

FINDING THE PATH TO EQUAL JUSTICE

A Handbook For Defendants with Mental
Retardation and Their Families



A COLLABORATION OF
TEXAS APPLESEED AND HOUSTON ENDOWMENT

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Retardation and Their Families



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and Houston Endowment

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TEXAS APPLESEED MISSION

Texas Appleseed's mission is to promote justice for all Texans by using the volunteer skills of lawyers and other professionals to find practical solutions to broad-based problems. Texas Appleseed has worked on some of the state's most pressing issues. Our work to improve the rights of poor people in the criminal justice system alerted us to the special needs of defendants with mental retardation and their families. We hope this handbook will help persons with mental retardation and their families more easily navigate the criminal justice system.

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Section 1

For Persons With Mental Retardation

YOU HAVE BEEN ARRESTED.

This may be the first time that you have gotten into trouble and been arrested. What is going to happen next? Who can help you?

A lawyer CAN help you – and this book tells you how to find a lawyer. A lawyer is someone who went to school to learn about the law and who knows how to talk to judges. A free lawyer will be available if you tell the judge and police that you can't afford to pay a lawyer.

This book also tells you things you may need to know about how to get help when you are in trouble with the law. Ask your family or a friend to read this book, too, so they will know how to help you.

WHY DID I GET IN TROUBLE?

What is a crime? A crime is something that you do that hurts people or their things and is against the law.

There are many laws that people don't know about. You can get in trouble, even if you did not know that you were doing something wrong and broke the law. So...

- Do not let your friends talk you into getting drunk, using drugs, or carrying a gun. Some examples of illegal drugs are marijuana, cocaine, or other drugs that you buy on the street instead of in a store.
- Do not drink if you are under 21.
- Do not have sex with someone who is under 17.
- Do not have sex with someone who does not want to have sex with you.
- Do not take something from a store that you do not pay for.
- Do not go into a house or building unless the people who live or work there say it is okay.
- Do not go to the bathroom outside.
- Do not get into a fight with someone.
- Do not let anyone talk you into doing something that you think is wrong.

If you think it is wrong, don't do it. Ask someone you trust if you are not sure.

I HAVE BEEN ARRESTED...WHAT SHOULD I DO?

The first things that you should do are:

- 1) **Ask to see a lawyer before you talk to the police.** Say, "I need a lawyer," or "I do not want to talk to anyone before I talk to a lawyer." A lawyer can help you when you are in trouble with the police. If you can't pay for a lawyer, one will be given to you for free.
- 2) **Tell the police about your disability.** Telling the police that you have mental retardation is your personal decision. Telling the police about your disability is important because there are special rules that may help you. The police need to know about your disability, so they will know to use the special rules.
- 3) **Be nice to the police and stay calm.** Do not try to run away. Running away may make the police think you did something wrong.

- 4) **Ask the police to call your family or a friend to help you.** If the police will not call your friend or family, ask them if you can call them.
- 5) **If you take medicine that a doctor has given you, and you don't have your medicine with you, tell the police you need it.** For example, if you take medicine for any problems that you have with your health like seizures, diabetes, or a mental illness, you should tell the police so that they can make sure you have the medicine you need.

SHOULD I TALK TO THE POLICE ABOUT WHAT HAPPENED?

Part of a police officer's job is to find out who did something wrong. The police may say they are your friend, but if they ARREST you, then they think YOU could have done something wrong. If you aren't sure whether you have been arrested, ask the police.

It is okay to tell the police your name, your address, your phone number, and where you work. However, the police may also ask you questions to find out if you did something wrong. They may say things like, "I really feel sorry for you. I would have done the same thing. Anybody would have done it. Just tell me what happened and you can go home."

The police may give you a coke or something to eat, but that doesn't mean that they are your friend. They will not let you go home if they think you did something wrong.

They may say they know you did something wrong, even if they don't really know that. They may say they found something that proves you did something wrong, but that may not be true.

You should not talk to the police unless you have a lawyer there to help you. Tell them you want a lawyer any time they try to ask you questions. You are not doing anything wrong by keeping quiet; you are helping yourself. It is smart to wait until your lawyer is with you before you talk to the police.

WHAT ARE MY "MIRANDA RIGHTS?"

When they arrest you, the police will tell you or read to you a list of "Miranda rights." This is a list of things that YOU DO NOT HAVE TO DO even if the police ask you to do them. You can say "NO" and not get into any more trouble.

