. In addition to the District Attorney, the staff consists of twelve Assistant District Attorneys, three criminal investigators, two victim/witness coordinators, legal secretaries, and other support staff. The criminal investigators employed by the office have more than 60 years of experience in law enforcement and investigation, and assist the prosecutors in trial preparation, as well as conducting initial investigation in some special cases.

The budget of the District Attorney's Office for fiscal year 2001 was over \$1.6 million. The office has more than doubled in size over the past twenty years, indicative of both the growth in county population and the unfortunate growth in criminal activity, which has plagued the entire country. Bisected north-south by a major interstate highway (IH 35) and east-west by busy U.S. 190, Bell County has experienced many of the crime problems once known only in major metropolitan centers.

Although the District Attorney is a state-level official, the budget and staff positions with the office are under the control of the Commissioners Court of Bell County, the county's governing body. Substantially all of the office and support space, equipment and most staff salaries are funded by the county. Through an agreement with the Commanding General for III Corps and Fort Hood, virtually all felony cases involving military defendants are deferred to the Army for prosecution by court martial under the Uniform Code of Military Justice. An aggressive liaison program between the III Corps Staff Judge Advocate's office and the District Attorney's Office insures that common problems are dealt with effectively.

The District Attorney's Office is primarily a law office. It is, in fact, one of the largest law offices in Bell County, and one of the ten largest prosecution offices in the state. In addition to ordinary felony offenses such as murder, robbery, sexual assault and burglary, the office investigates and prosecutes white-collar crime, consumer fraud, public corruption and organized crime.

An overview of the office organization structure is provided in the following chart.



SECTION 1

TRIAL DIVISION

This is the largest division of the District Attorney's Office. All assistants from time to time handle trials, but the attorneys in this section have as their primary responsibility the prosecution of felony cases in the courtroom. The trial division is headed by the First Assistant, who in addition to supervising the overall flow of cases through the office, also carries his own docket of major felony cases.

COMPLAINT SCREENING

All felony cases investigated by local and state officers are subjected to screening before a formal charge (called a complaint) is filed, or an arrest warrant issued. From time to time, each attorney in the office works on intake, screening investigations for appropriate charges and providing legal advice to law enforcement officers regarding investigations. A Duty Assistant is on-call after hours on weekends and holidays. The screening procedure insures that admissible evidence is available in support of each charge filed, and aids compliance with state and federal requirements for a prompt probable cause review of arrests and charges.

The complaint screening procedures help streamline the judicial process by insuring better quality cases at the time the complaint is filed. The procedure also insures that officers involved in major criminal investigations have access to legal advice on a 24-hour basis. Better cases, a higher conviction rate, and fewer dismissals are the direct result of this system.

GRAND JURY

After a felony case has been filed for prosecution, it is assigned to a specific assistant who prepares the case for grand jury consideration and will handle the case through trial. If additional investigation is needed, it will be accomplished at this stage. Once the case is adequately prepared, it is submitted for consideration by the Bell County Grand Jury. All felony cases in Texas must be approved by a grand jury before going to the District Court for trial, unless the accused and his attorney specifically waive grand jury action.

Grand juries in Texas are composed of twelve citizens who serve for a specified term, hearing many cases during their term. When a case is considered by a grand jury, at least nine members must vote for indictment (called a "True Bill") to send the case to District Court for trial. If less than

that point with no further action being taken.

The Bell County Grand Jury meets every week, normally on Wednesday, and considers fifteen to thirty cases each week. Grand Jury terms are for three months and new terms commence in January, April, July and October. Although any of the assistants or the District Attorney himself may present cases to the grand jury, this duty is ordinarily performed by the First Assistant. The role of the prosecutor at grand jury sessions is two-fold: to assist the grand jurors in obtaining facts regarding alleged offenses by questioning witnesses and to advise the grand jurors regarding the laws applicable in the case.

By law, all testimony in the grand jury is secret, and not even the witnesses may disclose what they were asked or what they said once outside the grand jury room. Deliberations of the grand jury are further restricted, with no one permitted to be present except the grand jurors themselves.

DISTRICT COURTS

Texas law provides for several levels of authority within the judicial branch of state government. The highest level of trial court is the District Court, of which Bell County currently has four. One of the district courts also serves Lampasas County (27th District Court). All of the roughly 1,500 felony cases filed each year in Bell County are prosecuted at the district court level.

SECTION 2

APPELLATE DIVISION

APPEALS

Successful prosecution of a felony case, culminating in a conviction, does not terminate the responsibility for the case. Most (roughly 70%) of all convictions obtained in a contested trial are appealed to the higher courts of our state, and in some cases, to the federal courts. The Appellate Division is responsible for handling the appeal of any case from the local courts through the state appeals process. If a case is appealed to federal court, the Appellate Division assists the State Attorney General's staff in defending the local conviction in federal court.

Local convictions are first appealed to an intermediate appellate level, which in the case of Bell County cases is in the Third Court of Appeals in Austin. Some cases are subsequently appealed to the Court of Criminal Appeals, also in Austin, which is the State's highest level of appeal for criminal cases. Practically all appeals are initiated by the accused after

conviction at trial. Texas law permits the State to appeal on matters of law (not fact) in some instances, but there is no appeal by the State from an acquittal returned at a trial.

If a conviction is overturned because of error in the trial, the case can often be retried. However, if the case is reversed for insufficient evidence, the appeals court will order that a judgment of acquittal be entered and the state would not be permitted to retry the accused. The primary task of the Appellate Division is to see to it that proper and lawful convictions are sustained by appellate courts.

