Legal SCENE

By Ron Hocevar
Scott County Attorney

Criminal sentencing 101

I'm often asked questions about plea bargains and sentencing in criminal cases. The questions are usually due to how criminal charges and potential penalties are written in the statute and therefore reported to the public. On some of the more "high profile" cases, people understandably get frustrated that there would be a "plea offer." A "plea offer" can come from either the state or the defense attorney; in criminal court, there will always be a plea offer, in *every* case, *every* time. It may be a simple plea offer (plead straight to the charge), it may be a complex plea offer involving multiple cases, or there may multiple charges or with multiple victims and in multiple jurisdictions -- or any combination of these.

A great deal of criminal complaints contain many charges, but many of those charges could merely be alternate ways (theories) of charging the same crime. In those instances, a criminal sentence may legally be imposed on only one charge. We can't punish a person twice for the same act. So the plea offer may be: Plea to one of the counts, and the state will dismiss the rest. All plea offers by the state are made based on the facts of the case, the strength of the state's case, and the criminal history of the defendant. Additionally, we also make every effort to consult with each victim of a crime prior to making a plea offer. Victims also have the opportunity to speak at court during the sentencing phase and make the judge aware of how the crime impacted them, what they would like to see for a sentence, and whether or not they agree with the state's plea bargain. This office also makes an effort to consult with the law enforcement agency of the jurisdiction where the crime occurred to get their opinion on the charges and any potential plea bargain. But the fact that there is a plea offer does not mean that a case is being given away – it means the state is doing its job.

People can get further frustrated when they read that a person is only getting so many days or months in jail, when it was reported that the sentence could be, for example, 20 years in prison. First, "jail" is for individuals who are sentenced to one year or less in confinement. That confinement is typically served in the county where the crime occurred. When an individual is sentenced to confinement for a year and a day or more, that is a *prison* sentence. For males, that person will begin their confinement at the St. Cloud prison, where they will be processed and evaluated and may then be sent on to one of the various facilities throughout the state that meet their security level and programming needs. Females sentenced to prison are sent to the Shakopee Women's Correctional facility.

Sentencing is not an ungoverned free-for-all where the state simply does whatever it wants. Nor should it be. Sentencing is tightly controlled and governed by statute, case law, and the Minnesota Sentencing Guidelines. The presumptively appropriate sentence in any felony is determined by a grid – the severity level of the offense is one axis of the grid, and the defendant's criminal history score is the other axis of the grid. The intersection determines whether a sentence is presumptively a prison commit, or presumptively probation where local jail time can be ordered. And the court can only depart from the grid under specific circumstances which are subject to review by the Court of Appeals and the Supreme Court.

For example, a theft crime of $1,000 to $5,000 by statute is punishable by up to five years in prison. That is the information that is required in the criminal complaint when the person is charged, and thus reported to the public. But pursuant to the Minnesota Sentencing Guidelines, that crime is presumptively a probationary sentence where only local jail is an option if the person does not have any criminal history. An individual would need a minimum of six criminal history points before that person would be eligible to receive a presumptive prison sentence of 21 months, and the prison sentence for that offense could never be over the statutory maximum of five years. A theft crime over $5000 has a maximum statutory sentence of 10 years, but would require a minimum of four criminal history points before being eligible for a presumptive prison commit of 19 months. And criminal history points do not equate to prior convictions. Many prior convictions are worth only half a point, while others are worth two points.

I am proud of the way my office handles cases. We prosecute vigorously, but fairly. And that is exactly what everyone in Scott County should expect us to do.

Law Library News

Free legal help available through many resources

The Law Library staff sees people every day that don't qualify for Legal Aid, but they really can't afford an attorney. If you are one of those people, where can you go for help? The Law Library offers clinics every month, but the timing may not be right for you. There are hundreds of specific organizations dedicated to helping those in need of legal services. Here are just a few of the ones we frequently recommend.

First, you might actually qualify for Legal Aid. Checking just involves a phone call. If you *do* qualify for Legal Aid, the organization to call is Southern Minnesota Regional Legal Services (SMRLS) You can call them at 651-222-4731. Their website can be visited at www.smrls.org. SMRLS offers free legal help to low income people and senior citizens with civil problems including family law, government benefits, housing, and other matters.

If SMRLS can't assist you, and it is a family law issue such as divorce, custody, or child support, the Minnesota Judicial Branch offers a Self-Help Center online at www.mncourts.gov/selfhelp. There are both Help Topic Sections and a Forms section. It's a good idea to start with the Help Topics section, and then work your way to the forms. The instructions have been recently updated and are much easier to understand. The Self-Help Center also offers the opportunity to call an attorney and get assistance with the forms. The attorneys can be reached Monday – Friday, 8:30 a.m. through 3 p.m. at (651) 259-3888. They cannot give legal advice, but can assist with or explain the forms.

