

THE CRIMINAL JUSTICE SYSTEM

It is common for victims/survivors to feel powerless and intimidated by the criminal justice system.

When you are in the vulnerable position of having been victimized by another person's actions, it may take all you have to cope with the aftermath of the traumatic event. You may not have much energy left to interact assertively with a justice system that tends to be oppressive.

If the driver of the vehicle responsible for the crash survived, you are now thrust into the criminal justice system. It is truly a system that few people know much about until they have to learn about it. Your invitation may be by receipt of a subpoena if you were a witness to a crash; your testimony may be required and not politely requested.

In most impaired driving cases the offender is apprehended by law enforcement. Yet, in some hit-and-run vehicular crashes, the offender is never found. This situation adds another difficult component to the healing journeys of those bereaved or injured; the need for fairness and justice is totally thwarted in these cases. It is difficult to focus anger when the person responsible has not been apprehended. Extreme feelings of anger, bitterness, helplessness and hopelessness may emerge.

When the offender is killed in the crash, victims/survivors report mixed emotions. Some feel a sense of "ultimate justice," although this does not

diminish their grief about what happened to them or their loved ones. Others feel it would have been better for the offender to be held accountable and dealt with by the criminal justice system. Some victims/survivors may feel sorrow or pity for their offenders, considering the loss of a human life in a preventable, tragic situation.

And yet, in other crash situations, both drivers may have contributed in some way to the collision. While one driver may have been drinking, their impairment may not have been the primary cause of the collision.

For purposes of this brochure, we will assume that the offender was not killed, was apprehended by law enforcement officials, and you are now involved with the criminal justice system. This brochure is designed to provide a brief overview of the criminal justice process for impaired driving offenses regardless of the jurisdiction. Most state impaired driving laws are very similar. However, there are specific differences in how impaired driving cases are handled, not only in each state but also in each jurisdiction. You should consult with your MADD victim advocate and the prosecuting attorney's office for specific details about the laws in your state and criminal justice procedure in the presiding court.

IMPAIRED DRIVING

Most impaired driving offenses are deemed a violation of state laws and, therefore, are considered crimes against the State. It is against the law to

kill or injure another human being intentionally, maliciously, with criminal negligence, or while operating a vehicle under the influence of alcohol or other drugs. Therefore, the State has a responsibility to prosecute the offender for the commission of a crime and attempt to obtain a conviction.

The prosecuting attorney represents the State's case against the defendant. He or she is not the victim/survivor's personal attorney. Victims/survivors do not have their own attorneys in criminal cases. In instances where the offense occurs on federal land, a federal court may preside over an impaired driving case and a federal prosecutor may be assigned to pursue the case.

Upon passing driver license requirements, every vehicle operator or driver has certain responsibilities when choosing to take control of a vehicle. All drivers must maintain their motor vehicle in reasonably safe operating condition so as not to cause harm to one's self or others.

All drivers must maintain appropriate financial responsibility for said vehicle. All drivers have a duty to operate said vehicle in a responsible manner so as not to cause harm or danger to one's self or others. All drivers must maintain a valid driver license or permit to drive. All drivers give Implied Consent to alcohol and drug testing if suspected of operating a vehicle while under the influence.

A state's basic impaired driving statute may be subtitled "Driving While Under the Influence," or

something similar. Typically the statute describes the who, what, where and how of the offense in language such as this:

“It is unlawful for any person to operate or be in the actual physical control of any vehicle within this state while under the influence of alcohol and/or any drug.”

THE CRASH INVESTIGATION

The law enforcement agency with jurisdiction over the crash will conduct the investigation. The law enforcement agency will identify and secure all possible evidence to determine what factors contributed to the crash event, which persons may be ultimately responsible for the crash and which laws, if any, have been violated.

At the crash scene, medical personnel are expected to remove injured people as soon as possible to provide the best medical attention to them. Removal of deceased crash victims from the scene, however, doesn't carry the same priority. Often, those who have died remain at the scene for investigative purposes. The use of seatbelts and child restraints must be documented as well as the placement of bodies within the vehicle and at final rest.