The Appellate Division is also tasked with responding to all requests for postconviction relief by way of Writ of Habeas Corpus or DNA testing. A postconviction Writ of Habeas Corpus is filed by a defendant with the trial court and alleges that there was a jurisdictional defect (i.e., the crime took place in another County) or a violation of a fundamental or constitutional right in the trial. The trial court enters findings and recommendations, and the record is then forwarded to the Court of Criminal Appeals who makes the final decision. Requests for postconviction DNA testing are filed by a convicted defendant with the trial court asking that existing evidence be tested in hopes that the results of the test may prove his or her innocence. The Appellate Division researches and responds to the request, and the trial court either grants or denies the request for the DNA testing. Like a conviction, a denial can be appealed by the Court of Appeals in the same manner discussed above.

BAIL BONDS

The Appellate Division is also responsible for the enforcement of bail bond forfeitures which arise when a defendant released on bail before trial fails to appear for a court setting. The law permits the State to file a claim against the surety on a bail bond, which is usually a commercial bonding company, in such cases. The State's interest is represented by an attorney from the Appellate Division, and if the bond company representative cannot show a legal excuse for the failure of the accused to appear in court, the Court may forfeit all or part of the bail bond amount to the county treasury. Meanwhile, the criminal charge continues pending on the docket and the case may yet be prosecuted, if the defendant is later arrested and brought to court. A defendant who intentionally fails to appear after being lawfully released on bond pending a felony trial, commits another felony for which he can be prosecuted by failing to appear.

EXTRADITION

The Appellate Division also handles the local portion of the extradition process in cases where a person accused of a felony in Bell County is arrested

outside the state. The extradition request is prepared by an attorney in the Appellate Division, then forwarded to the Governor of Texas for additional approval, then sent to the Governor of the state where the defendant has been arrested, who ordinarily approves the “demand” from Texas and forwards the necessary papers to the court in that state for a hearing. In some cases, the defendant waives formal extradition and can be returned to Texas quickly; full-scale extradition, however, may require weeks or even months, while the legal process is followed by those involved.

When a fugitive from another state is arrested in Bell County, assistance is provided to that state to return the fugitive for trial there.

SECTION 3

STAFF SUPPORT

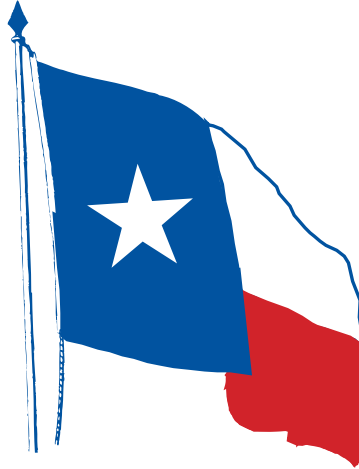
VICTIM/WITNESS ASSISTANCE

Our office has been recognized at both the state and national levels of leadership in the important field of victim’s rights. Two full-time victim/witness coordinators assist crime victims and their families, as well as other civilian witnesses in cases going to trial, with the sometimes difficult activities associated with participation in the criminal justice process. The coordinators are particularly helpful in cases involving young children who have been victimized, and in sexual assault cases where victims often feel unusually violated, not only by the offense but at times by the necessity of testifying about the offense in court.

The coordinators also assist with arranging for mental health counseling, application for crime victim compensation benefits, and pretrial interviews in preparation for actual trial of a case. The coordinators provide continuing information to victims and witnesses regarding case status, scheduling and their rights under the law.

CRIMINAL INVESTIGATION

The three criminal investigators employed by the District Attorney’s Office are commissioned peace officers and have extensive training in the field of criminal investigation. In addition to aiding local and state officers with investigations on cases which have been filed, they conduct special investigations at the direction of the District Attorney. These investigators play an integral role in the preparation of felony cases for trial, including interviewing witnesses, collecting evidence, and aiding the prosecutor in managing courtroom presentation of evidence.



CRIMES AND PUNISHMENT

Part I of this pamphlet described the structure of the District Attorney's Office and what each division does to represent the interests of the people in matters related to crimes of a felony grade. This portion of the pamphlet will describe some of the more common felony offenses handled by the office.

Most laws which define felony crimes are found in the Texas Penal Code. In 1993, the Legislature revised the Penal Code extensively, with some changes becoming effective in 1993 and the balance on September 1, 1994. Other felony crimes are defined in other statutes and codes of this state. It is important to remember that conduct, no matter how reprehensible, is not a crime unless a specific statute or code provision proscribes the conduct and makes it illegal.

The Penal Code defines two broad categories of crime. Felonies are the more serious crimes, while misdemeanors are less serious. A person convicted of a felony offense is subject to the possibility of confinement in either a state prison or state jail facility. In addition, a fine may be imposed in most cases. A person convicted of a misdemeanor may be confined in the county jail or fined, or both.

Felony offenses are further categorized according to the seriousness of the crime and the length of possible incarceration if convicted. Our law contains five general categories of felony offenses, which are: Capital Felony; First, Second and Third Degree felonies; and "State Jail" felonies. The following chart may be helpful in understanding these categories.

CATEGORY PUNISHMENT

FELONIES

Capital Murder	Death by injection, or Imprisonment for Life.
First Degree	Any term of years from 5 to 99, or Life Imprisonment*
Second Degree	Any term of years from 2 to 20.*
Third Degree	Any term of years from 2 to 10.*
State Jail	A term in a “state jail” facility of 180 days to 2 years.*

**For all offenses except Capital Murder, a fine not exceeding \$10,000 can be imposed.*

MISDEMEANORS

Class A	Up to one year in county jail and/or a fine of up to \$4,000.
Class B	Up to 180 days in county jail and/or a fine of up to \$2,000.
Class C	Fine up to \$500 (no jail time authorized)

The following is a general discussion of the more common felonies handled in our office. Please remember that this is a brief, general explanation of the offenses, and that it would take literally volumes of books to explain all of the details of these laws.

