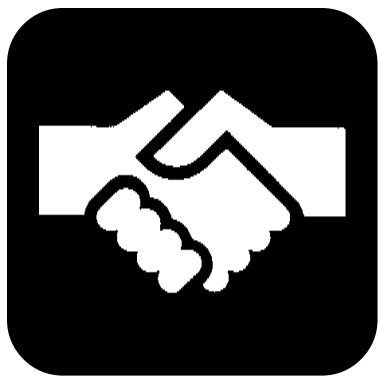
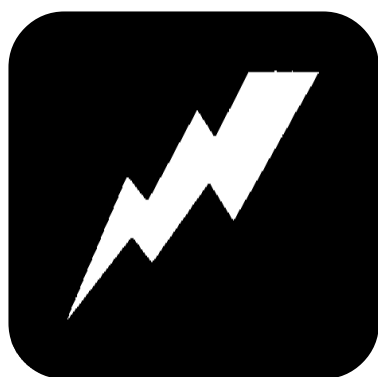


A Crime Victim's Guide to the Criminal Justice System



Office of Victim-Witness Advocacy



New Jersey Department of Law and Public Safety
Division of Criminal Justice

THE COVER DESIGN ILLUSTRATES WHAT HAPPENS TO A CRIME VICTIM: THE SUDDEN AND INDISCRIMINATE NATURE OF CRIME, LIKE A BOLT OF LIGHTENING; THE CONFUSION, DISORIENTATION AND QUESTIONS THAT FOLLOW; THE HELPING HANDSHAKE FROM THOSE IN THE COUNTY OFFICES OF VICTIM-WITNESS ADVOCACY OFFERING SUPPORT AND ASSISTANCE; AND JUSTICE ITSELF WHICH BEGINS THE PROCESS OF HEALING.

A Crime Victim's Guide to the Criminal Justice System

2nd Edition

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Introduction

The Office of Victim-Witness Advocacy has prepared this booklet to serve as your guide through the criminal justice system. We hope it will answer any questions that you may have. As a victim, you have entered the criminal justice system by chance rather than by choice. Yet, your role is critical. Indeed, your participation and cooperation in the criminal justice system are essential to the prosecution of the guilty and are essential in law enforcement's efforts to control crime. It is also important to your own dignity and self-worth.

You may now be a witness in a court proceeding. Even though you may have begun the proceeding by filing a complaint with the police department, the State of New Jersey, represented by the Attorney General, County Prosecutor or Municipal Prosecutor, is actually responsible for the prosecution of the complaint. You are a witness for the State and, as such, you have a legal responsibility to cooperate in the prosecution. Always remember that your participation in the court proceeding is necessary. Without you, it may not be possible to determine the facts of the case and administer justice.

In New Jersey the State Office of Victim-Witness Advocacy within the Division of Criminal Justice and the county offices of victim-witness advocacy in the 21 county prosecutors' offices have been established since 1986 to improve the treatment of victims and witnesses and to make your participation as a witness as convenient as possible for you. The services provided by those offices respond to a diversity of needs extending from the time immediately following the crime incident through the court process. These services include: crisis and emergency assistance, such as medical care, transportation, supportive counseling, home security checks, escorts and financial aid which are frequently needed because of crime-related trauma, losses or experiences; informational services and logistical services, such as an orientation to the court process, case status information, transportation, child care, appropriate waiting facilities and parking arrangements for court appearances. All these services reduce inconvenience, trauma and frustration associated with the aftermath of the crime incident and court process.

The first chapter of this booklet provides a step-by-step description of the criminal justice system in New Jersey and is followed by chapters that describe the court system and your role at each step of the process. Appendices include useful information, such as addresses, phone numbers and sample forms. A glossary defines words which may be unfamiliar to you, but are commonly used in court proceedings.

If you have any questions, or if your participation in the court proceedings causes you any problems, call your county office of victim-witness advocacy.

Crime Victim's Guide to the Criminal Justice System

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Chapter 1

Your Rights as a Crime Victim and the Assistance Available to You

The rights of defendants in our criminal justice system were written into the Constitution of the United States at the time it was created. Victims' rights on the other hand only became law within our lifetimes. In this chapter, you will find information on your rights as a victim of crime. You will learn about the services available to you through the county offices of victim-witness advocacy and the Victims of Crime Compensation Board. All of the services listed are available to victims of adult offenders. Victims of juvenile offenders have different rights. You should refer to Chapter 5 for information if you are a victim of a juvenile offender.

The Constitutional Amendment

The New Jersey State Constitution includes guaranteed rights for crime victims. Article I, paragraph 22 reads:

A victim of crime shall be treated with fairness, compassion and respect by the criminal justice system. A victim of a crime shall not be denied the right to be present at public judicial proceeding except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rule Governing the Courts of the State of New Jersey. A victim of a crime shall be entitled to those rights and remedies as may be provided by the Legislature.

This constitutional amendment is supported by both a *Crime Victims Bill of Rights* and a *Drunk Driving Victims Bill of Rights*. On the pages that follow you will find both of these important pieces of legislation that show your basic rights as a crime victim. Added to these rights are mandates for services to crime victims as well as additional legislation.

Crime Victims Bill of Rights

Crime victims are entitled to the following certain basic rights:

- To be treated with dignity and compassion by the criminal justice system.
- To be informed about the criminal justice process.
- To be free from intimidation.
- To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible.
- To make at least one telephone call from the police station provided the call is reasonable in both length and location called.
- To medical assistance if, in the judgment of the law enforcement agency, medical assistance appears necessary.
- To be notified if presence in court is not needed.
- To be informed about available remedies, financial assistance and social services.
- To be compensated for their loss whenever possible.
- To be provided a secure, but not necessarily separate, waiting area during court proceedings.
- To be advised of case progress and final disposition.
- To the prompt return of property when no longer needed as evidence.
- To submit a written statement about the impact of the crime to a representative of the county prosecutor's office which shall be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed; and
- To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime. This statement is to be made in addition to the statement permitted for inclusion in the persistence report.

Drunk Driving Victim Bill of Rights

Victims of Drunk Drivers are entitled to:

- To make statements to law enforcement officers regarding the facts of the motor vehicle collision and to reasonable use of a telephone.
- To receive medical assistance for injuries resulting from the accident.
- To contact the investigating officer and see copies of the incident reports and, in case of a surviving spouse, child or next of kin, the autopsy reports.
- To be provided by the court adjudicating the offense, upon the request of the victim in writing, with:
- Information about their role in the court process.
- Timely advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing.
- Timely notification of the case disposition, including the trial and sentencing.
- Prompt notification of any decision or action in the case which results in the defendant's provisional or final release from custody.
- Information about the status of the case at any time from the commission of the offense to final disposition or release of the defendant.
- To receive, when requested from any law enforcement agency involved with the offense, assistance in obtaining employer cooperation in minimizing loss of pay and other benefits resulting from their participation in the court process.
- To a secure waiting area after the motor vehicle accident, during investigations, and prior to a court appearance.
- To submit to the court adjudicating the offense a written or oral statement to be considered in deciding upon sentencing and probation terms. This statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss of earnings or ability to work suffered by the victim and the effect of the offense upon the victim's family. When a need is demonstrated, the information in this section shall be provided in the Spanish as well as the English language.

State Office of Victim-Witness Advocacy

The mission of the State Office of Victim-Witness Advocacy is to support and expand victim-witness services across the state along with the law enforcement community. The goal of this program is to provide victims and witnesses with services that will help them cope with the aftermath of victimization and help make their participation in the system less difficult and burdensome.

The state office supervises the county offices and provides funding for their programs from federal and state funds.

The County Prosecutor's Office of Victim-Witness Advocacy

In each of the 21 county prosecutors' offices there is a county office of victim-witness advocacy. The job of each office is to help crime victims and to make sure all of the victim's rights are met. These offices are staffed with trained professionals who are victim-witness counselors. Listed below are some of the services offered to victims of crime by the county office of victim-witness advocacy.

Criminal Justice Orientation and Information

Victim-witness counselors of the county office of victim-witness advocacy will explain the criminal justice system so that victims will know what will happen and when. If asked, victim-witness counselors can take a victim to the courtroom before the trial or grand jury hearing to explain exactly what will happen.

Victim Information and Impact Form

You will have several chances to tell the assistant prosecutor and the judge about how the crime affected you. The county office of victim-witness advocacy will send you a victim information and impact form with the initial contact letter and at other times during the prosecution. County office staff can help you fill out the form and prepare both oral and written statements.

Counseling and Support Services

The county office of victim-witness advocacy staff are trained to help you deal with the initial shock of the crime and the difficult emotional times afterward. If you feel that you would like to talk to someone on a regular basis, the staff can help you find a mental health counselor who may or may not charge you for services. Several county programs sponsor support groups for sexual assault victims and homicide survivors. Office staff can also assist victims to find a battered women's shelter or obtain food and clothing.

Case Status Notification

The office of victim-witness advocacy will let victims know of specific events in their case and possible delays in proceedings. Sometimes this is done by telephone, but most often notification is done by mail. As a victim, you will receive the following letters:

1. An initial contact or introductory letter that informs the victim or witness that the case has been referred to the prosecutor's office and explains and offers the services available from the county office of victim-witness advocacy.
2. Pre-grand jury remand.
3. Administrative dismissal.
4. Grand jury remand.
5. Grand jury dismissal (no bill).
6. Indictment returned (true bill).
7. Acceptance into Pre-Trial Intervention Program (PTI).
8. Termination from or completion of Pre-Trial Intervention Program.
9. Negotiated plea on all charges.
10. Release on bail/conditions of bail.
11. Fugitive status.
12. Court dismissal.
13. Sentencing date.
14. Sentence imposed on the defendant by the court.
15. Defendant's filing of an appeal and subsequent status changes.
16. Disposition on all charges.
17. Mistrial/retrial.
18. Mistrial/dismissal.
19. Post-conviction release.