Determining who was in control of the vehicle is crucial. This process may take several hours, which is of little comfort to the victims' families, but may be crucial in the prosecution of offenders.

Due to the need to secure all possible evidence to determine whether a crime has been committed, law enforcement officials cannot allow family members the opportunity to be with their loved ones at the crash scene.

The majority of law enforcement crash investigators will utilize video taping or photography of the crash scene for documentation of the event. Very detailed photographs and graphic video of the scene are often used in the prosecution of people who have been suspected of committing a crime.

The Traffic Crash Report, or Accident Report as it is sometimes called, is prepared by the law enforcement agency that investigates the crash. This is usually the Municipal or City Police Department if the crash occurred within the city limits. The County Sheriff's Department typically investigates crashes outside of the city limits. The State Highway Patrol (or Troopers or Rangers) investigates crashes on state highways or interstates. The Traffic Crash Report will contain detailed information about the vehicle(s), automobile insurance, personal information on all parties involved, witness contact information, weather and roadway conditions, a detailed description and diagram of the crash event, and determination of the cause of the crash.

A separate Traffic Homicide Investigation Report will be prepared if the crash involved a death, or serious injuries in some jurisdictions.

The Traffic Homicide Investigation Report will be much more thorough than the Traffic Crash Report. Likewise, this report will not be completed and made available until after the homicide investigation has been completed.

Crime victims/survivors usually feel an urgency to obtain copies of these reports. If you wish to secure a copy of these reports, contact the investigating officer. Be sure to review the reports with your advocate or attorney. If you see errors, report them immediately to the investigating officer whose name is at the bottom of the report. Even if they seem minor, they can be crucial in court.

There are usually notations on the report if the driver has been suspected of drinking or using other drugs. If so, you will see a Blood Alcohol Content (BAC) level or “pending results” indication on the report. BAC is determined by breath, blood or urine testing shortly after the crime was committed. If the tests were not performed, you have the right to know why they were not. Valid BAC testing is essential to assist in the prosecution of the case. If this is not done, cases are subject to dismissal at the discretion of the law enforcement agency, prosecutor, or at the direction of the judge.

You should be aware that the suspect may not be formally arrested and charged with a crime for several weeks or longer. Due to laws that protect the innocent (the suspected impaired driver is innocent until proven guilty), a formal arrest will not occur

until the evidence to substantiate the charges has been determined and documented. Evidentiary testing by official crime labs is often back-logged and therefore it may take weeks or even months to conclude the blood test results of the suspect. Typically, there will be no arrest until this positive evidence is determined.

Once all the sufficient evidence is collected and reports are completed, the law enforcement agency will turn the investigation documentation over to the Prosecutor's office to pursue criminal action against the suspected impaired driver. Most times, the law enforcement officials will suggest by statute which offenses have occurred.

You may ask if the investigating agency has a victim advocacy program or a victim-witness assistance program. If it does, it is the responsibility of the victim assistance personnel to keep you informed of the status of the case and to provide services you may need as a crime victim. Services include referrals to appropriate agencies, victim counseling and assistance in applying to the State Victim Compensation program for reimbursement of uninsured expenses resulting from the crash. Your MADD advocate may also provide referral information.

ARREST OF SUSPECT

In order to arrest a person for an impaired driving violation (DUI, DWI, OWI, etc.), a law enforcement officer must have probable cause to believe that

all elements of the offense are present. The law enforcement officer must believe that the person in question was operating or in actual physical control of the vehicle while under the influence of alcohol, another drug or both. In order to convict a person of impaired driving, the prosecutor must establish that all elements are present. With regard to under the influence, courts have generally held that phrase to mean that the ability to operate a vehicle has been affected or impaired.

The suspect's arrest may or may not occur directly following the crash. The law enforcement authority must establish probable cause for the arrest, meaning that evidence concludes that a law has been violated.