SECTION 1

THE TEXAS PENAL CODE

LAW OF PARTIES

Texas law has replaced the more familiar term “accomplice” with a different term, called a “party”. The law provides that a person can be a party to a crime by aiding or encouraging, attempting to aid or solicit, another person to engage in actions constituting an offense. The party must know that the other person is committing or attempting to commit a crime; mere presence at a place where a crime is committed does not make a person a party. However, a person who is a party under the law may be charged with the offense as if he had committed the prohibited acts himself.

The same part of the Penal Code also provides that a person who is a party to one felony offense (Robbery, for example) may be held responsible for another felony (such as Murder) committed by another party, if it would be reasonable to anticipate that the second crime might result from the commission of the first.

OFFENSES AGAINST THE PERSON

I. HOMICIDE

A homicide occurs in any case where one human causes the death of another. Not all homicides are criminal. For example, killing an enemy in time of war or completely accidental and unintended killing (such as in a hunting accident) are generally not within the definition of *criminal* homicide.

Among the homicides which are classified as criminal are:

A. Murder

Most murder cases involve intentionally or knowingly causing the death of another without legal justification. Other forms of this offense may involve the causing of death while intending only to cause serious bodily injury, and deaths caused in the course of committing other violent felonies.

Texas law provides that some murders are punishable by death, and this type of homicide is called Capital Murder. This offense involves murder committed under special circumstances. These special circumstances can include the status of the victim (child under six years of age; a peace officer in the lawful discharge of official duties, etc.), intentional commission of murder during other crimes (sexual assault, robbery, burglary, kidnapping, or arson), multiple victims (murdering two or more persons in the same episode), and murder when committed for hire.

Murder which is not within the definition of Capital Murder is a First Degree felony, unless committed as a result of “sudden passion arising from adequate cause”, in which case it is punished as a Second Degree felony.

B. Manslaughter

Manslaughter occurs when a person recklessly causes the death of another. The term “reckless” has a special meaning defined as follows. “A person acts recklessly...when he is aware of but consciously disregards a substantial and unjustifiable risk that...a result (such as death) will occur.” The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise. A homicide under this provision is punished as a Second Degree felony.

C. Intoxication Manslaughter

Another form of manslaughter is causing death by accident or mistake while operating a motor vehicle while intoxicated. This offense is also classified as a Second Degree felony.

II. SEXUAL ASSAULT

Under Texas law, a number of offenses previously described separately are combined under one general offense called Sexual Assault, which basically involves compelling a person to submit to or engage in intercourse without the person's consent. The scope of the offense includes both ordinary and deviate forms of sexual intercourse.

Texas law provides that persons who are not yet 17 years of age may not give legally-effective consent to intercourse, and cases involving victims under the age of 17 years do not normally involve any issue of consent. This offense is ordinarily a Second Degree felony, but becomes a First Degree felony (called Aggravated Sexual Assault) if the victim is threatened with serious bodily injury or death, threatened or injured with a deadly weapon, or if the victim is under the age of 14 years.

III. ASSAULTS (GENERAL)

A. Simple Assaults

An assault occurs when one person causes or threatens to cause bodily injury in an intentional, knowing or reckless manner. Most assaults are misdemeanors.

B. Felony Assaults

Assaults are classified as felonies (Aggravated Assault) under certain circumstances defined by our laws. Some of the factors which will elevate an assault to felony status are: (1) using or exhibiting a deadly weapon, (2) causing serious bodily injury (as specifically defined in the Penal Code), or (3) the status of the victim (i.e. as a public servant).

Aggravated Assault is usually classified as a Second Degree felony, but is elevated to First Degree if the victim was a public servant acting in the lawful discharge of an official duty at the time of the assault.

OFFENSES AGAINST PROPERTY

I. Theft

Theft is perhaps the most common type of criminal offense seen in the criminal justice system. Theft can be an offense in and of itself, but can also be an element of other crimes (such as in robberies and burglaries). As a separate offense, theft is defined as the appropriation of property without the consent of the owner of the property, with the intent to deprive the owner of the property. Theft is also defined as exercising control over the property of another knowing that it has been stolen from someone. The grade of offense

depends upon the present market value of the property stolen.

Theft is classified as a felony if the value of the stolen property exceeds \$1,500. The offense is classified as a State Jail felony unless the value of the property exceeds \$20,000, at which point the offense is a Third Degree felony. The law permits cumulation of the value of property stolen in separate theft offenses by the same person. Thus, several misdemeanor thefts can be charged in the same indictment to raise the offense to a felony level.

Writing a check for merchandise or services with knowledge that the account on which the check is drawn is either insufficient or closed is also theft. A person is presumed to have known that the check was bad if he or she fails to make the check good after being advised that it was refused by the bank.

II. ROBBERY

A robbery occurs when theft is attempted or accomplished by the use of force, threats of force, or assault. This offense is classified as a Second Degree felony, unless the perpetrator uses or exhibits a deadly weapon, or causes serious bodily injury, in which case the offense is a First Degree felony (Aggravated Robbery).

The offense is also elevated to First Degree status if the victim suffers bodily injury and is either 65 years of age or older, or disabled.

III. BURGLARY

The offense of burglary involves an illegal entry, coupled with an intent to commit theft or some felony offense while within. The offense is generally classified based upon the nature of the place which was illegally entered. Burglary of a vehicle is a misdemeanor, burglary of a building is a State Jail felony; burglary of a habitation to commit theft is a Second Degree felony, and burglary of a habitation to commit any felony (other than theft) is a First Degree felony.