You do not have to wait for the county office of victim-witness advocacy to contact you. If you want to know what is happening with your case, call the county office of victim-witness advocacy and someone will get the information for you.

Court Accompaniment and Transportation Services

When your case comes to trial, staff can go with you to court to explain what is going on as well as give you support. If you are called to testify, you can give the county office of victim-witness advocacy receipts for bus or taxi fare and be reimbursed. The county office of victim-witness advocacy can also help you with expenses you may have if you are not testifying, but want to be in court.

Child Care

The county office of victim-witness advocacy can help you with caring for your children if you need to come to court. You should try to leave your children with family or friends first. This is more comfortable for your children since you may be in court all day. However, if you cannot find someone to watch your children, you should call the county office of victim-witness advocacy to let them know you will need assistance. They will help you arrange for child care.

HIV Testing

If you came in contact with any bodily fluid of your attacker, such as blood, spit or semen, or if your attacker pricked you with a drug needle, you can ask the court to order the defendant to have a test for HIV or AIDS. A victim-witness counselor can help you. You should also call the county office of victim-witness advocacy or the local health department to get information about HIV and other sexually transmitted diseases. A victim-witness counselor can help you find a place where you can get free, confidential testing.

Restitution

Restitution is money the defendant must pay to you because of losses incurred from the crime (see Chapter 1). The county office of victim-witness advocacy can help you complete the Victim Information and Impact form. Information on this form will be used by the assistant prosecutor, the probation department and the judge to decide how much restitution the defendant should pay to you. Restitution cannot be for an amount greater than the actual amount of losses you suffered.

Employer and Creditor Intercession

The county office of victim-witness advocacy can help you if you are having difficulty at work or school because of the crime or because you had to take time off for court. They can write letters and make phone calls explaining your situation. They can also contact creditors if you are not able to pay some bills on time because of the crime.

Property Return Assistance

The county office of victim-witness advocacy can also help you to get personal items back which were kept for evidence. Most items cannot be returned, however, until after the sentencing.

Victim-Witness Waiting Rooms

The county office of victim-witness advocacy provides waiting rooms where you can stay while you are waiting to meet with an assistant prosecutor or investigator or waiting to go to court.

Parole Eligibility and Release Notification

The county office of victim-witness advocacy notifies you when the defendant is going to be considered for parole (see Chapter 1). For more information about your involvement in parole, please refer to Chapter 3.

Special Information for Family Members of Homicide Victims

The prosecutor's office will give the family as much information as it can. However, some information cannot be given right away because information given out at the wrong time can hurt the case. If you need information, contact your county office of victim-witness advocacy or the investigator on your case.

If a person is killed during a crime, an autopsy must be done. An autopsy is a scientific investigation of the body of the person who was killed or who died and is conducted by the medical examiner's office. The autopsy report may take a couple of weeks to prepare but must be completed within 30 days. Toxicology studies or special chemical tests may take longer.

Family members have a right to a copy of the report. If the person who died was the victim of a crime, contact the county office of victim-witness advocacy for a free copy of the report. You may wish to have your physician explain the reports to you since they contain very technical language. In certain criminal cases, the case must be closed before the autopsy or toxicology report can be given to the family.

Family members have the right to all of the items that were with the victim when he or she died. Some property may be held as evidence, but will be returned as soon as possible. The funeral director will most likely have most of the personal items. Jewelry and money may be held in safekeeping by the police or the hospital.

Victims of Crime Compensation Board

Crime victims may be able to get cash assistance from the New Jersey Victims of Crime Compensation Board (VCCB). Assistance is available to victims for lost wages, medical expenses and counseling expenses. In cases where the victim died, the VCCB also provides help in paying for funeral expenses.

You will not receive any assistance if you were doing something illegal at the time you became a victim or if you are in jail and are victimized.

The procedures for getting money or assistance from the Victims of Crime Compensation Board are very similar to the procedures you follow in filing medical or insurance claims. The following steps must be followed for the Victims of Crime Compensation Board to consider payment:

- the claim must be filed with Victims of Crime Compensation Board within two years after the date of the crime; and
- you must cooperate fully with the police and prosecutor's office. However, the victim can sometimes receive assistance if the case is not prosecuted or the defendant is found innocent.

Monetary Awards

You may file for assistance to help pay for medical costs and lost wages. Victims may receive a lifetime benefit of up to \$25,000. In the case of the death of the victim, funeral expenses of up to \$3,000 may be paid by VCCB.

You may be eligible for emergency financial assistance. If you cannot afford to buy food or pay your rent because you were injured or your money was taken, you should contact the VCCB immediately. If you are at least 60 years of age or determined to be disabled, you may be eligible for reimbursement for stolen cash up to \$200 for an assault or robbery.

Counseling Services

VCCB has a list of mental health counselors who will accept payment directly from the VCCB. VCCB also has phone numbers of social service agencies in your area that can help you in other ways.

Additional information and applications are available at municipal police departments, your county prosecutor's office of victim-witness advocacy or your local hospital.

**You can also write to:
Victims of Crime Compensation Board
50 Park Place
Newark, New Jersey 07102**

Chapter 2

The Criminal Justice System: How It Works

Within the criminal justice system, the local or state government investigates crimes and prosecutes people who break the law. It is the responsibility of the government to maintain law and order in our communities. A crime is not only a crime against a person. It is a crime against society, or the State. Because of this, the case is called “the State versus the defendant.” The State takes the responsibility of prosecuting people who break the law and for ensuring general public safety. Former New Jersey Chief Justice Weintraub described the work of government in this way:

Pre-eminent in the galaxy of values is the right of the individual to live free from criminal attack in his (or her) home, work and the streets. Government is established to that end. (State V. Ralph Davis, 1967)

Our criminal justice system was also designed to make sure that each and every citizen accused of a crime is treated fairly. As a victim of a crime, you may not feel that the person who committed the crime should be treated fairly. However, we must always keep in mind that if we were accused of a crime, we would want to be treated fairly; we would want to know that we will not be punished for a crime we did not commit.

Because it is important to be fair, the criminal justice process can often seem slow. Understanding this process helps you know what to expect. It is important to remember, however, that every case is different.

Section 1: Investigation and Arrest

When someone reports a crime or the police catch someone committing a crime, a report of the crime is written. This is called an **incident report**. At this time, the police help the victim complete the Victim Notification Form. An investigation must be done to try to find evidence about the crime and about the person who committed the crime. During the investigation, police officers or other law enforcement officers must find enough evidence to prove that the person accused of the crime really committed the crime.

Before someone can be arrested, the evidence collected by the police must show that there is “probable cause” (good reason to believe) that a crime was committed and that the accused either committed or took part in committing the crime.

The investigation leading to an arrest or charge may take a long time, or it may take only a short time depending on many factors: Do the police know who is suspected of committing the crime? Did that person leave the area? Is there any physical evidence to collect? The police and other investigators must find witnesses and talk to them. Scientific or laboratory tests may have to

be completed. No matter how long it takes, **all** information and evidence must be collected so that all the facts can be given to the court.

Section 2: The Complaint

The criminal justice process usually begins with a **complaint**. The complaint is an official court document and once it is signed *must* go through the criminal justice system. In a complaint, either the victim or a police officer accuses a person of committing a crime. The person who signs this document is called the **complainant**. The complainant swears that the information in the complaint is the truth. The person accused of committing the crime is called the **defendant**.

Complaints are usually completed in the municipal court of the town or city where the crime took place. The municipal court judge, the court clerk or a police officer in charge can administer an oath to the complainant. This means that one of these officials asks the person filing the complaint to swear that what they say in the complaint is the truth.

There are two types of complaints: a **warrant complaint** and **summons complaint** (see Appendices B and C). A **warrant complaint** is a complaint that is also signed by a judge or other court official and contains an arrest warrant. The arrest warrant allows any law enforcement officer in the state to arrest the person accused of committing the crime. A **summons complaint** is a complaint which is sent to the person accused of committing a crime and tells that person to come to court on a specific day.

Warrant complaints are signed by the court when the crime is an **indictable offense**. Indictable offenses are what we would normally think of as a crime and are in fact the only offenses listed as crimes in the law. **Indictable offenses** lead to cases heard in the superior court (see Chapter 2). Listed below are some **indictable offenses or crimes**:

Murder	Kidnaping
Aggravated Manslaughter	Manslaughter
Robbery	Aggravated Sexual Assault
Sexual Assault	Aggravated Criminal Sexual Contact
Aggravated Assault	Aggravated Arson
Arson	Burglary

Also included in this list are any crimes involving the possession or use of a firearm or conspiracies or attempts to commit these crimes.

There are other reasons why the court may issue an arrest warrant. The court can issue an arrest warrant if the court believes a person is dangerous. The court can issue an arrest warrant when the accused does not come to court on the date specified in the **summons complaint** or if the court does not think the person will come to court if given a summons complaint.

A **summons complaint** is issued for all other offenses. These offenses are non-indictable and include offenses, such as simple assault, criminal mischief and theft under \$200. Non-indictable offenses are heard in the municipal or family courts (see Chapter 4). If a person does not appear in court on the date listed on the summons complaint, the judge can issue a “bench warrant.” A bench warrant and an arrest warrant are the same.

