

## **Why does the court-appointed attorney refuse to speak with me about my family member's criminal case?**

Family members, friends, and relatives of a criminal defendant often experience frustration because the lawyer refuses to discuss with them the pending criminal case. This is often due to the lawyer's ethical obligations to the client. The Texas State Bar Rules and the "Texas Rules of Evidence" govern the circumstances under which a lawyer may reveal confidential information.

In criminal cases, a defendant and the lawyer have a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services. Furthermore, in criminal cases, a client has a privilege to prevent the lawyer from disclosing any fact which came to the knowledge of the lawyer by reason of the attorney-client relationship.

Friends, family, and relatives of a criminal defendant often wish to speak with the defense attorney about the facts of a particular case. The attorney may choose to discuss a particular case, in general terms, with individuals after consent has been given by the client. These discussions may involve the general nature of the particular criminal accusation, the criminal justice and court systems, and other basic types of information that do not involve confidential or privileged information.

Often, an apparent conflict arises between the lawyer and the person or persons who are paying the attorney on behalf of a criminal defendant. Sometimes, the person or persons who are paying the attorney believe they are entitled to receive any information from the attorney regarding a criminal case. This is often the situation in a juvenile case. Third parties must recognize that the lawyer's duties regarding the privilege of confidential information is the same, whether the lawyer is "court-appointed" or has been hired by friends or family. Even if the accused is a juvenile, the lawyer may not reveal confidential information to anyone, including the parents or guardians of the juvenile. Lawyers are prohibited from taking payment of fees into account in representing their client: the defendant or juvenile.

Under certain circumstances, an accused, or criminal defendant, may authorize his or her lawyer to discuss a case with third persons. Any such authorization will usually involve only unprivileged client information, and then only in the event of express authorization by the client.

Third persons must recognize that the attorney-client privilege may be waived, or lost, if privileged communications are revealed or disclosed to others.

Another area of concern is friends or family members who call the attorney on the telephone with requests for information. It should be recognized that the attorney often does not know the identity of the person or persons on the telephone. Most attorneys will simply refuse to discuss a client's case over the telephone with persons the attorney does not know. Attorneys will often allow a family member to schedule an appointment to discuss, in general terms, a client's case, if the client has given express authorization to do so.

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