Burglary can be committed by an entry without consent, with or without force to defeat locks, latches, etc. Even reaching through an open window can constitute burglary, if the object is to commit theft or commit some felony offense.

IV. ARSON

The offense of arson is a Second Degree felony under most circumstances. Although we often think of arson in connection with insurance fraud, most arson offenses involve grudges or spite as a primary motive. Texas law defines arson as starting a fire or causing an explosion with the intent to damage or destroy a vehicle, building or habitation. The offense is elevated to First Degree if any person is injured or killed as a result of the fire or explosion.

V. FRAUDS

A. Forgery

Forgery is a State Jail felony if the item forged is a check or other sight draft for the payment of funds. The Penal Code combines several different types of conduct as forgery, including making a false writing, altering a legitimate writing, passing a forged writing, and possessing a forged writing with intent to pass it. If the item forged is currency, postage stamps or other government-issued document representing funds, the offense is a Third Degree felony.

B. Credit Card Abuse

Many types of conduct (similar to Forgery) have been combined into this offense. Almost all involve use of a credit card or credit card number without the consent of the cardholder or issuer. Possession of a credit card which has been stolen is also an offense under this section, which is classified as a State Jail felony.

DRUG OFFENSES

Illegal drugs and narcotics, referred to in Texas law as “controlled substances”, are covered by the Health and Safety Code, which makes it illegal to possess or deliver (i.e.. transfer from one person to another) a controlled substance. Under our law, controlled substance offenses may involve both illicitly-manufactured substances and prescription drugs which have been obtained or distributed illegally. The Health and Safety Code prescribes record-keeping requirements for pharmacies and hospitals to regulate the distribution of controlled substances.

The 1993 Texas Legislature substantially reduced penalty ranges for possession or delivery of small quantities (less than 1 gram) of controlled substances, moving these offenses from Second Degree felony to State Jail felony. This step was justified as necessary to free-up prison space for violent offenders, whose actual sentences were substantially increased by the same legislature. The chart on the next page explains the penalties for possession or delivery of controlled substances in excess of 1 gram. It is by no means a complete list, but covers the controlled substances most often found in this area.