1. The police will say: "You have the right to remain silent."

This means that you will not get into trouble if you stay quiet and don't say anything. You do not have to talk to the police about the crime – even if they want you to talk to them about it. Do not talk to the police even if they tell you that you can go home if you will talk to them. If you are arrested:

- DO NOT talk to the police officer about the crime.
- DO NOT answer any questions about the crime.
- DO NOT try to talk your way out of being in trouble.
- DO NOT say you did something that you did not do.
- DO NOT say something just to make the police happy.
- DO NOT sign anything.

2. The police will say: "Anything you say can and will be used against you in a court of law."

This means that the police can tell a judge anything you say to them. Sometimes, what you tell the police can be used to keep you in jail. If you talk to the police about the crime, it may be harder for your lawyer to help you later.

If you talk to your lawyer about what happened, he cannot tell anyone else. That is why it is okay for you to talk to your lawyer about what happened. But if someone else asks you why you are in jail – even someone who is in jail – you should not talk to him/her about it unless your lawyer tells you it is okay.

3. The police will say: “You have the right to talk to a lawyer and have him present at any time during questioning.”

This means that no one – not even the police – can stop you from talking to a lawyer if you ask to do that. Your lawyer can be with you when the police are asking you questions. You do not have to answer any questions or talk to the police before you have talked to your lawyer.

If the police ask if you want to talk to an “attorney,” they are talking about a lawyer. An attorney is the same thing as a lawyer.

4. The police will say: “If you cannot afford a lawyer, one will be appointed for you without cost.”

This means that if you can’t pay for a lawyer, the judge will get you one for free.

After they tell you your Miranda rights, the police will ask you if you understand them. If you do not understand, do not be afraid to say so. Tell the police about your disability, and tell them that you need a lawyer. Tell them that you will not talk to them until you have a lawyer.

WHY DO I NEED A LAWYER?

You need a lawyer because a lawyer will know how to help you better than anyone else. Even if you did something wrong and you want to tell the police and the judge that you did it, a lawyer will be able to help you talk to them in a way that will not get you into more trouble. Your lawyer will also tell you what will happen next and what your choices are.

But you may have done nothing wrong – even if others say you did.

The judge must find out who is telling the truth. If you go to court, the other side will have a lawyer – called a prosecutor – who believes you did something wrong and will try to show that to the judge. You need a lawyer to help you tell the judge what really happened.

WHEN WILL THE JUDGE GIVE ME A LAWYER?

The police will take you to see a judge one or two days after your arrest. The judge will tell you why you were arrested, and what your “bail” is. Bail is money that you pay the court so that you can stay at home until your trial. If you cannot pay it, you will have to stay in jail until your trial.

The judge will also ask you if you want a lawyer. You should tell the judge that you do want a lawyer. Your lawyer is supposed to talk to you, or send you a letter, very soon after the judge decides which lawyer will help you.

You should also tell the judge about your disability. This will help you. Do not talk to the judge about why you were arrested.

DO I GET TO CHOOSE WHICH LAWYER THE JUDGE GIVES ME?

No. You will only get to choose your lawyer if you are going to pay him/her. But if you tell the judge about your disability, it may help the judge pick a lawyer who will know the best way to help you.

WHAT IF I DO NOT LIKE THE LAWYER THAT THE JUDGE GAVE ME?

If you are not paying for the lawyer, there is not much that you can do. The judge may give you a new lawyer if you can show that he/she is not doing a good job, but this does not happen very often.

If your lawyer is not talking to you about your case, and does not call you back, tell the judge about it. It will help if you write down the days and times that you called your lawyer but he/she did not call you back.

IF I GET OUT ON “BAIL,” WILL THE JUDGE STILL GIVE ME A FREE LAWYER?

Yes, if the crime that you are accused of doing is one that is punished by going to jail. The judge will look at how much money you have and, if you cannot afford to hire a lawyer, the judge will give you one even if you are out on bail.

HOW DO I GET A LAWYER IF THE JUDGE DOES NOT GIVE ME ONE?

If the judge decides that you have enough money to pay for a lawyer, you will have to pay for one on your own. If you have a friend or a relative who is helping you, you should ask them if they can help you find a lawyer. Make sure the lawyer you find to help you is someone you can talk to, especially about your disability, and who explains things in a way you understand. Tell the lawyer that you have a disability, and ask if this lawyer has any experience helping people who have a disability. If you need help to talk to your lawyer, ask your family or a friend to come with you to see your lawyer. Your lawyer should be someone that you can trust.

If your family or friends cannot help you find a lawyer, call your local chapter of **The Arc**, or **Advocacy, Inc.** You can also call your local **MHMR**. They may be able to call someone to help you or give you the phone number for a lawyer. **Their phone numbers are in the back of this handbook.**

WHAT IS MY LAWYER’S JOB?