Once a suspect is arrested, there is a time limit determined by state statutes, referred to as speedy trial law, in which the charges must be pled, tried or dismissed through the court system. The defense counsel must agree with the judge in order to allow the prosecution a time extension beyond the speedy trial limit if circumstances arise. Therefore, it is possible to see the suspected impaired driver out of custody, tending to daily activities or even driving. In many jurisdictions, the driver's license is surrendered at the time of arrest.

In cases where a person is injured or dies, the suspect may be arrested immediately for the charge of drunk or impaired driving and then have the charges amended by the office of the prosecutor and presented to the court at a later date. Law

enforcement officers will often work together with the prosecuting attorney's office to determine the time of arrest.

ARRAIGNMENT OF DEFENDANT

After reviewing the evidence of the case, the prosecuting attorney may charge the offender with the criminal charges recommended by the investigating agency; charge the offender with different, fewer, or additional charges; or decide not to charge the offender because of insufficient evidence.

In most states, one of two procedures will be utilized to determine whether probable cause of sufficient evidence exists to proceed to trial. A preliminary hearing may be held in which the prosecutor and a few witnesses appear before the judge. If the judge determines that sufficient evidence exists, the accused will be scheduled for arraignment. Or a grand jury hearing is conducted in which the evidence is presented by the prosecutor to a group of citizens rather than a judge.

Grand jury proceedings are closed to the public including the victims/survivors. The accused is not present while others testify. The accused may or may not testify. If the grand jury determines that sufficient evidence exists, they hand down a true bill of indictment. If they do not think sufficient evidence exists, the case is not billed. If indicted, the accused will be scheduled for arraignment.

At the arraignment, the suspect is brought before the judge who informs him or her of the charges pending and of constitutional rights, including the right to a court-appointed defense attorney. At this point, the accused suspect is now referred to as the defendant. The defendant may enter a plea of guilty or not guilty at this time. If a guilty plea is entered, the judge reserves the right to sentence the defendant or set a date for sentencing. Defendants are unanimously guided by the defense counsel to enter the not guilty plea. The trial process then begins.

It is important to be aware that very few impaired driving cases are actually concluded by trial. The overwhelming majority of impaired driving cases are resolved through plea agreements between the prosecuting attorney, the defendant and the defense attorney.

BAIL OR BOND DETERMINATION

Sometimes bond is set immediately following arrest or at the arraignment. Sometimes it is set at a separate hearing. Bail or bond is an amount of money produced to a court by the defendant in exchange for pre-trial release and his or her promise to appear in court. The right to reasonable bail is guaranteed to defendants under the concept of “innocent until proven guilty.” Some defendants may be released from detainment on their own recognizance when the judge feels certain that the defendant will appear for each court hearing in their case. However, in most

states, bail may be high if the defendant is perceived as a danger to the community or if the judge feels that the defendant may flee. The defendant can usually post bond through a bonding company for about 15% of the actual amount required.

In some situations, the prosecuting attorney may ask a crash victim to prepare a statement for the intent of increasing the amount of bail set by the court.

THE PROSECUTING ATTORNEY

After the investigating agency has transferred the case to the County Attorney, District Attorney or State Attorney, call the prosecuting attorney's office to find out which prosecutor has been assigned to the case. The information will be filed under the suspected impaired driver's name. Let the prosecutor know that you want to be informed of all stages of the criminal justice process. In most states, you will not be informed unless you specifically request this.

Upon notification of court appearances, you may then decide whether to attend or not. Mail a follow-up letter to both the prosecutor and the victim advocate indicating your phone number, your desire to be informed, the facts of the crime as you understand them and any feelings you have about bail for the accused, plea bargaining or any other aspect of the case. Ask in your letter to be informed if the prosecutor charges the offender any differently from the investigating agency's recommendation.

Upon receiving an impaired driving case, the prosecutor will promptly evaluate the case, decide whether a prima facie case can be established and decide whether to drop the charges, enter into a plea agreement with the defendant or proceed to trial. Prima facie means that based on an initial review of the facts and the law it appears that the state has a case, i.e. that a crime was committed and it is probable that the accused committed the crime.