LawHelpMn.org at www.lawhelpmn.org is another good resource. LawHelpMn offers quick "Fact Sheets" that address a variety of legal issues including family, immigration, housing, consumer/debt, senior, and employment law. A live online chat feature allows you to call in and get direction and answer legal questions. LiveHelp is available Monday through Friday, 9 a.m. - 4 p.m.

Volunteer Lawyers Network (VLN) at www.vln.org VLN offers many in-person clinics. You can check their website to see where and when the closest clinic is available; VLN offers a bimonthly Expungement Clinic at the Scott County Government Center. They are also an excellent resource for debtor/creditor and bankruptcy assistance.

Southern Valley Alliance for Battered Women at www.southernvalleyalliance.org offers legal advocacy and referrals for victims of domestic abuse. You can check their website to see the services they offer, or you can call them at (952) 873-4214.

Southern Minnesota Regional Legal Services (SMRLS) has received a two-year grant to offer crime victim assistance to Scott County residents. A crime victim attorney is available every Monday morning, 9 – 11 a.m., for walk-in questions about domestic assault, restitution, and reparation. The walk-in clinic is in Room 102 in the Government Center. You can also reach the attorney by calling (651) 222-4731. Ask for the Scott County Crime Victim attorney.

If you have questions about **Landlord /Tenant Law**, the Attorney General has an excellent pamphlet available online at www.ag.state.mn.us/brochures/pubLandlordTenants.pdf, **The HOME Line** (tenant hotline) at (612) 728-5767or www.homelinemn.org might be able to give you some answers.

If you are a senior citizen, you can check **the Senior Linkage** Line at www.tcaging.org/findinglawhelp/sll.html or call them at 1-800-333-2433. This is a statewide telephone information and assistance service, answering questions about Medicare, prescription drug expenses, health insurance, offering forms assistance, and more.

Almost every family in America has been touched by a family member or close friend with mental illness. The **National Alliance on Mental Illness (NAMI)** at www.nami.org offers education, advocacy, support, and referrals for people with mental illness and for their families. For local information, email wilfredaw@msn.com or call (612) 424-1823.

There is help out there. Feel free to call us and we will point you in the right direction. For any questions or more assistance, call (952) 496-8713. The Law Library is located on the first floor of the Scott County Government Center. Law Library hours are Mondaya through Friday, 8 a.m. to 4:30 p.m.

CDA offers affordable first-time homebuyer loans

Recently, Minnesota Housing announced over $60 million is available to provide affordable mortgages to first-time homebuyers through a collaboration with Minnesota cities and counties, including $2,437,304 for Scott County.

Homebuyers can take advantage of these resources through the Minnesota Housing Start Up loan program, which offers fixed interest rates and down payment/closing cost loans up to $12,000 for eligible first-time homebuyers. Buyers can purchase homes in Scott County that cost up to $306,000 (11-county metro).. Income limits vary by location and household size, going up to $103,900 (11-county metro).

"In Scott County, the first time homebuyer has access to an attractive mortgage pool through MCPP and a CDA-sponsored Homebuyers Club, in addition to down payment grant assistance through the agency. We feel the end result is a win, win for the successful participant!" said Bill Jaffa, CDA Executive Director.

Minnesota Housing is a state agency that provides access to safe and affordable housing and builds stronger communities across the state. Minnesota Housing offers purchase, refinance, and home improvement loans, as well as financing for affordable rental housing throughout the state.

First-time buyers can get started by contacting participating lenders in the Scott County area. Visit www.mnhousing.gov for a full list of approved lenders, current interest rates, and program eligibility.

Minnesota Housing collaborates with individuals, communities, and partners to create, preserve, and finance affordable housing. Find out more at www.mnhousing.gov, and follow them at www.facebook.com/minnesotahousing and on Twitter @mnhousing.

Free *Restore Your Shoreline* workshop

Tuesday, April 17
6:30 - 8 p.m.

Spring Lake Township Hall

Learn how to protect and restore the shoreline with seeded or planted buffers between lawn and lake. You may even be eligible for free technical assistance to help design your project and for cost share of up to 50 percent of the cost of materials and installation!

Sponsored by Scott Soil and Water Conservation District (SWCD)

This *free* workshop is open to all Scott County residents. Visit www.scottswcd.org or call the Scott SWCD office at (952) 492-5425 to register.