- To defend you until your case is finished. Your lawyer should treat you with respect, no matter what crime you are accused of doing.
- To help you get out of jail after you have been arrested, so that you can stay at home until the day of your trial.
- To pay attention to your case. To talk to you about it, and explain it to you. Your lawyer should explain all of your choices to you so that you will be able to decide what to do. You are the only person who can make some of the choices, but your lawyer should help you understand what can help you the most.
- Your lawyer will help you get you the best deal – and will work to get your needs met.

WHAT SHOULD I TELL MY LAWYER?

Your lawyer will be able to help you the best if you tell him/her the truth. Your lawyer cannot tell anyone else the things that you tell her unless you say she can. If you have mental retardation, you should tell your lawyer. Hiding information about your disability can be bad for you. You should answer your lawyer’s questions. Tell him/her about your life, and about what happened before you were arrested. Any information you can tell your lawyer about problems you have had at home, at school, or with the police can make it easier for him/her to help you.

Do not be afraid or embarrassed to tell your lawyer about your disability, or that you don’t know what is happening in jail or in court. If you don’t understand something that your lawyer tells you, don’t be afraid to ask questions. No question is “stupid” – it is very smart to ask questions.

If you do not remember something, tell your lawyer. Do not make something up. Make sure that you tell your lawyer if

you told the police you did something that you didn't do. It's okay to tell your lawyer you did this – it will help your lawyer help you better.

You should also tell your lawyer if you have had a mental illness, or if you have taken medicine for a mental illness. If you need medicine that a doctor gave you and you do not have it in jail, tell your lawyer about it. Remember, your lawyer will not tell other people what you tell him/her.

You should also tell your lawyer if you drink or use drugs. If you want help because you drink or use drugs, your lawyer may be able to help you get it.

WHAT SHOULD I DO WHEN I AM IN COURT?

If you are going to be in court to see the judge, you should:

- Dress neatly. Do not wear a cap, and do not wear a lot of make up or jewelry. Do not wear gang colors. If you are a woman, wear a skirt or nice pants and a nice shirt. If you are a man, wear nice pants and a nice shirt. If you have a suit, wear a suit. Your lawyer can also talk to you about what you should wear.
- Be nice to everyone, including the judge and the prosecutor.
- Always listen. If you don't understand something, ask your lawyer to explain it to you.
- Always call the judge "Your Honor."
- Try not to smile or laugh, even if you are very nervous.
- Do not sleep in court. It is important to look like you are listening to everything that is being said, even when you get tired.
- Do not try to take notes. It is your lawyer's job to take notes and make sure that you understand everything that happens in court.

WHO ARE THE OTHER PEOPLE IN COURT?

- The **judge** is the person who will decide who is right and who is wrong. He/she decides what punishment to give to people who break the law. The judge will wear a black robe, and sit behind a desk in the front of the courtroom.
- The **jury** is a group of 12 people, chosen by the lawyers, who come to help the judge decide who is right and who is wrong. They must listen to both sides.
- The **court officer** protects the jury and keeps order in the courtroom. He/she usually wears a uniform and a badge.
- The **court reporter** takes notes for the judge on a machine that looks like a typewriter. Everything that anyone says will be written down by the court reporter.
- The **sheriff** brings defendants who are still in jail to court, and stays with them while they are there.
- The **lawyers** are there to help each side tell their story. You will have a lawyer, and the other side will have a lawyer called a **prosecutor**.

If you are nervous about going to court, ask your lawyer if he/she can show you a courtroom and explain where everyone will sit, and what will happen during the trial.

WILL I GET TO TELL MY SIDE OF WHAT HAPPENED TO THE JUDGE?

Your lawyer will talk to you about whether you should testify, or tell your side in court. It is your choice. Your lawyer will tell you if he/she thinks this is best for you. Sometimes telling your side of the story will only make it harder for your lawyer to get the best deal. It is important to listen to what your lawyer says about this.

WHAT IF MY LAWYER WANTS ME TO PLEAD GUILTY?

“Pleading guilty” means that you are saying you did something wrong. If you do not want to do this, you should tell your lawyer.

Part of your lawyer’s job is to decide whether the prosecutor can show that you did something wrong. If your lawyer thinks the prosecutor can do this, it may be best to plead guilty. However, you are the only one who can decide whether to plead guilty.

WHAT IS A “PLEA BARGAIN?”

A plea bargain is a deal that your lawyer makes with the prosecutor. To get this deal, which may mean less punishment, you have to say that you did something wrong. Your lawyer may think that you will get a better deal this way than if you go to trial.