To evaluate the strengths and weaknesses of the case, the prosecutor must determine whether he or she can prove all elements of the offense charged – typically that the defendant drove, operated or was in actual physical control of a vehicle within the state, while under the influence of alcohol or other intoxicating substance, or while the blood-alcohol level exceeded the limit set forth in the state’s “per se” statute.

THE DEFENSE ATTORNEY

The defense attorney is either assigned by the court or privately hired by the defendant to pursue the defendant’s best interests. The attorney for the defendant or one of his investigators may phone you, write to you or appear in person. Before you communicate with any attorney or investigator confirm his identity. A defense attorney is not a District Attorney even though he may refer to himself as a D.A. The defense attorney clearly is not an advocate of your rights as a crime victim/survivor.

You do not have to speak with the defense attorney unless you receive a subpoena for evidentiary discovery. If the defense attorney contacts you or the crash victim/survivor, he or she should be referred to the prosecutor for requested information. If you receive a subpoena, notify the prosecuting attorney promptly. The prosecutor should be present any time you are required to give testimony.

CASE DISCOVERY AND PRETRIAL HEARINGS

After arraignment, the prosecutor and the defense attorney will each gather evidence to support his or her case. During the discovery phase, witnesses will be subpoenaed to give testimony to determine if they will be needed during trial. It is typical for several court hearings to take place before an actual trial for attorneys to argue motions for evidence suppression, change in venue, and to dispute the accuracy of evidence and manners in which evidence was obtained. You may hear the defense attorney request that the judge dismiss the case during arguments. This is common court procedure, but sounds very alarming if you are not prepared.

If the defendant has been arraigned on charges you don't understand, ask the prosecutor to explain the elements that must be proven to get a conviction. The prosecutor should discuss the strengths and weaknesses of the case with you. If you understand

these, you may be able to provide additional information that will be helpful to the prosecution of the case. You may know of additional witnesses or have ideas about key evidence. The prosecutor should know that you support him/her in trying to convict the defendant of the most serious charges that can be proven.

RETAINING EVIDENCE

Generally, you may assume that the investigating officers have collected all the evidence they need. However, it is wise to document everything about the crash at the time it comes to your attention. You may think you'll remember all the facts, but documentation will ensure a good recollection of all details.

Additional witnesses may come forth who were not interviewed by the investigating officer. If so, refer them to the officer or to the prosecutor who will take their statement. If you are aware of witnesses who do not appear on the crash report, you should immediately notify the investigating officer or the prosecutor.

Photographs have probably been taken at the crash scene and at the medical examiner's office. It is possible, however, that other pictures would be useful in both the criminal and civil cases. You may be able to take photos of the recovery process of the injuries sustained by the crash victim/survivor. A recent picture of the victim/survivor before the

injury or death may be presented to the prosecutor to reinforce that this case involves a human life. It will personalize your loved one who is unknown to the court. If you take pictures that you think may be helpful, have someone witness your taking the photographs. You and the witness should sign and date the photos on the back, and take them to the prosecutor.

Ask for the return of clothing or personal effects of your loved one that may be in the investigator's office, the hospital or the medical examiner's office. Some of them may need to be retained for the trial, but you should be given those that are not essential to the case. Ask about the condition of these things before you look at them. It can be very upsetting to open a package of torn and blood-stained clothing when you are not prepared.

Keeep all bills and receipts for expenses resulting from the crash. Begin a chronological record or log of all financial expenditures or losses that you would not have had if the crash had not happened. These may include medical and funeral expenses, lost wages and costs of counseling. This information will be critical if the offender is found guilty and is ordered to pay restitution. It is also necessary in filing for State Crime Victims Compensation or insurance benefits and will be essential if a civil suit is filed. MADD offers a Victim/Survivor Kit that may be used to help you organize and retain this information.

WITNESS TESTIMONY

Witnesses whose testimony can substantiate the elements of a case should be contacted early in the process. They may include bartenders, waiter/waitresses, bar patrons or party attendees, any passengers in the defendant's car, other persons involved in the crash, eyewitnesses, medical personnel, law enforcement officials and expert witnesses. Impaired driving trials may involve complex scientific data regarding the processes of alcohol absorption, specific drug reactions, distribution and elimination, thus warranting expert testimony.