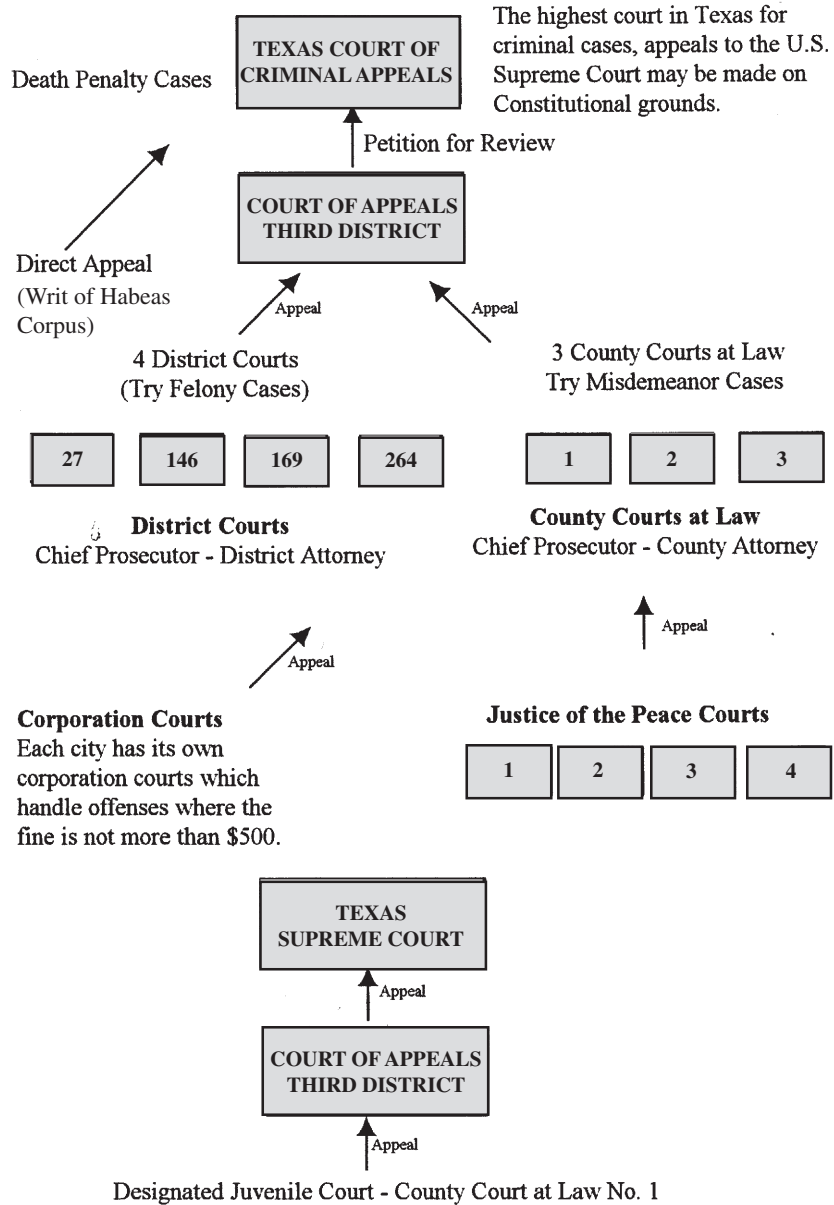
**OFFENSES AND PENALTIES
UNDER THE HEALTH AND SAFETY CODE**

Offense	Manufacture, Deliver, Sale or Possession With Intent To Deliver	Possession
PENALTY GROUP I		
Includes cocaine, meth-amphetamine, heroin, LSD, most opiates, including morphine	≥ 1 gram but < 4 grams is a Second Degree felony ≥ 4 grams but < 200 grams is a First Degree felony	≥ 1 gram but < 4 grams is a Third Degree felony ≥ 4 grams but < 200 grams is a Second Degree felony
PENALTY GROUP II		
Includes amphetamine, mescaline, hashish, psilocybin, and most hallucinogens	≥ 1 gram but < 4 grams is a Second Degree felony ≥ 4 grams but < 400 grams is a First Degree felony	≥ 1 gram but < 4 grams is a Third Degree felony ≥ 4 grams but < 400 grams is a Second Degree felony
PENALTY GROUP III		
Includes raw peyote, most barbiturates, most hypnotics and phenmetrazine	< 28 grams/ State Jail felony ≥ 28 grams but < 200 grams is a Second Degree felony ≥ 200 grams but < 400 grams is a First Degree felony	< 28 grams/ Class A misdemeanor ≥ 28 grams but < 200 grams is a Third Degree felony ≥ 200 grams but < 400 grams is a Second Degree felony
PENALTY GROUP IV		
Includes most codeine products, such as cough syrup, with not more than 1 gram/oz of codeine	Same as Penalty Group III	< 28 grams/Class B misdemeanor ≥ 28 grams but < 200 grams is a Third Degree felony ≥ 200 grams but < 400 grams is a Second Degree felony
MARIHUANA		
	$> 1/4$ oz but ≤ 5 lbs. is a State Jail felony > 5 lbs. but ≤ 50 lbs. is a Second Degree felony > 5 lbs. but $\leq 2,000$ lbs. is a First Degree felony	> 4 ozs. but ≤ 5 lbs. is a State Jail felony > 5 lbs. but ≤ 50 lbs. is a Third Degree felony > 5 lbs. but $\leq 2,000$ lbs. is a Second Degree felony

Aggravated offenses exist, providing enhanced punishment ranges for quantities in excess of those shown in the table above.

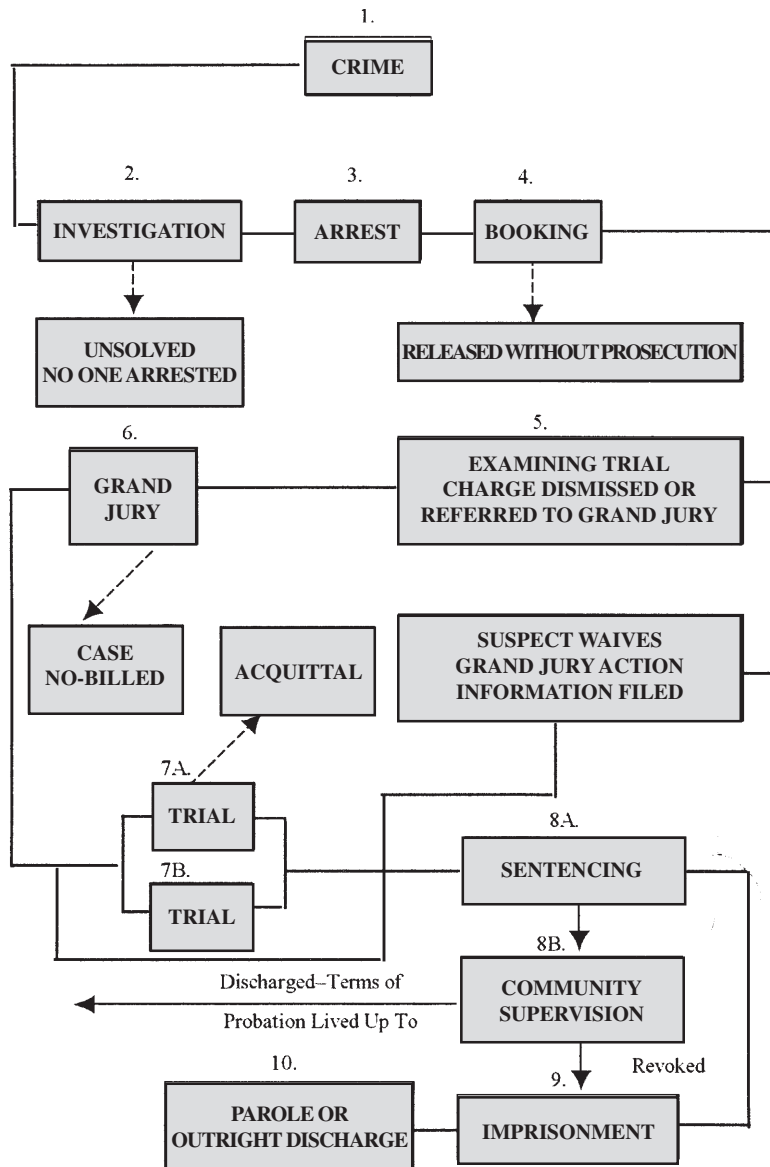
Section 2

BELL COUNTY CRIMINAL COURT SYSTEM



SECTION 3

PROCESS OF CRIMINAL JUSTICE OF A FELONY CASE IN TEXAS



that a certain person has committed a felony, the case is ready for “screening”. The agency brings the case to an assistant district attorney, who reviews the police reports, witness statements, and other evidence, to determine if the case is legally sufficient. If it is, a complaint and affidavit of probable cause are prepared, and the law enforcement agency files these documents with a magistrate and obtains an arrest warrant, authorizing the arrest of the suspect. In some limited circumstances, the law permits an officer to arrest without a warrant, but most felony cases are first screened and a complaint filed before a suspect is arrested.