If you do not understand the plea bargain, tell your lawyer. It is your lawyer’s job to make sure that you understand all of your choices. Your lawyer has to explain the deal to you, and also has to tell you what all of your other choices are. Your lawyer will tell you what he/she thinks is best for you, but you are the only one who can decide to plea bargain – if you do not want to accept this deal, tell your lawyer.

WHAT IS PROBATION?

If the judge or jury decides that you did something wrong, you may be given probation instead of going to jail. Probation means you MAY go home OR to a special treatment/habilitation program, but you still have to do some things to stay out of jail. The judge may say that you need to:

- See someone at the local MHMR Center;
- Go to get help for your drug or alcohol problem -- the judge and your probation officer will tell you where to go;
- Earn money to pay the person you hurt when you got into trouble;
- Do volunteer work; or
- Go to counseling.

You will have to meet with your probation officer to let him/her know that you are doing what the judge asked you to do.



Section **2**

For Families of Persons With Mental Retardation

MY FAMILY MEMBER HAS BEEN ARRESTED...WHAT CAN I DO?

Try to get in touch with your family member. Talk to his/her lawyer about your loved one's disability. It is important that the attorney know that his/her client has mental retardation as soon as possible. There may be jail diversion programs in your county that are designed for individuals with mental retardation. If your family member has not yet hired or been appointed an attorney, encourage your loved one to disclose his/her disability to the judge at the first court appearance, so that the judge will appoint an attorney who is qualified to work with a client with mental retardation.

You may also want to offer to help your family member communicate with his/her lawyer. This can eliminate misunderstandings and relieve your loved one's anxiety.

If you talk to your loved one before he or she has seen an attorney, emphasize that they should not talk to the police or anyone else before they have met with their lawyer. You should also warn them not to sign anything before their attorney has met with them.

AM I RESPONSIBLE FOR HIRING A LAWYER FOR MY LOVED ONE AND PAYING THE LAWYER'S FEE?

No. Adults who cannot afford to hire a lawyer are entitled to a court-appointed lawyer. A person's eligibility to receive a court-appointed lawyer or public defender is based on that person's income, if the person is over 18, not the family's income. Family ties and loyalties may lead you to offer financial assistance to your family member or to offer to pay for a private lawyer. But you are not legally obligated to pay for the defense of your adult family member. If you can, assist your family member with collecting his/her own financial information to present to the judge at the first court hearing so the judge has a true picture of your family member's inability to afford a lawyer.

WHAT'S THE DIFFERENCE BETWEEN A COURT-APPOINTED PRIVATE LAWYER AND A PUBLIC DEFENDER?

Public defenders are lawyers whose sole job is to represent defendants in criminal cases who cannot afford a private lawyer. They typically appear in the same court on a daily basis and handle the cases assigned to that court. They are paid a salary and work for a government agency or a non-profit organization that has a contract with the government. However, they are paid to represent the interests of their clients, not the interests of the government.

Court-appointed private lawyers are appointed to handle individual cases and are usually paid a certain amount by the county for each case they handle. The judge who appoints the lawyer must approve the payment. Whoever is appointed to handle your loved one's case should put your loved one's interests first and foremost.

DO I HAVE TO PAY MY FAMILY MEMBER'S COURT FEES OR FINES?

Court fees and fines are your loved one's responsibility, not yours. Sometimes, the court will make arrangements for a payment plan or some type of volunteer work to be done if court fees cannot be paid. If your loved one is placed on probation, he/she may be required to pay certain fees or fines, including a monthly probation fee. Failure to pay these can result in your loved one being put back in jail. Many families end up paying these fees and fines for their loved one since their family member may not be able to work or may not receive any regular income. In some instances, if a probation

officer has evidence that your family member is disabled and cannot work, the officer can ask the judge to drop the monthly probation fee. Each judge handles these requests differently.

IF I KNOW SOMETHING ABOUT MY FAMILY MEMBER'S CASE, WHOM SHOULD I TELL?

Discussing your family member's case with him/her could put you in a very uncomfortable position. Texas does not regard conversations between parents and their adult children as confidential. This means that you could be called to testify at the trial either for or against your loved one. If your family member wants to discuss the case with you, you may want to tell him/her to talk with the lawyer first. A police officer or prosecutor may call you about your family member's case. You do not have to talk to them. If you are called to testify, you should avoid talking about your loved one's case with other witnesses and avoid contact with jurors or potential jurors. If you know something about your family member's case that could help, you should talk with your family member's lawyer.

IF I HAVE RECORDS OR INFORMATION ABOUT MY LOVED ONE'S DISABILITY, SHOULD I GIVE THIS TO SOMEONE?