The police can also arrest a person without an arrest warrant. This can happen if the police officer has “probable cause” or good reason to believe that a person committed an indictable offense or crime or if the person was involved in an act of domestic violence. The police officer does not have to see the person committing the offense. With all other offenses, the police officer can arrest someone only if the officer sees the person committing the offense. If the officer does not see the person committing the offense, the officer fills out a summons complaint.

To review, there are two basic ways a defendant or the person accused of committing a crime can be charged with that crime and be brought to court:

1. The accused is arrested by the police officer who has probable cause to believe that the person committed a crime or an act of domestic violence. The law enforcement officer prepares a warrant complaint.
2. The victim of the crime tells the police what happened. The victim or the police officer files a **complaint**, a sworn statement saying that the information which was given is the truth. The complaint is either a **warrant complaint** for the person’s arrest or a **summons complaint** telling the person to come to court.

A third way someone can be charged with a crime is if the police and the prosecutor’s office investigate a crime and take the information collected (evidence) to the grand jury (see Section 5, Grand Jury). The grand jury listens to all the information and decides if the accused could have committed the crime and then makes a formal charge.

The following sections explain how a case involving a crime or indictable offense is processed through the criminal justice system. Non-indictable offenses are handled at the municipal court and do not usually involve arrests or a trial (see Chapter 4).

Section 3: Arrest and Pre-Trial Release

The last section described the steps leading to the arrest of someone accused of committing a crime. When a person is arrested, the person’s status in the criminal justice changes. He or she is now a **formal defendant**. Prior to arrest, a person may have been a suspect or target of an investigation. But the arrest makes that person a defendant. The defendant has certain rights, such as the right to an attorney, the right to make a telephone call and the right to medical treatment.

Upon arrest, the defendant is searched and processed by the police or “booked.” This process

consists of taking the defendant's name, address, date of birth, a picture and fingerprints. This procedure is followed in all indictable offenses and in every drug offense.

Shortly after the defendant is arrested, he or she appears before either a municipal or superior court judge, depending on who makes the arrest and the type of crime. This is called the **first court appearance**. The first court appearance must happen within 12 hours of arrest. In some counties, the first court appearance is done at a central judicial processing court (CJP). Here, a superior court judge hears information on any offense committed in the county.

At the first court appearance, the judge hears information about the charges, tells the defendant about his or her rights and asks the defendant to say if he or she is guilty or not guilty. The judge must also decide if the defendant can be released before the trial. Several factors must be considered by the judge before making this decision:

- the seriousness of the crime the defendant is accused of committing, the chances that the person will be convicted (found guilty) and the punishment if the person is convicted;
- the previous criminal record of the defendant (if any) or the defendant's previous behavior on bail;
- the defendant's reputation and mental condition;
- how long the defendant's has lived in the community;
- whether the defendant has family or other relationships;
- whether the defendant has a job;
- statements from people in the community about the defendant's credibility;
- any other factors about the defendant's reliability.

The judge must consider all of these factors and decide if the defendant should be released before trial.

There are three ways a defendant can be released before trial:

1. the defendant is **released on personal recognizance (ROR)** which means that the defendant must promise that he or she will come back to court on the assigned date.
2. the judge decides the defendant cannot be trusted to come back to court by just making a promise and orders the defendant to give the court some financial assurance that he or she will come back to court. The defendant buys a **bail bond**. The **bail bond** serves as a

promise of payment should the defendant not come back to court when he or she is told. The defendant may only have to pay a small amount of bail set by the judge. The defendant can use money or personal property to pay for the bail bond;

3. the judge can order the defendant **released on personal recognizance in lieu of bail**. In this case, the judge sets a specific amount of bail, but the defendant does not have to buy a bail bond. However, if he or she does not come to court on the assigned date, the defendant will owe the bail amount to the court.

If the defendant does come to court on the assigned date, the judge can refund the bail monies. The judge can also order the defendant to have no contact with the victim as part of bail. This means that if the defendant tries to contact the victim in any way or tries to intimidate the victim, bail will be revoked (taken away) and the defendant will go to jail.

Section 4: Case Review

After the arrest of the accused or the signing of a complaint, the case is reviewed by the county prosecutor's office. The county prosecutor's office and the State Division of Criminal Justice have the legal responsibility to decide if a case will be prosecuted in the superior court (see Chapter 2). The fact that a complaint was signed does not guarantee that the case will be prosecuted.

The most common type of case review happens in the case screening unit of the county prosecutor's office. Attorneys (called assistant prosecutors) and investigators read the police reports and talk to witnesses. In some of the larger counties, the county prosecutors' offices make this decision at the first court appearance in the central judicial processing court.

In all counties, case review or case screening is a careful decision-making process in which the assistant prosecutor must decide whether to proceed to prosecute the person, discontinue the prosecution or give the person the option of entering a diversionary program. Possible choices include sending the case to municipal court, called "downgrading"; referring the case to another agency or diversion program; proceeding with prosecution; or dismissal. After reviewing the case, the county prosecutor's office decides how to proceed with the case in one of the following ways:

1. keep the charges the same and prosecute the defendant;
2. change the charges to a more serious crime (upgrade the charges); change the charges to a less serious crime or offense (downgrade the charges); or
3. dismiss the charges and close the case.

Many factors are considered. The prosecutor must be able to prove the case beyond a reasonable doubt. The prosecutor must have all his or her witnesses. Also, the feelings of the victim must be considered. In the end, the decision is based on practical as well as legal considerations.

If the county prosecutor's office decides to proceed with the case, the case is prepared for

grand jury presentation and all reports, evidence and statements from witnesses are collected by investigators.

Section 5: Presentation to Grand Jury

In New Jersey, in order for the prosecutor's office to continue with the prosecution of a case, the evidence that has been collected must be presented to the grand jury. The grand jury does not decide on the guilt or innocence of the person charged with the crime. The grand jury only decides if there is enough evidence to say it's likely that the accused committed the crime and, if so, formally charges that person with the crime. This formal charge is called an **indictment**. An indictment gives the person accused of a crime the right to a trial by jury.

The grand jury is composed of 23 citizens who are asked to serve on the jury. The names of citizens are taken from voter registration and motor vehicle lists. Every member of the grand jury is given one vote. In order for the grand jury to indict a defendant, more than half of the jurors must vote to indict.

Grand jury proceedings are private and are not open to the public. The only people allowed in the grand jury room are the grand jurors, the clerk of the grand jury, the assistant prosecutor handling the case, a court reporter and the witness who is testifying. The assistant prosecutor asks witnesses questions about the crime. Then, the jurors have a chance to ask questions. The court reporter writes down, word for word, what is said in the grand jury room.

Because the grand jury does not decide guilt or innocence but only whether or not there is enough evidence to say the defendant may have committed a crime, there is no defense attorney in the grand jury room. The defendant may testify if he or she wishes. However, the defendant does *not* have to testify at any time in any court proceeding if he or she does not wish to do so because the **Fifth Amendment** of the United States Constitution says that a defendant does not have to testify.

After hearing all the evidence in the case, the grand jury can conclude the hearing in one of three ways: a no bill, a true bill or a reduction of the charges.

By voting a **no bill**, the grand jury dismisses the charge(s) against the defendant, because there is not enough evidence to say this person may have committed a crime. At this point, no further action is taken and the case is closed.

If the grand jury decides to vote a **true bill** or *returns an indictment*, the grand jury believes there is enough evidence to say it is likely that the defendant committed the crime. The defendant is arraigned on the indictment (see Section 6) and the case is assigned to an assistant prosecutor who prepares the case for trial.

The grand jury can choose to downgrade the charges. The case may be **remanded** or *sent back* to the municipal court. An example of this would be if the defendant was charged with aggravated assault which is an indictable offense but the grand jury finds that the injuries to the victim were not severe enough to say the crime was an aggravated assault. In this case, the grand jury would vote a **no bill** and **remand** the case back to the local municipal court where the evidence may be sufficient for a simple assault.

The grand jury may also act in an investigative capacity and hear matters in which a criminal complaint has not yet been signed. The grand jury has the right to conduct investigations, call witnesses and subpoena documents. This is called a **grand jury investigation** and can lead to indictments. If, after the investigation is complete, the grand jury finds there is no evidence of wrongdoing, the jurors can vote that there is “no cause for further action.” The investigation is then closed.

A defendant can **waive** or give up his or her right to a grand jury hearing by admitting guilt or “pleading guilty” at the first court appearance or anytime afterwards.

It is important to remember that a grand jury indictment is *not* a conviction. The defendant is still considered *innocent*. The indictment is only a formal document accusing the defendant of committing a crime.

Section 6: Arraignment on Indictment After Grand Jury

If the grand jury votes a **true bill**, the defendant must go to the Superior Court, Criminal Division (see Chapter 2) for an **arraignment**. This is similar to a first court appearance because the defendant is told about the crimes that he or she is accused of committing and is asked to plead guilty or not guilty. The judge makes sure the defendant has an attorney. Bail is determined or reviewed if the defendant was arrested earlier. A no-contact order can be made part of the bail. This means that the defendant cannot try to contact or harass the victim. If the defendant was not arrested before the grand jury hearing, a **warrant complaint** is issued.

If the defendant does not appear in court for a proceeding, the judge can revoke bail and issue a warrant for the arrest of the defendant. If this happens, it is unlikely that the judge will allow the defendant to be out of jail before the trial.

The judge also sets a date for a **pre-trial conference** or a **plea disposition conference**.

