

## **Information on the Mexican Legal Procedures**

The information which follows is not a substitute for competent legal advice from an attorney licensed to practice law in Mexico who is also familiar with your case. (Please refer to the list of Attorneys under this section "Hiring a Mexican Attorney")

### **Stage one: Taking the suspect into custody**

If the judicial police decide that a criminal offense has been committed and have probable cause to believe that a particular person committed the offense, they will attempt to arrest the suspect and turn him or her over to the 'ministerio público' agent. Like in the U.S., the police may encounter obstacles locating perpetrators of crime, because they flee the scene or hide from officials.

The ministerio público should inform you in writing when a suspect has been arrested. In actual practice, written notification, when made at all, may be delayed and can take several months. For this reason, it is highly recommended that you hire an attorney to represent you.

### **Stage two: Deciding whether the case will go to trial**

Once the suspect is in custody, the agent or district attorney conducts a preliminary investigation to determine whether the case should be prosecuted. If the agent decides there is sufficient evidence to prosecute, the case will be turned over to a judge. In most, but not all cases, if a suspect is being held in jail, the police and the agent have between 48 and 72 hours, from the time of arrest, to make this determination. If they do not make such a determination in that time frame, the suspect is released.

After a suspect is taken into custody, the victim may be asked to identify the suspect in person and a process called a "careo" may be conducted. The careo takes place at the penal courts in the jail where the suspect is being detained. A penal judge, a ministerio público, the victim's attorney and the defense attorney are present for the careo. During the careo, the victim is asked to confront the suspect and may be questioned directly by the suspect. This process will take place in Spanish.

From the time the agent makes his determination that prosecution should occur, the judge has between 48 and 72 hours, excluding Mexican holidays and weekends, in which to begin a hearing to determine "probable responsibility." This hearing is equivalent to a "probable cause" hearing in the United States. At the hearing the accused is brought forward and confronted with evidence against him or her, including your detailed written, signed and witnessed denuncia describing the facts of the crime. Your personal appearance is not required.

After the hearing, the judge has up to an additional 72 hours within which to make a finding of probable responsibility or release the detained subject. Depending on the crime, a person for whom probable responsibility has been established will either be held for trial or released on bond, depending on the crime. In effect, the finding of probable responsibility begins the trial process.

### **Stage three: Going to trial**

Trials in Mexico are slow moving and very different from those in the United States. Attorneys, however, have an ability to influence the how quickly a case goes forward. Official proceedings will take place in Spanish. Other distinctive characteristics include:

- Many hearings. The trial does not occur in one or two sittings.
- No live testimony. Witness testimony (including testimony of the victim) is presented to the judge in the form of written statements and depositions.
- No live argument. Attorneys for the two opposing sides present their arguments to the judge in writing.
- No jury. The judge determines guilt or innocence based on the briefs presented to him/her and imposes the sentence.
- When the maximum possible sentence is less than two years, the judge normally has up to four months to reach a verdict. When the maximum possible sentence is more than two years, the judge normally has up to one year to reach a verdict. However, verdicts may be delayed longer than the law allows in some cases.
- Generally, a verdict is handed down by the judge 15 working days after the accused has been brought before the court for a final hearing. If the verdict results in a prison sentence, the time the accused has spent in prison prior to the verdict counts toward the fulfillment of the sentence.