In proving that a defendant has mental retardation, defense attorneys have to show that the onset of the person's disability occurred before their 18th birthday. They often do this by looking at school records, medical records, or records of social services that were provided to the defendant as a result of their disability. If you have any information that would show that your loved one's disability was identified before their 18th birthday, this information would be helpful and should be given to your family member's attorney.

Your loved one's attorney may also contact you to interview you about your family member's history. You may also be asked to discuss this with a social worker who is hired by your family member's attorney to help provide evidence of mental retardation. If you have a diary or baby book in which you recorded your family member's developmental milestones, you might share this with the social worker during the interview. Sometimes these personal diaries can be helpful in showing the age of onset for your loved one's disability.

MY FAMILY MEMBER'S LAWYER WILL NOT RETURN MY CALLS. WHAT CAN I DO?

Try to establish open lines of communication with the lawyer from the beginning, before any court appearances. Most lawyers will try to keep up communications with you. However, there are times when the lawyer cannot communicate with you because your family member has requested him/her not to speak with you. Remember, in the end, the lawyer represents your family member, not you. If the lawyer consistently does not return your calls, try sending a letter to the lawyer outlining attempts to contact him/her and describing what information you need or what you would like the lawyer to know about your loved one or the case.

WHAT DO I DO IF I BELIEVE MY FAMILY MEMBER'S LAWYER IS NOT REPRESENTING HIM/HER WELL?

First, talk to the lawyer and tell him/her about your concerns. Be very specific. For example, you may believe he/she has not followed up on leads, or you may believe that he/she has ignored evidence. You may feel the lawyer is too busy to fully represent your family member or that the lawyer has requested too many delays in your family member's case because he/she is not prepared. You may feel the lawyer is not explaining all the options to your family member.

If you are paying for the lawyer, you can fire him/her, and hire a new lawyer. This, of course, will delay your family member's case. If the lawyer is court-appointed, you and your family member can try to contact the judge to get a new lawyer appointed. Be very specific with the judge about your concerns. In extreme cases, your family member can file a grievance against the lawyer with the State Bar of Texas. However, this will not offer an immediate solution to your problem or help to get a new lawyer appointed.

I THINK THE LAWYER SHOULD EMPHASIZE MY FAMILY MEMBER'S DISABILITY DURING TRIAL, BUT THE LAWYER DISAGREES. WHO DECIDES?

You and the lawyer may disagree about the role that your loved one's mental retardation played in the alleged offense or the way to use this information as part of the defense. If you suspect that this may be because the lawyer doesn't understand mental retardation and the many ways it might influence a person's thoughts or behavior, do your best to educate the lawyer. Send the lawyer information about your family member's mental retardation and past history.

Based on their experience and training, however, some lawyers believe that juries are unsympathetic to a defense based on mental retardation, especially when violent crimes are involved. Talk with the lawyer about this matter.

SINCE I AM PAYING FOR MY FAMILY MEMBER'S LAWYER, DO I HAVE THE RIGHT TO BE CONSULTED ABOUT HIS CASE, INCLUDING ANY PLEA BARGAINS?

No. Even though you are paying the lawyer's fees, the lawyer's duty and loyalty is to your family member and not to you. It is up to your loved one and his/her lawyer to decide whether or not to accept a plea bargain. Good lawyers will not allow you to direct or determine what happens with the case just because you have paid the bill. In fact, as frustrating as this may be to you, confidential communications between your family member and his/her lawyer cannot be disclosed to you without your loved one's consent. If you and your family member agree that it would be best for you to talk about some matters with his/her lawyer, confidentiality can be waived. Talk with the lawyer about this.

CAN I TESTIFY ON MY FAMILY MEMBER'S BEHALF OR TALK ABOUT HIS OR HER HISTORY OF MENTAL RETARDATION IN COURT?

Before the case goes to court, talk to the lawyer about your interest in testifying on your family member's behalf. The lawyer has expertise in court matters and will know best what will help your family member's case. You will have to trust the lawyer's judgment about whether or not your testimony would be helpful. Lawyers sometimes call expert witnesses to testify in a trial about mental retardation because they feel it will help the case. Even if the lawyer thinks it is not in your loved one's best interest for you to testify, you may be able to assist the lawyer in identifying people that he/she may want to interview regarding your loved one's disability. You may also be able to help the lawyer obtain medical or school records, hospital records, employment records, and the like.

WHAT IF MY FAMILY MEMBER ALSO HAS A MENTAL ILLNESS?

If your family member also suffers from a mental illness, make sure that his/her attorney knows this. Some counties have defense attorneys who are specifically trained to work on cases involving defendants with mental illness. If your loved one's attorney is not trained in this area, he/she may ask the judge to appoint someone who is. If you are concerned about whether or not your loved one's attorney meets the county's qualifications for representing defendants with a mental illness, you can contact the Texas Task Force on Indigent Defense by email at FairDefense@courts.state.tx.us or at (512) 936-6994 to find out what the qualifications are in your county.