Section 7: Pre-Trial Proceedings: Plea Negotiation and Pre-Trial Intervention Program

Many events can happen before trial. The defendant may plead guilty or may agree to plead guilty if the charges are downgraded or lessened to an offense with a smaller penalty during **plea negotiation**. The defendant may apply for the **pre-trial intervention program (PTI)**. The court may decide that the defendant is mentally ill or mentally disabled and does not have the ability to understand legal proceedings and cannot be tried.

Plea Negotiation

Most cases in the criminal justice system end during **plea negotiation**. The plea negotiation is an agreement between the assistant prosecutor and the defendant in which the defendant pleads guilty to a crime and the assistant prosecutor agrees to do something for the defendant. Most often the assistant prosecutor agrees to drop some of the charges against the defendant or say that the defendant will be sentenced to a shorter time in prison. Sometimes, plea agreements include a promise by the defendant to give evidence against other defendants in a case.

Plea negotiations happen in almost every case and are a necessary part of the process for many reasons. First, cases end much faster. Also, more cases can be processed in light of a busy and crowded court calendar. Trials are very time-consuming. The assistant prosecutor considers several factors when negotiating, including the type of crime, the prior criminal record of the defendant, the impact of the crime on the victim and the strength of the case.

Plea negotiations are an important part of the process for many reasons. A plea before trial can be a guarantee that a defendant will be punished for the crime in some way. A conviction after a trial is not always guaranteed. It also means that victims and other witnesses will not have to suffer the trauma of testifying in court. Additionally, these cases are handled much faster which means defendants are punished sooner and victims can get on with their lives sooner.

The judge has the final say on any plea agreement. The judge considers the plea agreement at the **pre-trial conference or plea disposition conference**. During this court meeting, the plea agreement becomes a part of the official court record. The judge can decide not to allow the plea agreement. If this happens, the assistant prosecutor must start plea negotiations over again. If the judge thinks the plea agreement is reasonable, then the judge asks the defendant to say exactly why he or she is willing to accept the plea agreement. The defendant must tell the judge facts about the crime so that the judge can be sure the defendant is the one who committed the crime. None of these statements can be used against the defendant if the case later goes to trial.

If the defendant and the assistant prosecutor cannot agree on a plea, they appear before the judge at the **pre-trial conference or plea disposition conference** and tell the judge they could not reach an agreement. The judge then sets a trial date.

Pre-Trial Intervention Program (PTI)

Some defendants go into a program called **pre-trial intervention (PTI)**. This program is like being on probation without being convicted of a crime. If the defendant finishes the program, the charges are dropped or dismissed. The goal of this program is to help defendants who have not committed any other crimes in the past become “rehabilitated” and to establish a good reputation again.

Not every defendant who applies for PTI is admitted. Both the prosecutor and the director of PTI decide who is accepted. The decision is based on guidelines established by the Supreme Court. Generally, PTI is denied to people whose crimes were violent; part of a criminal business; part of an organized crime activity; or involved a breach of public trust.

Once someone is admitted into PTI, a judge orders that all criminal proceedings stop for six months. The defendant is ordered to go for counseling and may be ordered to pay restitution (see Glossary) to the victim or do other things aimed at helping both the defendant and the victim. The entire time the defendant is in PTI, he or she is supervised by an employee of the court. If the defendant does everything the judge asks, the criminal proceedings are stopped for another six months. If, after a year, the defendant has not committed another crime and has done everything he or she was ordered to do, the judge dismisses the criminal charges and the defendant is free.

If the defendant does not do all the things he or she is ordered to do or if the defendant commits another crime, the judge removes the person from PTI and the criminal proceedings start again at the point where the person entered PTI.

Section 8: Trial

All trials for indictable offenses are held at the Superior Court, Criminal Division. Defendants charged with an indictable offense (see Section 2) have a constitutional right to a trial by jury. This means that the case must be presented to a jury consisting of twelve people who decide the guilt or innocence of the defendant. The judge oversees the trial to make sure that all court rules are followed and there are no legal mistakes.

It is possible that the initial court date can be changed many times. This happens because the judge schedules several trials to begin the same day knowing that some cases end by a plea agreement (see Section 7) and some cases are not ready for trial on the assigned date. The cases that are ready for trial on the assigned date are told when the trial will actually begin.

Sometimes the assistant prosecutor or the defense attorney (the defendant’s lawyer) can ask the judge for a **continuance** (extension of time). The judge only grants so many continuances without taking some action. If the assistant prosecutor is not ready, the judge can order that the trial begin on a certain date anyway; this is sometimes called a “try or dismiss” date. If the assistant

prosecutor is not ready on that date, the judge hears a “motion” or request from the defense attorney to dismiss the charges against the defendant. If the defense attorney is not ready, the judge can also order the trial to start, but if the defense attorney is not ready, the judge cannot say the defendant is guilty. Rather, the judge can order the trial to begin, can revoke the defendant’s bail or fine the defense attorney.

The Trial Process

Every trial starts with the principle that defendant is *innocent until proven guilty*. The assistant prosecutor, who serves on the side of the State, has to prove to the jury that the defendant is guilty beyond a reasonable doubt. “Reasonable Doubt” is an honest and reasonable uncertainty as to the guilt of the defendant after hearing all the evidence. Even if a juror believes the defendant is guilty, but has some doubt about the evidence, then the juror must vote “not guilty.” At the beginning of the trial, the judge gives instructions to the jury. After the instructions to the jury by the judge, the assistant prosecutor and the defense attorney give an opening statement to the jury that tells what each wants to prove about the case.

After the opening statements, the State presents its case about why it believes the defendant is guilty. The assistant prosecutor calls witnesses to the stand to testify, including the victim. He or she may also present scientific evidence. The defense attorney has a chance to question or to **cross-examine** each of the State’s witnesses. Once the State makes its case and presents all of its evidence, the State *rests* or announces it is done.

At this time, the defense attorney can ask the judge to dismiss the charges against the defendant or “acquit the defendant” by saying the State did not show enough proof that the defendant could be guilty. The judge must then decide if the State presented enough proof to be considered by the jury. If the judge agrees with the defense attorney’s argument, the judge acquits the defendant and dismisses the jury. At this point the case is over. The defendant cannot be tried for this crime again.

Most of the time, however, the judge does not agree with the defense attorney’s request to dismiss. The defense attorney then presents evidence and calls witnesses to testify to the fact that the defendant is innocent. The defendant does not have to testify and the judge explains this to the jury. The assistant prosecutor has a chance to cross-examine the defense’s witnesses. When the defense attorney is done, he or she rests.

At this time, the assistant prosecutor is allowed to **submit proof in rebuttal** or to question specific items or claims made by the defense. After both the assistant prosecutor and the defense attorney have presented their cases, each reviews their cases to the jury in what is called the **summation**. The defense goes first and the assistant prosecutor goes second. Both review all of the evidence to support why each believes the defendant innocent or guilty.

After the summations, the judge instructs the jury about legal points they should think about in deciding the case. This is called the **judge's charge to the jury** and includes general information about criminal procedure as well as information on the laws and issues that are important. The judge's charge may also include a commentary on the evidence.

The jury then goes to another room to talk or **deliberate** about the case. All evidence goes with them. If during these deliberations the jury has a question about the evidence or someone's testimony, the jury foreman or spokesperson writes a letter to the court. The question is answered if possible. The jury deliberates until it reaches a verdict or reports it cannot agree. A **verdict** is the decision of innocence or guilt to which all jurors agree. If the jury reaches a verdict, they come back to the courtroom where the foreman tells the judge what the jury has decided. Sometimes, the State or the defense wants to make sure that each juror agrees with the verdict. When this happens, the judge asks each juror how they voted.

The verdict must be **unanimous**. This means that if every member of the jury does not agree, there can be no verdict. When this happens, the judge talks to the jury again to encourage them to come to a decision. The judge also tells the jurors not to change their minds just to reach a verdict. The jury then goes back to their deliberations. If they still cannot agree, then it is a "hung jury"; the judge declares a **mistrial** and the defendant may be tried again.

Section 9: Sentencing

If there is a guilty plea or a guilty verdict when a case goes to trial, the judge sets a tentative date for sentencing. Before the sentencing, however, the Probation Department must complete a report called a **pre-sentence investigation report (PSI)**.

Pre-Sentence Investigation Report (PSI).

The PSI is a confidential, written report that a judge uses to help him or her decide what sentence to give to the defendant. The report has a description of the defendant's family, medical and criminal background; information about the crime; and other material important to deciding the sentence. The report also includes a statement from the victim about how the crime has affected his or her life and about any monies the victim lost or had to pay because of the crime.

Options for Sentencing

The defendant can be punished for his or her crime in many ways. Punishments can include: prison, probation, restitution, community service, fines and penalties. The judge decides the punishment based on the type of crime, what is allowed by law and the information in the PSI.

The Criminal Code of New Jersey lists the range of sentences the judge can give to the defendant. The judge must consider many factors in making a final decision. The Criminal Code organizes crimes by degree and sets penalties for each level. Murder is a crime of the first degree. Theft less than \$500 is a crime of the fourth degree. Listed below are the degree groups, examples of the crime and the penalties:

Degree	Crime	Penalty
First degree	aggravated manslaughter; aggravated sexual assault; armed robbery; kidnapping; car jacking.	10-20 years in prison; fine of \$200,000; or both
Second degree	robbery, aggravated arson; theft of \$75,000 or more; manslaughter; possession of a firearm for unlawful purposes.	5-10 years in prison; fine of \$150,000; or both
Third degree	arson; criminal mischief of \$2,000; theft over \$500; terroristic threats; unlawful possession of a handgun; death by auto.	3-5 years in prison; fine of \$15,000; or both
Fourth degree	criminal mischief (greater than \$500, less than \$2,000); theft over \$200; stalking.	up to 1 ½ years in prison; fine of \$10,000; or both
Disorderly Persons	theft under \$200; simple assault; lewdness.	6 months in county jail; fine of \$1,000; or both
Petty Disorderly Persons	obstructing highways; prostitution; harassment.	30 days in county jail; fine of \$500; or both

According to the Code, if this is the defendant's first offense and the crime is of the third or fourth degree, the defendant must be given probation or less than one year in the county jail.