If possible, the prosecutor should thoroughly prepare all witnesses well before the trial begins.

The prosecutor should familiarize each witness with the questions that are likely to be asked at trial by both the prosecutor and defense attorney and permit the witness to review pictures, charts and other exhibits that may be presented during trial.

In the event you are called to testify in court the following suggestions may help you testify with relative ease and maximum credibility.

- Dress conservatively - in a business suit if you are a man, in a dress or business suit if you are a woman. Your clothing should not be flashy or in any way detract from what you are saying.
- Take notes or a written statement with you to the witness stand if you think you need them. However, be aware that the judge,

attorneys and jury may be allowed to examine them. You should review them with the prosecutor beforehand.

- If the defense attorney asks if you have discussed your testimony with the prosecuting attorney, it is appropriate to respond "yes." The attorney may have helped you organize your statement, but you are testifying to the true impact on you and your family.
- If you don't understand a question asked by one of the attorneys, simply say so and ask that it be repeated. If you do not know the answer to a question, say so. If you feel an attorney is trying to manipulate you into an answer that is not true, turn to the judge and tell him that you will need to explain your answer.
- Be descriptive as you tell of the physical, emotional and financial impact of the crash. Describe particular events that were/are painful for you. Your goal is to enable the judge or jury to come as close as possible to understanding how you feel.
- Maintain eye contact with the attorney who has asked you the question. Don't look to the prosecutor for help when being questioned by the defense attorney. Look at the judge or jury if the attorney asks you to explain something to them.
- If you request that the defendant pay restitution to your family, be prepared to present actual bills and statements of the amounts paid or owed.
- Always be honest. Take your time. Pauses before your answers indicate that you are taking the questions seriously and thinking before you speak. If you approach the task of testifying with integrity, your testimony will be respected.

COURT CONTINUANCES

Ask to be informed of pretrial hearings including requests for continuances. Pretrial hearings are open to the public (including you) although the attorneys usually tell you it is unnecessary for you to be there. During this time, both attorneys have the right to request continuances or postponements. Defense attorneys frequently request numerous continuances to “age the case.” They know that the longer they can postpone trial, the more likely the State will lose its witnesses, and witnesses’ memories will fade. Ask the prosecutor to vigorously oppose unnecessary continuances.

In some states, the prosecutor may request a speedy trial on the basis of sensitivity to the victims. Defendants have a constitutional right to a speedy trial but it is rarely in their interest to request it, especially if they have been released on bond.

Continuances may be requested by the prosecutor or by the defense attorney and are often granted for legitimate reasons – work conflicts, unavailability of witnesses, etc. They do not necessarily mean that your case is being ignored. In some states the judge is required to state on the record the reason for granting a continuance.

PLEA OR SENTENCING AGREEMENT

To avoid going to trial, the defendant may agree to plead guilty to one or more charges in exchange for the dismissal of one or more other charges; plead

guilty to a lesser degree of the charged offense; or plead guilty to the charged offense in exchange for the prosecution's agreement to recommend a lenient sentence, to not recommend the maximum sentence or to make no recommendation at all. Most impaired driving cases are resolved through a plea agreement.

In some circumstances, sentencing agreements are beneficial. If the preliminary investigation was inadequate, the offender may have been arraigned on a charge the State cannot now prove. Critical witnesses may no longer be available. It may be better in these circumstances to allow the defendant to plead guilty to a lesser charge and be held accountable rather than to go to trial and have the defendant walk free.

THE TRIAL PROCESS

If the defendant persists in pleading not guilty, the case will be set for trial. He or she has a constitutional right to choose whether the case is to be decided by a judge (bench trial) or a jury. In most jurisdictions, the State must accept the form requested by the defendant. Be prepared for numerous postponements or continuances after a trial date has been set.

If the defendant chooses a jury trial, jury selection may take days or weeks before the trial actually begins.