You should also let your family member's attorney know of any psychiatrist, psychologist, or social worker who has treated your loved one and of any medications that your family member has taken for his/her mental illness. Just as you should help provide information to your loved one's lawyer about his/her history of mental retardation, you should also try to help provide information about his/her mental illness. Let the attorney know of any treatment or mental health records that might be helpful.

If you are concerned about whether your family member is receiving his/her medication in jail, tell the judge, the jail nurse, the jail doctor, and the sheriff that your family member needs medication and what types of medication she or he has been taking. You may want to write a letter to the sheriff and send it certified mail, return receipt requested. Bringing your loved

one's current medication bottles to the jail may also speed up the process.

Your family member has a right to treatment while he/she is incarcerated in jail or prison. The jail must provide your family member reasonable access to medicine, and cannot use lack of staffing or resources as an excuse not to provide treatment. Your family member may not get the medication as soon as he/she wants it or needs it, and it may not be the same kind of medication he/she was taking before entering the jail - but medication should be provided. Most jails have strict rules about when and how medicines can be taken by people in custody.

Your loved one may also qualify for special housing, away from other inmates. This may be helpful if your loved one is not able to take care of himself or herself, and if he/she is being victimized by other inmates.

WHAT CAN I DO TO HELP MY FAMILY MEMBER THE MOST?

Listen to your family member. Visit them in jail to provide emotional support, comfort, and encouragement. If you notice any problems during your visits, report these problems to the lawyer and jail officials. Stay involved. If your loved one has been prescribed a medication for a mental illness or any other condition, make sure his/her attorney is aware of this and that your loved one continues to receive the medication.

Jails are not always safe places for people with mental retardation. Your family member may not be treated well by jail staff or other inmates, and may be afraid or unable to complain. If you suspect or know your loved one was taken advantage of or mistreated, you should report this to your loved one's lawyer and to the sheriff. Let the jail staff know if your family member cannot take care of himself or herself. Be the voice of your family member, who may not be able to speak for him/herself.

Try to establish good, open communication with your loved one's lawyer and stay involved. Perhaps the most helpful thing you can do for your loved one is to assist the lawyer with current, accurate information about your family member. Share information about your loved one's health history, school history, job history, and any problems he/she has had previously with the law. Give the lawyer copies of medical records, assessments of mental retardation or mental health needs, hospital records, and the names and numbers of doctors and caseworkers. Let the lawyer know if your family member is now or has ever been in drug/alcohol treatment or has been hospitalized.

Tell the lawyer if your family member receives SSI payments or other payments for a disability. Let the lawyer be the judge of whether this information is important to the case. You may also be able to assist the lawyer with locating witnesses or collecting evidence. Let the lawyer know that you care about your family member and what happens with the case. Educate the lawyer about mental retardation if he/she needs it. Keep the lawyer on his/her toes and let him/her know you are paying attention to how the case is being handled. Keep track of court dates and times so you can attend.

Finally, seek out some support for yourself. Call your local chapter of the Arc, the Texas Association for Mental Retardation, or Advocacy, Inc. These phone numbers are included in the back of this handbook. You may also call your local MHMR. Ask if there are support groups for family members available. Ask for people to talk to and things to read that will help both you and your family member through this difficult time.

Your caring involvement can make a difference in your loved one's case.