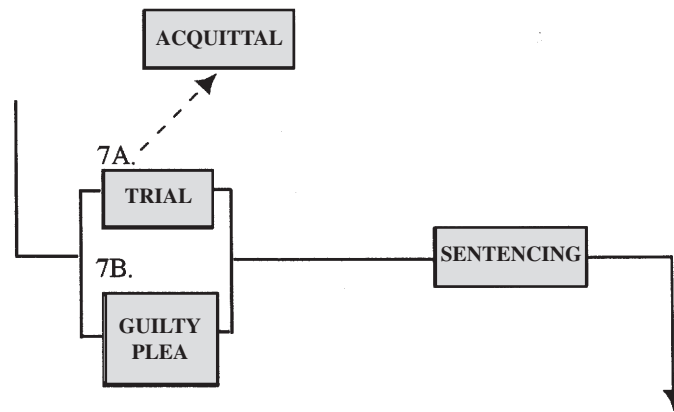
The investigating police agency will then attempt to locate and arrest the person named in the arrest warrant. Once the person has been arrested, he is “booked” and processed as described above, then taken before a magistrate for bail to be set. If the defendant can post the bail, either in cash or by making a bail bond, he can be released pending further action in the case. Bail bonds can be obtained either from a commercial bail bond company, or through the county’s personal recognizance bond office. If the defendant cannot post a bond, he remains in custody pending further action.

The defendant may hire an attorney to defend him, or if indigent, may ask the district court to appoint an attorney at public expense. In either event, the defendant may request an examining trial at any time prior to grand jury indictment, and if an examining trial is held, the court will determine whether there is sufficient evidence to “bind the case over” for grand jury consideration. In an examining trial, the state has the burden of showing that a felony has been committed and that the charged defendant committed it, but the State is not required to put on all of the evidence which might be available at trial. If a court decides that the State has not met the burden at an examining trial, the judge will order the charges dismissed. Because of the efficiency of our office in processing cases, examining trials are rare.

Felony cases which have been filed normally reach the Grand Jury in 30 to 60 days, and if the case is indicted, a formal legal document is sent from the Grand Jury to the District Clerk, charging a felony offense against the defendant, and specifying the exact nature of the charge. This document is called an “indictment” and it becomes the basis for the remainder of the court action in the case. The indictment is a formal statement of what the State must prove for conviction, and also notifies the accused of what he will be required to defend against.

II. THE COURT HEARINGS

This portion of the criminal justice process is perhaps more familiar to the general public, being popularized in many movies and television programs. It is at this stage of the process that the defendant’s guilt or innocence may be determined, and if the defendant is convicted, punishment is assessed. The discussions which follow describe the justice process after indictment through sentencing.



When the Grand Jury indicts a case, the indictment is filed in the District Clerk’s office where it is a public record. An information may be used in lieu of an indictment if a defendant requests this method. It is placed on the docket of the district courts and is tracked by the District Court Coordinator, who assists the clerk and judges with case scheduling, in an effort to assure efficient use of the courts, judges and attorneys,

Within two weeks after indictment, the defendant is called to court for **arraignment** on the indictment. This is a court hearing at which the District Judge reads the indictment to the defendant, determines whether the defendant has an attorney, and receives a preliminary plea from the accused. Arraignment can be waived if the defendant has a lawyer and has signed an appropriate form, called a “waiver of arraignment,” is filed.

Several weeks after arraignment, the case comes back to court for a **pretrial** setting. At this hearing, preliminary motions regarding evidence may be heard, and the defendant is expected to announce, through his attorney, whether he intends to plead guilty or wants a trial. In some cases, this will be the first occasion at which the assistant district attorney sees the defendant in person. An announcement (for trial or to plead guilty) is tentative and subject to change even after this stage of the process, but the future course of most cases is determined at this setting.

The pretrial hearings are normally the first setting at which the victim or witnesses may be needed to testify, and advance notice of at least one week is normally given if this appears to be necessary.

Guilty Plea

At the pretrial setting, many defendants announce an intention to plead guilty. In such cases, the case is set on the docket for the plea to be heard by

a district judge. The date set will ordinarily be several weeks after the pretrial setting, and in the intervening period, a presentence investigation report is usually prepared by the Community Supervision and Corrections Department. This report is used by the judge in assessing punishment within the range provided by law. During the preparation of this report, the Victim Assistance Officer of the Community Supervision Department may contact the victim for information to include in the presentence report.

The District Attorney's Office may also send a letter notifying victims that a case has been set for a guilty plea. The victim is welcome to attend any of the public hearings in the case, but it is normally not mandatory that a victim do so. Except in unusual cases, we do not subpoena victims or witnesses if the defendant is pleading guilty to the judge.

Trial

If the defendant announces at the pretrial hearing for a contested trial, the case will be put on the trial docket and scheduled for trial within six to eight weeks. Either the state or the defendant may insist upon a jury trial as to guilt of the defendant, but Texas law gives the defendant the right to elect whether to have the judge or a jury assess punishment. Where the defendant elects a full trial, our law also provides for two stages of trial before the jury. In the first stage, only the issue of guilt is before the jury, and the focus of admissible evidence is limited to that issue alone. If the jury convicts the defendant, the second stage of trial permits the jury to consider somewhat broader issues, such as the prior criminal record of the defendant.

If the first stage of trial is to a jury but the defendant elects to have the court set punishment, there will likely be a delay of several weeks while a presentence report is prepared, then the case will return to court and the judge will set the punishment, based upon the evidence from the jury trial, and the evidence and presentence report from the punishment stage of the trial.