Some very serious crimes have penalties more than those listed above. For example, purposeful murder (commonly called "premeditated murder") is a crime of the first degree and the defendant will be sentenced to a term of 30 years to life during which the defendant is not eligible for parole. If certain factors are present in a murder, the defendant can be charged with **capital**

murder. If a defendant is charged with capital murder, the defendant can be sentenced to death based upon the result of a special penalty hearing.

The court may also impose a fine of double the amount the defendant gained or the victim lost by the crime as well as order the defendant to pay restitution to the victim.

With the state's **“Three Strikes, You’re Out”** law, any person who is convicted of one of the following crimes and who has been convicted twice before of one of these crimes will be sentenced to life in prison with **no** chance of parole. The crimes are as follows: murder or criminal homicide; reckless manslaughter; kidnapping where the victim is under 16 years old or where the victim is injured or killed or not voluntarily released; aggravated sexual assault involving severe injury to the victim or the offender is armed or assisted in committing the crime or where the victim is mentally or physically incapacitated; robbery; and car jacking.

In some situations, the judge must sentence a person convicted of a crime of the first, second or third degree to a longer term in prison. Examples of situations where it can happen are:

- if the defendant is convicted of one of the following crimes and has been convicted of one or more of these crimes twice in the past and one of prior crimes occurred within 10 years of the current crime or the defendant was released from prison within 10 years of the current crime. The crimes are as follows: manslaughter while fleeing a law enforcement officer; aggravated assault where there is either significant or serious bodily injury or occurred while fleeing a law enforcement officer; assault with a deadly weapon; kidnapping where the victim was released and unharmed; aggravated criminal sexual contact which involved physical force or where the victim was mentally or physically incapacitated; robbery; burglary; possession of firearms, explosives or destructive devices for unlawful use.
- if the defendant is considered a “professional criminal” who earns a living by committing crimes and has two or more partners;
- if the defendant was paid or paid someone else to commit a crime, such as murder or assault, he or she faces an extended sentence;
- if the defendant uses a firearm or gun in this crime and has been convicted of using a firearm in a crime before.

The penalties for an extended prison sentence are as follows:

First degree	20 years to life in prison; fine of \$200,000; or both
Second degree	10-20 years in prison; fine of \$150,000; or both
Third degree	5-10 years in prison; fine of \$15,000; or both
Fourth degree	5 years in prison; fine of \$10,000; or both

Sentencing in Court

On the day of sentencing, the defendant, the defense attorney and the assistant prosecutor come before the judge in open court for the final determination of the sentence.

At this time, the defense attorney tells the court about any errors the defendant believes are in the PSI. The defense attorney also talks about issues called **mitigating factors** that may cause the judge to adjust the sentence. The assistant prosecutor tells the court about any reason why the penalty should not be reduced and lists any **aggravating factors**. The defendant and the victim are also allowed to speak to the court at this time.

The judge considers this new information along with all of the information in the PSI and the law. The judge weighs the **aggravating** and **mitigating** factors. He or she then announces the sentence and the reasons for giving that sentence.

Section 10: Restitution

Restitution is money the defendant has to pay to the victim for stolen or damaged property, lost wages and medical and counseling costs. In New Jersey, **restitution** is *mandatory*. The judge must order the defendant to pay restitution as part of the penalty given at sentencing so long as the judge believes the defendant can pay the restitution. Restitution should also be one of the conditions the defendant must meet while on PTI or probation.

The court must hold a **restitution hearing**. At this hearing, the defendant is allowed to say whether or not he or she thinks the amount of restitution is correct. The defendant is allowed to tell the judge about his or her own money situation and request to make monthly or weekly payments.

By law, **restitution** cannot be used to pay the victim for “pain and suffering.” The amount of restitution ordered cannot exceed the losses claimed by the victim. The victim can take the defendant to the Civil Division of the Superior Court to sue for additional amounts of money.

Section 11: Appeal

If the defendant is found guilty of an offense and is sentenced, he or she has the right to file an appeal with the **Appellate Division** of the Superior Court (see Chapter 2). The defendant can ask the appellate court to review all of the hearing and trial records to make sure that no legal errors were made. The defendant can also ask the appellate court to look at the investigative stage which led to his or her arrest. The defendant may even appeal the sentencing which took place after a plea bargain agreement and a non-jury trial.

The state however, cannot appeal an innocent verdict or “acquittal.” The Constitution of New Jersey says that to do so would be “double jeopardy” or *trying* someone for the same crime twice. The state can appeal to the appellate court if the state believes that the sentence is not correct. Appeals like this are rare.

If the Appellate Division of the Superior Court finds no legal errors which led to a wrong conviction or sentencing, the defendant can appeal to the **Supreme Court of New Jersey**. Not every appeal filed with the Supreme Court is heard. Normally the Supreme Court only hears cases where there is some evidence that a person’s constitutional rights have been violated.

Every capital or death penalty case is automatically appealed to the **Supreme Court**. This is important because the death penalty is the most severe penalty that can be given. Every attempt must be made to make sure an innocent person is not put to death.

If the **Supreme Court** upholds or agrees with a decision of the lower court and finds that the defendant’s constitutional rights have not been violated, the defendant can appeal the case to the **United States Federal Court system**. To do this, the defendant files a petition or formal document with the **U.S. District Court** seeking a writ of *habeas corpus* relief. A *habeas corpus* relief means that the defendant is saying that he or she is being held in prison unfairly, against his or her **federal constitutional** rights. If the U.S. District Court finds that there is some merit to the defendant’s claim, the U.S. District Court usually gives the State the chance to retry the defendant in order to correct any errors that many have taken place. If the U.S. District Court agrees with the defendant, then the State must turn the defendant over to the court and the defendant is freed. If the U.S. District Court denies the request for relief, a defendant can appeal that decision to the **U.S. Third Circuit Court of Appeals**. After that, a defendant may appeal to the nation's highest court, the **U.S. Supreme Court**, but very few cases are taken and heard by that court.

As shown above, the defendant has many chances to challenge his or her conviction and sentence by appealing to a higher court. An appeal to all the appellate courts can take years to complete.

Section 12: Parole

Parole is the early release from prison of an offender or inmate under very close supervision. The goal of parole is to help the offender live as a productive member in society and is a privilege given to offenders who earn it. Parole *is not* a right.

An inmate becomes eligible to be considered for parole after serving a minimum number of years of the sentence or 85% of the court's sentence. This minimum number is outlined in the law for each offense. An inmate or offender can also become eligible for early release from prison by following all of the rules of the prison and not getting into trouble and by working at a job while in prison. The inmate earns good time credits and work credits.

When an inmate becomes eligible for parole, the parole board schedules a hearing to look at the inmate's progress. The parole board looks at the inmate's record to see if he or she has broken prison rules; if he or she is participating in counseling; and if the inmate is working or taking classes. The parole board also looks at reports written by the prison psychiatrist, prison staff, the assistant prosecutor and the judge. The inmate must also have a **parole plan** which tells about the inmate's plans after release, such as housing and employment. Finally, the parole board considers any information from the victim. The victim can come to the parole hearing and speak in person or write a letter telling how the crime has affected his or her life.

After the hearing, the parole board reviews all of this information to determine the likelihood that the inmate will not commit another crime. The parole board announces its decision to either allow the inmate out of prison on parole or deny the parole release and set a date when the inmate can be considered again. This date is called the future eligibility term (FET).

If the board believes the inmate is ready for parole, a parole release date is set and conditions of parole are outlined. The conditions include rules that are the same for all released inmates: living in an approved residence and reporting to the parole officer when required as well as special conditions for the individual inmate. Special conditions can include drug or alcohol rehabilitation, mental health counseling, community service, restitution and drug testing.

If a parolee (released inmate) does not meet all of the conditions of parole, then he or she is in **violation of parole** and can be returned to prison. Additionally, if the parolee commits another offense while on parole, he or she will be returned to prison immediately and will then have to serve all the time remaining in the original sentence.

Section 13: Intensive Supervision Program (ISP)

The **intensive supervision program (ISP)** is a tough and strict form of community supervision which allows carefully selected **nonviolent** offenders in state prison to serve the remainder of their prison sentences in the community rather than in prison. **ISP** continues the punishment of prison incarceration and holds offenders accountable for their behavior.

One of the goals of **ISP** is to help offenders form new habits. Participants in **ISP** must have a job, submit to drug and alcohol tests, support his or her family, participate in treatment and counseling programs, pay all fines and restitution, perform 16 hours of community service per week and have weekly contact with his or her community sponsor and network team members. Participants have strict curfews and random searches of his or her home, car and body may be conducted. If an **ISP** participant commits any offense while on **ISP**, he or she may be returned to prison to complete any time remaining on the original prison sentence.

The inmate can apply for **ISP** after serving at least 30 days of the court sentence. In the application, the inmate must show that he or she has a job and a **community sponsor and network team**.

Chapter 3

The Victim's Role in the Criminal Justice System

Your role in the criminal justice system is important. Without your help, the person who committed the crime may go free. With your help, courts can punish that person.