Resources

Local Chapters of The Arc

The Arc of McLennan County (Waco)
(254) 756-7491

The Arc of Spring Branch Memorial (Houston)
(713) 460-4274

The Arc of Midland
(915) 498-8590

The Arc of Texas (Austin)
(512) 454-6694

The Arc of San Angelo
(325) 657-0308

The Arc of Hunt County (Greenville)
(903) 455-4285

The Arc of Brown County (Brownwood)
(915) 646-6045 Ext. 292

The Arc of Gregg County (Longview)
(903) 753-0723

The Arc of Tyler/Smith County (Tyler)
(903) 597-0995

The Arc of Milam (Rockdale)
(512) 446-2190

The Arc of Harrison County (Marshall)
(903) 938-7571

The Arc of Denton County (Denton)
(972) 436-8471

The Arc of Fort Bend (Missouri City)
(281) 499-2234

The Arc of Bryan-College Station
(979) 774-5149

The Arc of Scurry County (Snyder)
(325) 573-5374

The Arc of Bell County (Temple)
(254) 947-5110

Howard County Arc (Big Spring)
(432) 264-0674

The Arc of Matagorda County (Bay City)
(979) 245-6318

The Arc of Calhoun County (Port Lavaca)
(512) 552-9403

The Arc of the Gulf Coast (Alvin)
(281) 388-1161

The Arc of Ector County (Odessa)
(432) 362-2702

The Arc of Potter and Randall Counties (Amarillo)
(806) 372-5699

The Arc of Northeast Tarrant County (Fort Worth)
(817) 834-7700

The Arc of Wharton
(979) 282-9200

The Arc of Greater Tarrant County, Inc. (Fort Worth)
(817) 877-1474

The Arc of Panola County (Carthage)
(903) 694-9575

The Arc of El Campo
(979) 543-5823

The Arc of Cypress Creek (Spring)
(281) 376-7072

The Arc of Gillespie County (Fredericksburg)
(830) 997-7163

The Arc of Greater Houston
(713) 957-1600

The Arc of Texoma (Sherman)
(903) 813-3560

The Arc of Ellis County (Waxahachie)
idheine@swbell.net (no phone number listed)

The Arc of Texas in El Paso
(915) 887-3442

The Arc of San Antonio
(210) 490-4300

The Arc of Wichita County
(940) 692-2303

The Arc of Dallas
(214) 634-9810

Advocacy, Inc. Offices

Main Office (Austin)
(512) 454-4816

East Texas Regional Office (Houston)
(713) 974-7691

Beaumont Satellite Office
(409) 832-4872

Nacogdoches Satellite Office
(936) 560-1455

El Paso Regional Office
(915)542-0585

North Texas Regional Office (Dallas)
(214) 630-0916

Wichita Falls Satellite Office
(940) 761-1199

Longview Satellite Office
(903) 758-7815

Fort Worth Satellite Office
(817) 336-0075

South Texas Regional Office (San Antonio)
(210) 737-0499

Corpus Christi Satellite Office
(361) 883-3623

Laredo Satellite Office
(956) 722-7581

McAllen Satellite Office
(956) 630-3013

West Texas Regional Office (Lubbock)
(806) 765-7794

Local MHMR Centers

Access (Jacksonville)
(903)586-5507

Andrews Center (Tyler)
(903) 597-1351

Austin-Travis County MHMR Center
(512) 447-4141

Betty Hardwick Center (Abilene)
(325) 690-5100

Bluebonnet Trails Community MHMR Center (Round Rock)
(512) 255-1720

Border Region MHMR Center (Laredo)
(956) 794-3000

Burke Center (Lufkin)
(936) 639-1141

Camino Real Community MHMR Center (Lytle)
(210) 357-0300

Center for Health Care Services (San Antonio)
(210) 223-7233 or 1-800-316-9241

Center for Life Resources (Brownwood)
(325) 646-9574

Central Counties Center for MHMR Services (Temple)
(254) 298-7000

Central Plains MHMR Center (Plainview)
(806) 293-2636

Coastal Plains Community MHMR Center (Portland)
(361)-777-3991

Dallas MetroCare Services
(214) 743-1200

Denton County MHMR Center (Denton)
(940) 381-5000

El Paso Community MHMR Center
(915) 887-3410

Gulf Bend MHMR Center (Victoria)
(361) 575-0611

Gulf Coast Center (Galveston)
(281) 331-4502

Heart of Texas Region MHMR Center (Waco)
(254) 776-1101

Helen Farabee Regional MHMR Centers (Wichita Falls)
(940) 397-3143

Hill Country Community MHMR Center (Kerrville)
(830) 792-3300

Johnson-Ellis-Navarro MHMR Services (Cleburne)
(817) 558-1121

Lakes Regional MHMR Center (Terrell)
(972) 524-4159

Lifepath Systems (McKinney)
(972) 562-0190

Lubbock Regional MHMR Center
(806) 766-0310

MHMR Center of Nueces County (Corpus Christi)
(361) 886-6900

MHMR of Tarrant County (Fort Worth)
(817) 569-4300

MHMR Services for the Concho Valley (San Angelo)
(915) 658-7750

MHMR Services of Texoma (Sherman)
(903) 957-4700

MHMRA of Brazos Valley (Bryan)
(979) 822-6467

MHMRA of Harris County (Houston)
(713) 970-7000

Northeast Texas MHMR Center (Texarkana)
(903) 831-3646

Pecan Valley MHMR Region (Stephenville)
(254) 965-7806

Permian Basin Community Centers for MHMR (Midland)
(432) 570-3300

Sabine Valley Center (Longview)
(903) 758-2471

Spindletop MHMR Services (Beaumont)
(409) 784-5400

Texana MHMR Center (Rosenberg)
(281) 342-9387

Texas Panhandle MHMR (Amarillo)
(281) 342-9387

Tri-County MHMR Services (Conroe)
(936) 756-8331

Tropical Texas Center for MHMR (Edinburg)
(956) 383-0121

West Texas Centers for MHMR (Big Spring)
(432) 263-0007

Other

Back to Life
1300 Bluff Drive
Round Rock, Texas 78681
(512)255-1465
jeribtl@sbcglobal.net



Glossary

Appearance before a magistrate - an initial proceeding which must occur within 48 hours of arrest where the accused person appears before a judge (usually a justice of the peace or municipal judge), is informed of the charge against him or her, and has bail set. The accused person is given the opportunity to request a lawyer at this appearance and should be informed how to make that request.