Following sentencing, the defendant may be committed to jail to await availability of prison space, or released on community supervision (formerly called "probation"). Some persons who are placed on community supervision are nevertheless required to serve some time in jail as a condition of having their sentence "suspended". Persons convicted of State Jail offenses will be required to serve varying amounts of time in custody and on supervision, depending upon the offense and their past records, as well as their performance while on community supervision.

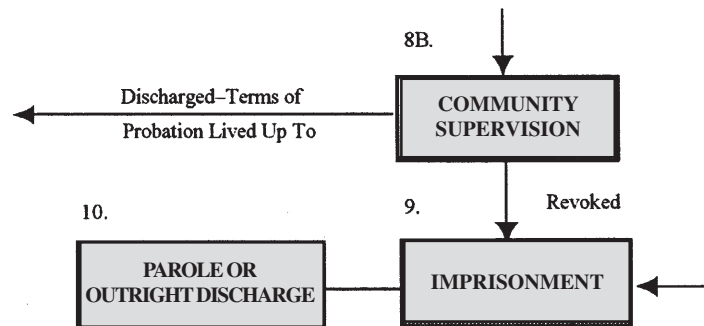
Defendants convicted and sentenced to prison for relatively short terms may remain free from custody if they appeal their convictions and post an appeal bail bond.

III. AFTER THE COURT HEARINGS

After the court hearings, the next major stage in the criminal justice process is the correctional process. Our law provides a variety of options to the sentencing authority in an effort to deter criminal behavior, protect society by incarcerating incorrigible and dangerous felons, and rehabilitate those offenders who are susceptible to treatment and rehabilitation.

Generally, these options may be grouped together under broad classifications: community supervision, confinement and parole.

Community supervision, previously called probation, is controlled by the sentencing court and the Community Supervision and Corrections Department. In 2001 more than 4,658 persons were subject to various forms of community supervision for felony conduct from Bell County. The Community Supervision and Corrections Department is headed by the Chief Community Supervision officer.



Defendants under felony supervision have either been convicted, or the court has found the evidence sufficient to convict but withheld entry of a conviction pending compliance with conditions of supervision. The latter type is generally called “unadjudicated” because the court has not entered a final judgment of conviction. A defendant who successfully completes this type of “probation” has no record of conviction, but they remain a permanent part of the defendant’s criminal history. However, a person who violates this type of “probation” may be sentenced within the full range of punishment originally authorized for the case. On the other hand, a defendant who has been adjudicated cannot receive more than the original sentence imposed by the court at the original punishment hearing.

As a general rule, persons receiving regular or unadjudicated probation do not serve time in prison if they comply with the conditions of community supervision. Two other types of “probation” do involve prison time. “Shock” probation involves defendants who are initially committed to prison, then returned to the sentencing court after 90 to 180 days and placed on “community supervision”. The concept in these cases is that the “shock” of being given another chance outside prison will encourage rehabilitation. Defendants can also be sentenced to prison “boot camp” for several months, and then be placed on “community supervision” if their behavior in boot camp was

satisfactory. Finally, defendants convicted for State Jail felonies face varying amounts of confinement, either in the county jail or in state jails, following which they too are released on “community supervision”.

In contrast to “community supervision”, which is court-supervised, parole is under the control of the Executive branch of state government. The decision whether to grant parole is in the hands of the Board of Pardons and Paroles, appointed by the Governor of Texas. Supervision of parolees is the responsibility of the Division of Pardons and Paroles, a part of the Texas Department of Criminal Justice.

Under existing Texas law, virtually all persons sentenced to prison eventually can be considered for parole, the primary exception being those sentenced to death and awaiting execution. After a defendant has served a portion of the sentence set by the trial court, the Board of Pardons and Paroles will consider release of that person under supervision of the Division of Pardons and Paroles, and subject to conditions similar to those applied to persons released on “community supervision”. There is no exact formula in many instances for predicting when a person will be paroled. However, for offenses in which a deadly weapon was used, and in the case of most offenses classified as “aggravated” under the Penal Code, the law now requires that the defendant serve one-half of the sentence, or thirty years, whichever is less. This rule has changed several times over the past decade, and if you have a question pertaining to a specific defendant, you should inquire of the office which convicted him, or the Board of Pardons and Paroles.

The decision to release a convicted felon on parole is primarily subject to internal regulations of the Texas Department of Criminal Justice, although the trial officials of the county where the defendant was convicted may file a protest against parole. The law also permits victims and their survivors to be involved in the parole decision-making process. Ultimately, however, this decision does not directly involve either the local judge or district attorney.

A person who has been released on parole can be returned to confinement for violation of the conditions of release. A hearing must be held before final action on a parole revocation, but this hearing is usually held in the locality where the parolee is arrested.



GENERAL INFORMATION

CAN YOU HELP?

Most of you will never be arrested for a serious crime or have a criminal record. You are far more likely to be the victim of a crime. Despite efforts on many fronts to curtail the frequency of criminal conduct, the problem continues.

Texas, like other states with large populations, is spending billions of dollars to deter crime, rehabilitate offenders who commit crimes because of drug and alcohol dependency, and to incarcerate violent offenders for longer terms. But all of the action taken by government in addressing the crime problem cannot supplant the most important element: your interest and involvement.

Do not become complacent or apathetic because a peaceful, safe and law-abiding society depends on the attitudes and involvement of people just like you and your friends and neighbors.

You may ask: "How can I help?" Can a lay person make a contribution?" The answer is: Yes, you can help. Consider the following suggestions:

1. Be willing to report serious criminal offenses of which you have knowledge.
2. If you have witnessed a crime, cooperate with the investigating officers and be willing to testify in court.
3. If called, take pride in serving on a jury or grand jury. The minimum age

is now 18 years.