All of the steps in the criminal justice system are explained in Chapter 2. In this chapter, your role in each of these steps is explained.

After a crime has been committed against you, you are considered a victim of that crime. As the victim, it may be necessary for you to give the police details about the crime. This is called a formal statement. It may be necessary for you to identify the suspect to the police from a group of pictures or from a line-up of men or women. The police may need to have a doctor examine you or to have pictures taken of your injuries. You do not have to do this, but if you do not, it will be more difficult or maybe even impossible to prosecute the person who injured you. If you wish, you may have someone go with you to the hospital or to the police station.

In addition to any physical injuries you may have received, you may also have an emotional reaction. You may not feel as safe as you did before the crime occurred. You may have feelings of shock, numbness, grief and anger. You may feel as if the crime occurred because of something you did. All of these feelings are normal and are commonly experienced by victims. In Chapter 8, you will find information about the physical and emotional impact of crime.

Section 1: Investigation/Arrest

The police may have to search for clues before the person who committed the crime can be arrested. The arrest may be only a short time after the crime occurred or it may take much longer. In any case, the police will assist you in filling out the Victim Notification Form. By completing this form, you will help the police or jail to notify you when the offender is arrested or released from jail on bail.

There may be a period of time when you do not hear from the police and you may feel you have been forgotten. You can call the office of victim-witness advocacy in the county prosecutor's office. They can contact the police or an investigator in the county prosecutor's office to find out what is happening.

While the police and the prosecutor's office work hard to find criminals, sometimes cases are not solved. You should be prepared in the event this happens.

Section 2: Case Review

When a serious crime happens and the person accused has been identified or arrested, the case goes from the police department to the municipal court to the county prosecutor's office for review. The prosecutor's will decide if the case should be prosecuted. At this time, the office of victim-witness advocacy will send you information about your rights as a crime victim. They will send you a **victim information and impact form**. The information you put on this form will be given to the prosecutor and to the judge. It is a way for you to tell them how you feel about what happened to you and about any injuries or financial losses you suffered as a result of the crime. Your completed **victim information and impact form** will be used to help the prosecutor's office decide whether or not to prosecute a case. The county office of victim-witness advocacy can help you fill out the form and answer any questions you may have.

Section 3: Grand Jury

In New Jersey, in order for the prosecutor's office to continue with the prosecution of a case, the evidence that has been collected must be presented to the grand jury.

As a victim, you may receive a subpoena to come to testify at the grand jury hearing. Most times, an assistant prosecutor will meet with you before the grand jury hearing to help you get ready to testify. No one except the assistant prosecutor assigned to the case and the people who are members of the grand jury will be allowed in the room with you when you are testifying. Staff from the county office of victim-witness advocacy can sit with you while you wait to testify and answer any questions you may have.

If you have questions about this process or about what is happening with your case, the office of victim-witness advocacy in the prosecutor's office can help you. They also let you know if the grand jury voted for an indictment and what will happen with your case following the grand jury's decision.

Section 4: Arraignment

If the grand jury indicts the accused, the next step is called the arraignment. The accused, who is called the defendant, must appear in court on a date chosen by the court. You do not have to come to court on that date, but you may if you wish. At the arraignment, the defendant is told of the charges against him or her, is asked to plead guilty or not guilty, and is told of his or her right to a lawyer. He or she is also told of his or her right to a trial by jury. The judge sets bail if this has not been done already.

If you do not come to the arraignment, but would like to know what happened, you should contact the county office of victim-witness advocacy. You will automatically be notified if the defendant is released from jail while waiting to go to trial.

Section 5: Pre-Trial Intervention

Some defendants may be eligible to apply for **pre-trial intervention** or PTI. If the defendant in your case asks for PTI, the probation department will send you a letter asking you to tell them whether you think the defendant deserves PTI. This information is given to the judge and is considered when the judge approves or denies the defendant's application for PTI.

Section 6: Waiting for the Trial

There is often a long period of time to wait before the case is scheduled for trial. During that time the defendant is usually "out on the street." This is often upsetting to the victim. One of the conditions of bail can be that the defendant has no contact with you. If you are contacted by the defendant in any way, call the prosecutor's office immediately.

During this time, both the defendant's attorney and the assistant prosecutor may contact you to ask for information about the offense. It is to your benefit to speak with members of the prosecutor's office. You **do not** have to talk with the defendant's attorney or anyone else connected with the defendant. However, you may talk with them if you wish.

You have the right to be told about a plea offer before it is made. The assistant prosecutor listens to any concerns you may have. The assistant prosecutor will also consider any comments you made on the victim information and impact form. The final decision about a plea offer belongs to the county prosecutor. If you have concerns or want more information, contact the county office of victim-witness advocacy.

Section 7: Trial

Once the trial is scheduled to begin, you may receive an "On-Call" subpoena. However, you do not have to go to court on the date written on the "On-Call" subpoena. Call the telephone number on the subpoena and ask when you should come to court. Because there is often more than one trial listed for a specific date, the judge must choose which trial is actually going to begin on that date (See Chapter 1) That is why you should not come to court without calling first. You will meet with an assistant prosecutor before the trial to discuss your case. You may be shown pictures taken where the crime occurred. You may also be shown statements or other evidence to help you remember the details of the offense.

Since the defendant will be in the court room during the trial, you may feel more comfortable if you have friends or family in the courtroom while you are testifying. Victim-witness counselors can go with you to the courtroom and wait with you in a private, safe area before you go into the courtroom.

You may not be allowed in the courtroom until you testify. This is called **sequestering**. The reason for sequestering is so that the testimony of other witnesses does not effect or change how you

remember the facts. Do not speak with other witnesses about your testimony. Once you have testified, however, it is your right to be in the courtroom for the remainder of the trial. You should try to remain calm and keep a normal expression on your face. Some judges may ask you to leave if you show emotion because the judge might feel the jury could be unfairly influenced by your reactions to the testimony of others.

Section 8: Pre-Sentence Investigation Report (PSI)

If the defendant is found guilty after trial or has pled guilty, the judge orders the Probation Department to write a **pre-sentence investigation report** (PSI). Part of this report called the **victim impact section**.

The **victim impact section** can include information about the effect the crime had on you and your family, including any injuries you may have received, money or property stolen or damaged and how the crime affected you personally. The probation officer will send you a letter requesting this information. If you decide to send this statement to the probation officer, it will become part of the pre-sentence investigation report. The completed report is given to the judge, the defendant's attorney, and the assistant prosecutor. This report is used by the judge to help him determine the sentence. If you need help writing the statement you want to send to the probation officer, a victim-witness counselor will help you. You are *urged* to give information to the probation department because the judge considers any comments you make and determines restitution based on the information which you provide.

Section 9: Sentence

You will be notified of the sentencing date by the office of victim-witness advocacy. You may attend the sentencing if you wish to do so, but you are not required to attend. You have the right to speak to the judge during the sentencing about the impact of the crime on you and on your family. The judge considers your victim impact statement, whether you come to court or whether you use the **victim information and impact statement** form, when he or she decides on a sentence. A victim-witness counselor can go with you to the sentencing.

Whether you go to the sentencing or not, the sentencing outcome will be mailed to you. A sentence does not always include jail. Sometimes, a sentence may be probation with conditions such as fines, restitution, community service, and/or counseling.

Section 10: Appeal

By law, the prosecutor's office cannot appeal a "not guilty" verdict or acquittal. However, the defendant does have the right to appeal a "guilty" verdict. If the defendant does appeal a guilty verdict, the Appellate Division of the Superior Court (see Chapter 4) decides if there is sufficient legal reason to change the verdict.

The appeal process may take several months or even years. If the defendant has been sentenced, he or she usually continues serving his or her sentence while the appeal is being decided. Because the appeal involves questions of legal errors, the victim's presence is not necessary at an appeal hearing, called an "oral argument." The appellate panel will not hear from any witnesses, only the attorneys will speak. You may ask to be kept informed of the proceedings by contacting the county office of victim-witness advocacy.

Section 11: Parole

If the defendant is convicted of a first or second degree crime, you have the right to testify to the parole board when the defendant is being considered for parole. The county office of victim-witness advocacy will send you a registration form with the sentencing outcome information. If you wish to be able to have an opportunity to testify at the parole hearing, complete the form and send it to the parole board.

When the defendant is going to be considered for parole, you will be contacted by the parole board's victim input unit, and you have the right to submit a written statement, meet with a senior hearing officer of the board or appear personally to testify before the parole board. If you decide to send the parole board a written statement or to testify at the parole hearing, you should tell the parole board about how the crime continues to affect your life. Any other information that would help the board determine the likelihood of a new crime being committed by the defendant if he or she is released on parole would be helpful.

Section 12: Intensive Supervision Program

The intensive supervision program is explained in Chapter 2. If a defendant applies for this program, the Administrative Office of the Courts will send you a victim questionnaire form. This form provides you with the chance to tell them if you agree or disagree with the defendant being released from jail for this program. It asks you to list your financial losses so that restitution can be part of the conditions of the program. The form also has a place for you to request to be notified of the date, time, and place of the resentencing panel hearing if you wish to attend. The resentencing panel hearing is held to decide whether or not to allow the defendant into the intensive supervision program. If approved for this program, the defendant will be released from jail into the program.

Chapter 4

The New Jersey Court System

This section of the booklet tells how the courts are structured and describes the types of cases heard by the different courts. The diagram at the end of this chapter illustrates the structure of New Jersey's court system.