Arraignment - a court proceeding prior to trial where the accused person is formally advised of the charges against him or her and his or her rights. The accused person enters a plea.

Bail - a monetary amount set by the judge that must be paid by the defendant if he or she fails to appear in court at an appointed time after being released from custody. It is a guarantee that the accused person will appear in court.

Bond - a document, usually signed by a lawyer or bondsman, that guarantees the payment of the bail amount and permits a person to leave jail. A refundable cash bond can be posted, returnable in full if all court appearances are kept. Sometimes a "personal recognizance" bond is permitted that allows a person to leave custody based only on the person's signed promise to appear in court.

Burden of proof - the evidence that must be presented to convince the judge or jury beyond a reasonable doubt that a person is guilty of the offense.

Complaining witness - most often the victim of the crime; some cases can be dropped or dismissed if the complaining witness requests it.

Continuance - a delay or postponement of a court hearing.

Court-appointed lawyer - a lawyer appointed and paid by a judge to represent a defendant who cannot afford to hire his or her own private lawyer.

Defendant - the person charged with a crime.

Defense lawyer - the lawyer representing the defendant or accused.

District/County attorney - the person who prosecutes the case against the defendant in court on behalf of the "state" or the "people."

Felony - an act or crime that carries the potential punishment of imprisonment for more than one year. Less serious crimes are called misdemeanors.

Grand jury - An appointed body of 12 citizens that meets in a closed, secret proceeding to hear the case against the accused and to determine whether an indictment or formal accusation should be returned and the defendant should be prosecuted for committing a felony offense.

Indictment - a formal accusation returned by a grand jury that has heard information about the case and determined there is a reason to try the case. This is usually required for prosecution of felonies and other serious crimes.

Magistrate - a judge or judicial officer.

Misdemeanor - a criminal offense that is less serious than a felony for which the punishment is usually a fine or imprisonment for less than one year.

Nolo contendere - a plea in which the accused person does not admit guilt but does not contest the charge. It is treated the same as a guilty plea by the court.

Parole - the release of a person from prison to mandatory supervision in the community.

Perjury - deliberate false testimony under oath.

Plea bargain - an agreement between the lawyer representing the defendant and the prosecutor specifying a specific, usually lesser punishment agreed to if the defendant pleads guilty. The agreement may be rejected by a judge.

Pretrial release - a program available in some counties for some defendants where a person is released from custody before trial without having to post a bond if he or she meets certain conditions.

Probation - the granting of freedom to an offender who has been convicted or has pled guilty and agreed to certain conditions set by the court, such as community supervision by a probation officer for a specified period of time; often available for non-violent offenders, and for minor offenses.

Prosecutor - a public official, usually a district or county attorney, who conducts criminal prosecutions in courts against defendants on behalf of the "state" or the "people."

Public defender - a licensed lawyer employed by the county government or an agency that contracts with county government solely to represent defendants who cannot afford a private lawyer.

Punishment hearing - a proceeding held in the absence of a plea bargain if the defendant pleads guilty or if the jury finds the defendant guilty. Punishment is decided by a jury unless the defendant waives that right.

Revocation - the cancellation of probation or parole, which may result in a person's returning to incarceration, due to an allegation that a new crime has been committed or that some other requirement of probation has been violated such as failing to pay court-ordered fines or fees or failing to show up for meetings with the probation officer.

Restitution - payment to a victim by the defendant for damage or loss caused by the defendant.

Sentence - the punishment handed down by a judge or jury to a defendant who has been convicted of a crime or pled guilty.

Time served - a phrase used to describe the situation in which a person pleads guilty, usually for a misdemeanor offense, and is released because the time he or she has served in jail before the plea is considered adequate punishment for the crime charged.

Waiver of jury - cases can be tried before a judge rather than a jury in the event the prosecutor and defendant's lawyer and defendant all agree to do so.



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Know Your Rights If You Get Arrested. The Arc of the United States.

What You Need to Know If You Are Arrested. The Arc of New Jersey.

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