4. Consider a career in law enforcement or criminal justice. Qualified police officers are needed more than ever before, as are persons trained in the fields of rehabilitation and corrections.
5. Discourage crimes by common sense action. Lock your car, both while operating it and when parking it, even at home. Lock your residence when you are away and before retiring at night. Mark your property for easy identification and record serial numbers of your major appliances, etc. Be observant of your neighborhood and report unusual activity to the law enforcement agency covering your area.
6. Your attitude is extremely important. Don't make heroes out of those who commit serious crimes. Don't drink and drive: a drunk driver is potentially deadly, even to himself, never cute or harmless.
7. Demand effective law enforcement and strong but fair punishment for those convicted of criminal conduct. Support public officials who enact and enforce laws promoting a safer community, and help elect to office those who will do so.
8. If you have information concerning a crime, contact the Crime Stopper programs in your community.

REMEMBER: YOU CAN MAKE A DIFFERENCE

If you really care and are willing to become involved, you can be part of the solution. We all want to live in safe communities, send our children to safe schools, and be able to walk on safe streets. In final measure, it all depends on you and your fellow citizens.

GENERAL INFORMATION

If you are the victim of a crime, a relative of a victim, or a witness in a case which has been filed with the District Attorney, you can obtain information about the case by calling a Victim/Witness Coordinator in the District Attorney's Office in Belton, Texas, at the number shown below. Be prepared to tell the receptionist the name of the person against whom charges have been filed, if you know this information. Although persons other than victims, relatives and witnesses do not generally have access to specific information about pending cases, we invite the input of all citizens on matters of community interest.

We hope that this booklet has been informative and helpful to you. If you would like additional information about our office, or if you would like to have a representative from our office speak to a civic organization about matters discussed in this booklet, please contact the Office of District Attorney at: (254) 933-5215 or (800) 460-2355 Ext. 5215.

GLOSSARY

Acquittal: A court decision that one is not guilty.

Arraignment: A court hearing before a trial at which the accused person hears the charges against him.

Bailiff: A court official who maintains order in the courtroom.

Bondsman: A person who takes responsibility for another by guaranteeing money.

Conviction: A court decision that a person is guilty of the offense with which he is charged.

Felony: A major crime such as murder, arson, or rape. The penalty is imprisonment in the penitentiary plus optional fines or death.

Indictment: A formal written accusation charging a person with a crime, drawn up by a grand jury after studying the evidence and facts of a case.

Misdemeanor: A crime less serious than a felony, punishable by fine or short imprisonment in jail.

Motion to Suppress: Application to the Court by the defense before a trial asking that a certain fact or evidence not be brought out during the trial.

Parole: Release of a prisoner before the end of his sentence on condition of future good behavior. The sentence is not set aside, and the person is supervised by the parole board.

Probation: The suspension of sentence of a person convicted but not imprisoned. The person must have good behavior and report to a probation officer, or he will have to serve his sentence.

Prosecutor: A lawyer who handles criminal cases on behalf of the State or people.

LAW ENFORCEMENT DIRECTORY

**District Attorney
27th Judicial District
Bell County District Courts Building
Belton, Texas 76513
(254) 933-5215 or (800) 460-2355 Ext. 5215**

Bartlett Police Dept.
527-3733

Bell County Attorney
933-5135

Bell County Community Supervision
933-5331

Bell County Sheriff
933-5411

Belton City Attorney
939-5851

Belton Police Dept.
939-3538

Harker Heights City Attorney
699-2301

Harker Heights Police Dept.
699-7600

Killeen City Attorney
634-2191

Killeen Police Dept.
501-8311

Morgan's Point Resort P.D.
780-1334

Provost Marshall's Office
Fort Hood, Texas
287-2176

Federal Bureau of Investigation
(Regional Hdqtrs.), San Antonio
210/225-6741

Nolanville Police Dept.
698-6346

Rogers Police Dept.
642-3674

Temple City Attorney
770-5674

Temple Police Dept.
298-5500

Troy Police Dept.
938-2505

Texas Dept. of Public Safety
(w/Highway Patrol & Rangers)
939-5838

Criminal Investigation Division
Fort Hood, Texas
287-5039

Texas Parks and Wildlife Dept.
778-8913

Attorney General
State of Texas, Austin
(512) 463-2191

Texas Dept. of Criminal Justice
Victim Services Division
(512) 406-5424 or (800) 848-4284
www.tdcj.state.tx.us

GENERAL PENALTIES

Degree of Felonies	Punishment
Capital felony	Life or Death
First-degree felony	Life or 5 to 99 years and optional fine not to exceed \$10,000
Second-degree felony	2 to 20 years and optional fine not to exceed \$10,000
Third-degree felony	2 to 10 years and optional fine not to exceed \$10,000
State jail felony	180 days to 2 years and optional fine not to exceed \$10,000
 Misdemeanors	
Class A misdemeanor	Fine not to exceed \$4,000 and/or one year or less in jail
Class B misdemeanor	Fine not to exceed \$2,000 and/or 180 days or less in jail
Class C misdemeanor	Fine not to exceed \$500

This chart applies only to first offenders. Repeat offenders are generally subject to increased penalties in both felony and misdemeanor cases.

PUBLIC INFORMATION PAMPHLETS

The following additional public information pamphlets are available through the District Attorney's Office:

- Rights of Victims
- Rights of Witnesses
- Sexual Assault
- Child Abuse
- Hot Checks

These pamphlets as well as additional copies of the booklet "Office of the District Attorney" are available on request by calling or writing the District Attorney's Office at P.O. Box 540, Belton, Texas 76513, Telephone (254) 933-5215 or (800) 460-2355 Ext. 5215.