The defense attorney may try to prevent you from attending the trial. A common tactic of the defense is to subpoena you as a potential witness

and then ask the judge to invoke the “rule of sequestration” - a rule stating that witnesses cannot listen to each other testify and must therefore be “sequestered” out of the courtroom. Even though you may not be called to testify, you will, thereby, be kept out of the courtroom, never to be seen by the judge or jury.

A brief synopsis of the trial procedure follows.

Opening statements are given by the prosecuting attorney and then by the defense attorney.

The State calls witnesses to the stand in order to prove that the defendant is guilty as charged. The prosecutor’s questioning of each State witness is called “direct examination.” The witness is then “cross-examined” by the defense attorney. After cross-examination, the witness is given “re-direct-examination” by the prosecutor and “re-cross-examination” by the defense. The witness is then dismissed, unless either attorney plans to call the witness back to testify later. Once dismissed, witnesses may usually remain in the courtroom.

After the state has presented all its witnesses, the defense will present its witnesses, going through the same procedures of direct and cross-examination. The defendant is not required to testify in the case.

After all the evidence has been presented, each side may introduce witnesses to rebut testimony previously presented. Sometimes this rebuttal testimony comes from former witnesses not

previously dismissed. Sometimes they are new witnesses.

Each side presents closing arguments. The State has the burden of proof in the case and therefore has the right to argue both before and after the defense, unless the defense does not put up any evidence. Typically, the prosecutor summarizes the evidence before the defense argues and then rebuts the defense's arguments. Both sides then rest their case.

The judge gives the jury instructions for their deliberations, or if it is a bench trial, retires to deliberate himself/herself.

THE VERDICT: CONVICTION OR ACQUITTAL

At the end of trial, a verdict of guilty or not guilty is announced by the jury foreman or the judge. This is usually an emotionally laden time for victims/survivors. It is important to note that a legal verdict and the truth are not always the same. If extensive deliberation by the jury does not conclude a consensus that the burden of proof has been met, you then have a hung jury and the State must decide to try the defendant again or drop the case.

While a defendant may not, in truth, be innocent, he or she may not be proven guilty. The standard of proof in a criminal case is "beyond a reasonable doubt." Evidence must establish the facts so clearly, positively and explicitly that there can be no reasonable doubt that the case was proven.

Judges and juries are the best method the legal system has to determine justice, but they are human and sometimes make errors.

SENTENCING OF OFFENDER

If the defendant is convicted in the adjudication phase of the criminal trial, the case will proceed to sentencing. Sentencing may occur immediately following the conviction or be scheduled for a later hearing. In some jurisdictions, the judge decides the sentence and in others, the jury does.

Following a guilty verdict and prior to sentencing, most courts order the probation department to conduct a pre-sentence investigation on the defendant to collect information about what sentence would be most appropriate. The investigation report will include the defendant's work history, criminal record history and family history. A convicted offender may be sent to jail or prison for few or many years. If the prison sentence is probated, conditions of probation can vary widely. The convicted criminal may or may not be required to pay restitution to the victims/survivors. He may or may not be required to attend counseling, or a number of other options probation officers may recommend.

The court may consider any mitigating circumstances prior to imposing sentence. Both the state and the defendant are usually allowed to review the pre-sentence report and correct or point out any errors.

VICTIM IMPACT STATEMENTS

Laws exist in every state which allow for the victim, or the victim family when someone has been killed, to provide a written statement to the court about the impact of the crime on their lives. These statements are presented after the defendant has been convicted and before sentencing.

Oral impact statements may be allowed in your jurisdiction. You may be called to the witness stand to testify about the impact of the crime upon your life. Your statement should not repeat evidence already presented, but should simply tell what the crime has meant to you. Oral impact statements usually last three to five minutes.

MADD has a workbook titled, “Your Victim Impact Statement” to guide you in creating your own personal Victim Impact Statement.

RESTITUTION

Restitution is money or services ordered by the court to be paid directly to the victim or surviving family by the offender personally accountable for a crime and to restore, in part, the victim/survivor’s loss.