Municipal Court

There are more than 500 municipal or local courts in New Jersey. These municipal courts are courts of *limited jurisdiction* handling criminal and quasi-criminal matters. *Limited jurisdiction* means that the municipal court can only deal with matters that occur in its town. There are no jury trials in municipal court. The judge is in charge of the court and decides if someone has broken the law.

A municipal court handles motor vehicle offenses, ordinance violations and disorderly persons offenses. A disorderly persons offense is considered a minor offense. The judge can subject the offender to a fine of up to \$1000.00 and/or up to six months in jail. Offenses that fall into the disorderly persons category include simple assault, theft or receiving stolen property less than \$200.00, and a variety of other violations of the law (see Chapter 2). Disorderly persons offenses do not have the same penalties as criminal convictions, such as loss of the right to vote. But, as in any criminal case, guilt must be established beyond a doubt for a conviction and defendants are innocent until proven guilty. All proceedings in municipal court are recorded word-for-word by recording machines or court reporter.

The municipal court is also the first court to hear serious criminal cases. Many first court appearances are made in this court (see Chapter 2). The defendant is told his or her rights and is given a copy of the complaint. Bail is set at this court. These cases are then referred to the county prosecutor for review.

The municipal judges are appointed to three-year terms by a local governing body, such as the Mayor or Town Council. The municipal courts handle almost six million cases a year.

Superior Court

Superior court is the state trial court. It is divided into four trial branches and appellate division. The trial branches of the superior court are civil (non-criminal), chancery, family and criminal.

The **Superior Court, Criminal Division** handles every case where an adult has been accused of committing a serious crime. In a criminal case, the defendant has the right to a jury trial unless that right is given up in writing. The criminal jury consists of twelve persons who decide the guilt or innocence of the defendant after hearing testimony, listening to arguments by lawyers, and receiving instructions from the judge about the law.

The **Family Division of the Superior Court** handles all cases where a juvenile is accused of committing a crime, as well as all family-related cases such as, divorce, child support and visitation, paternity, adoption, child abuse and domestic violence.

Any crime committed by someone under 18 years of age is an act of **juvenile delinquency**. However, the same principles of innocence until proven guilty, burden of proof and the requirement for proof beyond a reasonable doubt also are applied to these cases. Some juveniles who commit very serious crimes may be treated like an adult by the criminal justice system and their case could be heard in the **Superior Court Criminal Division**.

All appeals concerning a **municipal court's** decision are made to the **Superior Court, Criminal Division**. For appeals, witnesses are not called into court. The superior court judge reads the written records of the municipal court case and decides the case "anew" (all over again) based on the written records.

The superior court judges, appointed by the governor, sit in courthouses within the county seat of each of the 21 counties in the state. Superior court is divided into 15 vicinages or regions, some of which include more than one county. An assignment judge is appointed by the Chief Justice of the Supreme Court to oversee each of the vicinages. The superior court handles over one million cases a year.

Appeals from trials in the criminal and family divisions of the superior court are taken to the **Appellate Division of the Superior Court**. An appeal is a legal procedure by which a case is brought from a lower court to higher court for rehearing. Every accused person has the right to appeal to the **Superior Court, Appellate Division**. Appeals are based upon the written records or transcripts of the original trial. All the proceedings in the superior courts are taken down word-for-word by a court reporter or by a recording machine.

Appeals at the Superior Court, Appellate Division are different from appeals of municipal court decisions. Appellate division judges *do not* determine the case anew. In contrast to the municipal appeals, these hearings are not new trials. Instead, appellate division judges decide whether or not any legal errors were made by the trial court in the family or criminal division.

The appellate division includes 28 judges who sit on panels of two or three to hear appeals in locations throughout the state. Appellate division judges, including the presiding judge for administration, are selected from superior court judges and are assigned to the division by the chief justice. The Superior Court Appellate Division handles more than 14,000 motions and cases a year.

Supreme Court

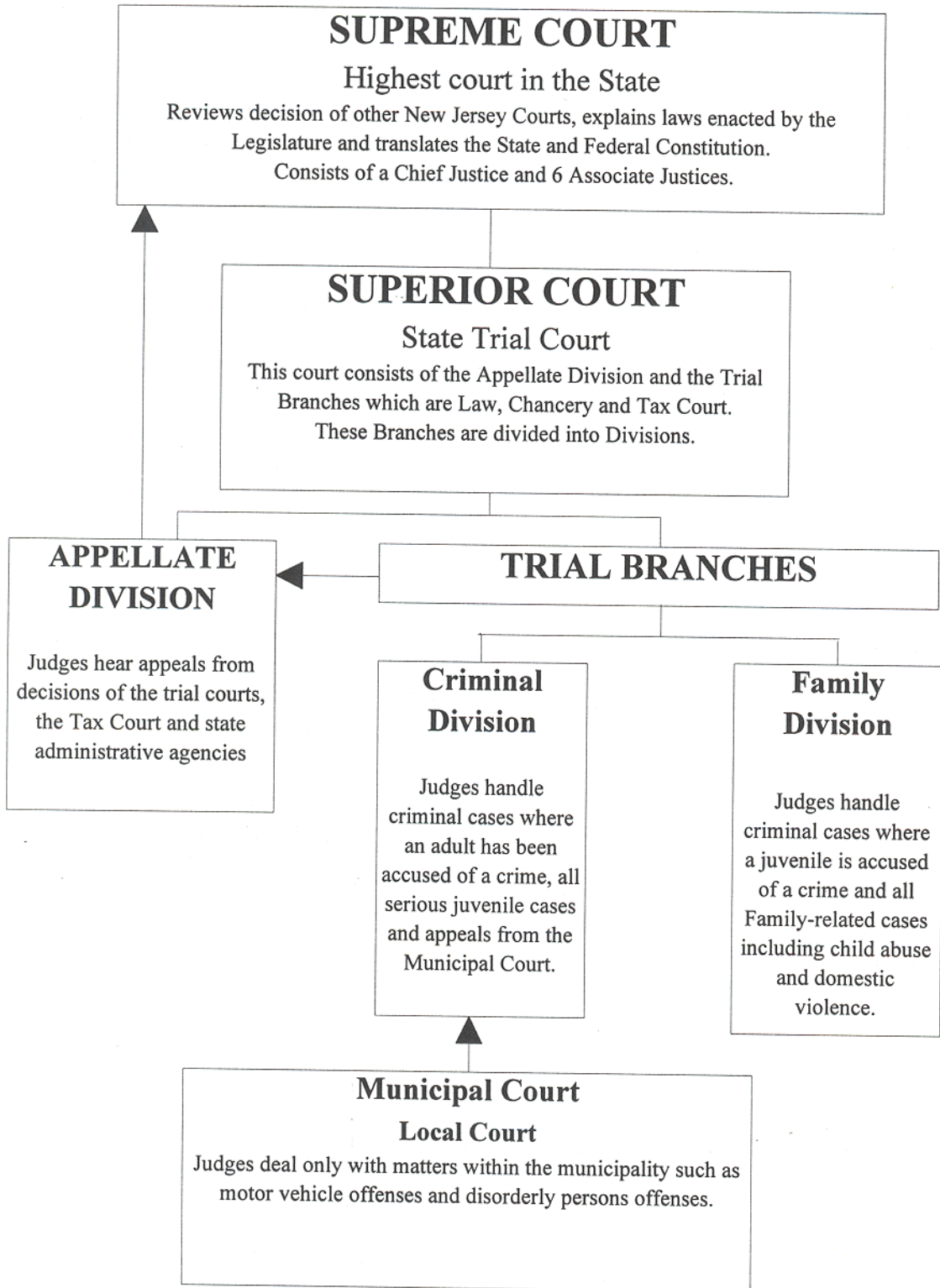
The New Jersey Supreme Court is the highest court in the state. It hears appeals of decisions of other courts and interprets the law and the New Jersey State Constitution.

An appeal to the Supreme Court may be made if a constitutional issue is involved in the case, or if there is a split decision in the Appellate Division of Superior Court, or in any capital offense (death penalty) case.

The court may also choose to hear other appeals. The Supreme Court is also responsible for the rules governing the operation of the courts and the regulation of the practice of law in the state.

The Chief Justice and six associate justices of the Supreme Court sit in Trenton in the Richard J. Hughes complex. They are appointed by the governor and confirmed by the state senate for an initial seven-year term. On reappointment, justices are granted tenure up to the mandatory judicial retirement age of 70.

Court System of New Jersey Relating to Criminal Matters



→ shows order of appeals process

Chapter 5

The Juvenile Justice System

Most people have some basic understanding of how the criminal justice system works. Few people understand the juvenile justice system. In part, this is because a great deal of what the juvenile justice system does is confidential. In the absence of information, people tend to expect the juvenile justice system to function as the more familiar criminal justice system does. Such expectations are often misleading.

This chapter is intended to provide a better understanding of New Jersey's juvenile justice system. It explains what juvenile delinquency is and how the juvenile justice system is structured. It also describes, in general terms, the steps in the juvenile justice process. Readers should keep in mind that resources, practices and terminology vary from county to county and in some instances may differ from the descriptions in this guide.

Commonly Asked Questions

What is delinquency?

Although people often use the word "crime" broadly to describe any type of offense, in law this word is usually reserved for serious offenses, and the terms: disorderly persons offenses or petty, disorderly persons offenses are used for fewer serious offenses. New Jersey's criminal code describes specific offenses. The juvenile delinquency code does not list specific offenses the way the criminal code does. Instead, it defines juvenile delinquency as an act committed by someone under the age of 18, that would be a crime, a disorderly persons offense, a petty disorderly persons offense or a violation of a regulation or a municipal ordinance, if committed by an adult. This includes a wide range of offenses, from spray-painting graffiti or shoplifting to violent crimes like armed robbery or aggravated assault.

