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FROM THE OFFICE OF  
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## County Eye Newsletter

This week's County Eye will discuss what happens in a trial after the jury has reached their verdict. Two weeks ago the process of reaching a verdict was explained and the role of the judge in guiding the jury to make a decision was discussed.

When the jury has reached a unanimous verdict (required in Texas) and the proper verdict form has been signed by the jury foreman then the jury returns to the courtroom and the verdict is announced. Anyone who has testified in the trial and any spectators in the courtroom are allowed in the courtroom for closing arguments and the announcement of the verdict.

If the defendant is found guilty the decision on whether the judge or the jury will determine punishment is announced. Often jurors are disappointed and frustrated when the defendant has chosen to let the judge determine punishment. After they have spent long days listening to both sides' testimony and reviewed the evidence, they want to make the punishment determination.

Other times jurors are relieved that they don't have to make a decision that can mean altering a person's life forever. They feel that determination can be a huge burden for them to make.

If the jury is called upon to determine punishment then the process used in the "case in chief" is followed again. The state begins by introducing their witnesses and evidence in the punishment phase. At this time prior criminal acts by the defendant can be entered into evidence. In most trials prior acts are kept out of the guilt/innocence phase.

Usually the state's punishment phase is much shorter. Once the state passes to the defense then the defense attorney has the opportunity to call witnesses to try to convince the jury to assess the most lenient punishment. Family and friends and sometimes the defendant will testify.

If the defendant did not testify in the guilt/innocence phase then he/she must decide whether to testify in the punishment phase. Defense attorneys usually advise their clients not to testify in the guilt/innocence phase but are more willing to allow them to testify in the punishment phase because, in many cases, the rest of their life will be impacted.

The range of punishment in cases is determined by what kind of crime has been committed. There are five categories of felonies in Texas and each carries a different range of punishment and fine and in some, probation can be assessed.

A state jail felony can carry up to two years in a State Jail Facility, special prisons separate from the main facilities that house violent and more serious criminals. A third degree felony carries a sentence of 2 to 10 years in the Texas Department of Criminal Justice (TDCJ) institutional division.

Persons convicted of a second degree felony face a sentence of 2 to 20 years in the institutional division of TDCJ. First degree felons face 5 to 99 years or life in prison and can be eligible for parole.

In Texas capital felonies are restricted to only a few types of crimes, most often capital murder. A defendant convicted of capital murder can be sentenced to death by injection in Texas or life in prison without possibility of parole.

Capital murder is defined in Texas statutes clearly and often it's difficult for families of homicide victims to understand why the defendant cannot be tried for capital murder. A capital murder in Texas must be under one of very specific circumstances. The murder of a police officer or fireman killed in the line of duty, murder for hire, murder of a child under the age of 12, murder of someone during the commission of another felony, or the murder of multiple victims in one criminal incident.

Once all the witnesses and evidence has been presented by both sides the jury retires to the jury room to determine punishment. Sometimes this is a quick decision but often it takes several hours in more serious cases. Once the sentence is determined then the jury returns to the courtroom to announce their decision.

If the defendant is sentenced to prison then he/she is turned over to the Kerr County Sheriff's Office for transport to the appropriate level of state prison. If he/she is placed on probation then they are released, but only if no other charges are pending.

After the trial is completed the prosecutor, defense attorney and many times the judge will go back to the jury room and visit with the jurors. Jurors learn about the "rest of the story" which often includes facts that did not come out in the trial.

Often jurors are moved to tears when they realize they truly have taken a very dangerous criminal off the streets. Sometimes they are frustrated that they didn't know the full story before they assessed punishment and express that they would have given the person a heavier penalty had they known all the facts.

Jury service can truly be a challenge but in our democratic society it is an important component of assuring the rights of both victims and defendants are protected in the system.

Next time you receive a jury questionnaire from the district clerk's office, consider carefully the impact you can make on our community. Hopefully you will fill it out and return and when the jury summons arrives you will be ready to serve.

## SIDE BAR

If you come to the courthouse for other business in the weeks ahead take a few minutes to review the display outside the County Commissioner's Courtroom regarding the upcoming jail expansion bond election in early May. Brochures outlining the facts are also available onsite. A number of town hall meetings and other events to explain the bond issue have already been scheduled around the county and with various community organizations. Take time to learn so you can be an educated voter in the May election.