Victim/Survivor requests for restitution can cover medical expenses, funeral expenses, lost wages, lost or damaged property, counseling fees and other expenses considered reasonable by the court. In homicide cases, a family’s funeral and travel expenses and reasonable attorney fees incurred in closing

the victim's estate have been found to be proper restitution items.

Most states require the court to consider the current financial resources of the defendant, the defendant's future ability to pay, and in some states, the burden restitution will place on the defendant and his or her dependents.

While no amount of money can erase the trauma and grief victims/survivors suffer, this financial aid can be crucial in the healing process.

APPEALS PROCESS

Following a conviction and sentencing, a defendant has the right to appeal the case, or in some circumstances the sentence, to a higher court to consider errors in procedure or application of the law at the trial court level. You need to be prepared for this, especially if the sentence is maximal. Most convicted offenders are released on appeal bonds until the appeal is heard, which may be years later. Under the concept of "innocent until proven guilty," a trial court decision is not considered final until appeals are heard. While this hardly appears fair from a victim/survivor's perspective, it is a procedural safeguard that has proven useful, especially if a convicted defendant was indeed innocent.

PROBATION AND PAROLE

Probation is a sentence ordered by a judge, usually instead of, but sometimes in addition to, serving

time in jail. It allows the convicted person to live in the community under the supervision of a probation officer. The judge will specify restrictions on the offender's activities during the probationary period. Violation of the conditions of probation may result in serving time in jail.

Parole is the conditional release of a prison inmate after serving part of his or her sentence, allowing the offender to live in the community under supervision. Parole is granted by a parole board or commission. The parole board may consider factors, such as the offender's behavior in prison and level of rehabilitation, and let the offender out early. The parole board can also specify restrictions on the person's activities while on parole. Violation of the conditions of parole may result in revocation and re-imprisonment.

The criminal justice system has assigned paroling and sentencing officials with a grave responsibility: to protect the overall safety of citizens by refusing to release dangerous and violent criminals back into the mainstream. To make competent and informed decisions, paroling officials must hear from the police, prosecutors, courts, prison officials and victims/survivors.

Sentences assessed by the court are seldom sentences served by the offender. Primarily because of jail and prison overcrowding and inmate control, the concept of good behavior credit is common. The offender may only serve a portion of his or her

stated sentence and then be released, short of the actual sentence.

CLEMENCY

The Governor's Office may be contacted on behalf of an inmate, requesting a pardon by the Governor and an early release from prison. The Governor's office may ask for a victim/survivor's input while determining the validity of the request. Under very rare circumstances, the Governor may grant a pardon to the offender for reasons such as terminal illness, severe disability, or having served a very lengthy sentence with positive rehabilitation efforts.

ETHICAL REVIEW

Review procedures are available in most jurisdictions to investigate the conduct of attorneys if you feel they have been unethical in the treatment of the case. Most states have a prosecutor's council or similarly named investigative group to look into complaints about prosecutors. Local and state bar associations also have procedures for investigating complaints and taking appropriate actions. Attorneys may be disbarred or reprimanded by the State Supreme Court in many states.

Most states also have Judicial Conduct Commissions or other regulatory groups to investigate judicial misconduct.

The State Attorney General's office is usually willing to investigate professional misconduct on the part of employees of the state.

YOUR HEALING JOURNEY

Becoming an active participant in the criminal justice system may cause stress or diffuse energy that could be used for your emotional, physical and spiritual resolve. You may decide that you aren't up to it and choose to let justice take its own course without your involvement. Perhaps because of spiritual beliefs, you will choose not to take an active part in seeking justice. However, justice is very different from vengeance. Justice is holding people accountable for their actions.

Some say that regardless of the outcome, participating in the criminal justice system gave them a sense of completeness or closure. It will not cause you to grieve any less or erase the horror of your injury or your loved one's death. But it may give you some sense of accomplishment.

The final disposition of the case can provide a historical perspective that will enable you to focus less on the offender and more on yourself and your journey toward recovery.

*For more information or assistance
visit MADD's website at www.madd.org
or call 1-877-MADD-HELP (1-877-623-3435).*

NOTES