What isn't delinquency?

Motor vehicle offenses, boating offenses, and smoking in public are not delinquency. These offenses are handled in municipal court, whether they are committed by juveniles or adults.

Status offenses are also **not** delinquent offenses in New Jersey. Status offenses are those which would not be an offense if committed by an adult. They include running away from home, truancy and serious conflicts over issues of parental authority. In New Jersey these problems are not offenses; they are called juvenile-family crises. These kinds of cases are handled by Juvenile-Family Crisis Intervention Units. Juvenile-Family Crisis Intervention Units try to deal with a juvenile's problems within the context of the whole family since a juvenile's behaviors may often be symptoms of other problems within the family. These problems do not result in the filing of a delinquency complaint, although they may be petitioned to court, if the unit is unable to resolve the crisis without court intervention.

Why are juveniles treated differently from adults?

The first juvenile court in the United States was established in Chicago in 1899. Separate juvenile courts were not established in New Jersey until 1929. The philosophy that led to the creation of juvenile courts is that the court was to act in the place of the juvenile's parents. The primary goal of juvenile courts was to rehabilitate the juvenile. This focus has changed over the years and now the juvenile justice system is also concerned with holding juveniles accountable for their actions and protecting public safety.

When can a juvenile be tried as an adult?

When a juvenile commits a serious offense and it does not seem likely that the juvenile can be rehabilitated by the age of 19, that juvenile's case may be transferred to the criminal court for prosecution as an adult. This can be done at the request of the prosecutor, but only if the transfer is approved by the family court. This is called 'waiver to adult court.' A waiver hearing is required before the transfer can take place and this process may take many months. If waiver is granted, the family court waives its jurisdiction over the case and transfers the case to the criminal court. Once a case is waived to the criminal court, it is handled like any other adult case and is no longer part of the juvenile justice system.

The Juvenile Justice System

Parts of the System

The juvenile justice system in New Jersey is made up of several parts. The courts, prosecutors, police, the Juvenile Justice Commission, County Youth Services Commissions, the Department of Law and Public Safety, the Public Defender, the Department of Human Services, (including the Division of Youth and Family Services) schools and other public and private social service agencies and community groups all play a role in the juvenile justice system. All of these parts of the juvenile justice system must work effectively for the system as a whole to be successful. If one part of the system is neglected, the other parts of the system will not be able to do their jobs as well as they should.

Together these components of the juvenile justice system must provide a network of care, supervision and accountability that will guide juveniles into becoming responsible and productive adults. Establishing an effective network of care and supervision is especially important when the delinquent juvenile's family is either unwilling or unable to provide that care.

Goals of the Juvenile Justice System

When a juvenile commits a delinquent act, our juvenile justice system has three basic goals:

1. To ensure that public safety is protected.
2. To rehabilitate the juvenile so that he or she can grow into a resourceful and productive person who will contribute positively to society.

3. To hold the juvenile accountable for his or her acts.

Sometimes these goals conflict with one another. In some cases protecting public safety or holding a juvenile accountable is the most important goal. In other cases rehabilitation is the most important consideration in arriving at a disposition.

Juvenile Justice Commission

The Juvenile Justice Commission was created in 1996 to unify major responsibilities for juvenile justice program operation, policy planning and research within a single State entity. The Commission is responsible for:

1. Setting juvenile justice policy and formulating an annual statewide plan on juvenile justice.
2. Operating juvenile correctional programs such as training schools, a boot camp, and residential or day treatment programs.
3. Establishing and implementing the state/community partnership grant program.
4. Supporting County Youth Services Commissions, setting criteria to be addressed by their annual plans, and reviewing those plans.

County Youth Services Commissions

County Youth Services Commissions plan and implement community-based services and sanctions, including prevention and intervention strategies to reduce juvenile delinquency.

Law Enforcement

Police, prosecutors and the Department of Law and Public Safety (headed by the state's Attorney General) work together to enforce the law. The Attorney General, acting through the Division of Criminal Justice, sets law enforcement policy for the state. Each county has a prosecutor who has supervisory authority over the police departments in his or her county. The prosecutor also represents the state in serious juvenile cases which are not diverted.¹ Each prosecutor's office also has a county office of victim-witness advocacy to assist crime victims.

Police departments are responsible for investigating juvenile offenses, and for preparing and filing juvenile delinquency complaints with the family court. Police may arrest juveniles, but not every offense results in an arrest.² If a juvenile is caught, a police officer may decide that a warning or a talk with parents is more appropriate than an arrest. Many police departments have specialized juvenile officers who also resolve some minor delinquency offenses through a process known as station-house adjustment.

¹The diversion of less serious juvenile cases is discussed under the "Steps in the Juvenile Justice Process" section later in this guide.

²Legally, under New Jersey's juvenile code, juveniles are not "arrested," they are taken into custody. The juvenile code specifically states: "The taking of a juvenile into custody shall not be construed as an arrest..." *N.J.S.A. 2A:4A-31(c)*. However, since the word arrest is commonly used throughout the juvenile justice system, it is also used in this chapter although the phrase "taken into custody" would be more accurate.

Station house adjustments are used to resolve minor offenses when the juvenile has no record of prior acts of delinquency. Often these offenses arise out of disputes among juveniles or with the juvenile's neighbors. In a station house adjustment the juvenile officer usually asks the juvenile, a parent or guardian, and the victim, to come to the station house to discuss the offense. The officer may refer a juvenile for needed services, and, if property has been stolen or damaged, ask the juvenile to make restitution in some form. Usually the officer discusses the offense with the juvenile's parent or guardian and asks for promises that the juvenile will not commit any future offenses. This process allows juvenile officers to resolve minor disputes without the need to file a complaint with the court.

Education

While no one expects schools to serve the role of our correctional institutions or probation, schools are an essential part of both prevention strategies and rehabilitation efforts.

School districts can help prevent delinquency by providing the kind of quality education that all children need to become successful adults. Without hope for the future, children have little to lose if they get into trouble. Schools can establish programs which keep schools open in the evenings as a place where adolescents can meet, talk, work and play free from the dangers and temptations that exist on the streets. Schools can also help prevent delinquency by dealing effectively with truancy, to keep children in school.

Education is also needed to rehabilitate juveniles who have been found delinquent. Few rehabilitation plans that leave a juvenile uneducated, out of school, and out of work are successful. This is why judges often require regular attendance at school, or studying for a high school equivalency diploma as part of a disposition when they enter an order in a juvenile delinquency case.

Family Court

The family court was created December 31, 1983. It was created at the same time that our current Code of Juvenile Justice went into effect. Together, the family court and the Code of Juvenile Justice were intended to deal with delinquency more effectively, by allowing the court to deal with a delinquent's problems in the context of larger problems that may exist within a family. The family court handles all problems related to family relationships, including child abuse, domestic violence, child support, custody, visitation and divorce cases.

The family court is much more than judges in courtrooms deciding cases. For juvenile cases there are also alternative ways to resolve less serious cases that are managed by family court intake staff. These alternative ways of resolving cases are called "diversion." Station house adjustments are another form of diversion that takes place before a case ever gets to the court.³ The process by which family court intake officers decide which cases to divert is known as "screening."

³See the Law Enforcement section of this chapter for an explanation of station house adjustments.

Steps in the Juvenile Justice Process

Detention

Juveniles who are charged with serious offenses, or who cannot be relied on to voluntarily appear at future court dates may be held in detention while awaiting adjudication. Admission to the detention facility must be approved by family court intake. Juveniles do not have a right to bail.

Diversion

Although many counties have developed smaller diversion programs aimed at specific offenses, such as shoplifting, the two most common diversions are juvenile conference committees and intake service conferences. Juvenile conference committees are local committees of trained court volunteers who deal with minor offenses occurring in their communities. The committees usually meet locally at a convenient place. Juvenile conference committee volunteers are recruited, trained and managed by family court intake staff. Intake service conferences are conducted by family court intake officers. For both of these procedures, the juvenile and parents or guardians must attend. Usually an agreement is reached that includes actions that the juvenile must undertake. These actions can range from writing a letter of apology to restitution or performing community service. If an agreement is reached and the juvenile carries out the terms of the agreement, the case is successfully diverted and the juvenile is not adjudicated delinquent. If the juvenile does not attend the meeting, or does not carry out the requirements of the agreement the case is returned to the court for a hearing before a judge.

Adjudication

If a juvenile's offense is too serious for diversion, or if the juvenile's prior record of delinquency rules out diversion, the case must be adjudicated. Adjudication is the process by which a judge decides whether a juvenile should be found to have committed a delinquent offense. Juveniles who are found to have committed an offense are not "convicted of a crime," they are "adjudicated delinquent." Juveniles do not have a right to a jury trial, a right to bail or a right to indictment. They do have all other rights that an adult has, and may use the same defenses.

In many counties juvenile cases are divided into two types called either "formal" or "informal" cases, before they are heard by a judge. "Formal" cases are serious offenses where incarceration or some other severe outcome is a possibility. In formal cases, juveniles must be represented by an attorney. If they cannot afford an attorney, they are represented by a public defender. "Informal" cases are offenses where incarceration is not a possible outcome. While juveniles may bring their own private attorney, if they cannot afford an attorney they will not be represented. In some counties these cases are called "Counsel Mandatory" (formal) or "Counsel Non-mandatory" (informal).

Some counties also have a juvenile referee program. In these counties the referee conducts an informal hearing and recommends both findings of fact and a disposition to a judge. The juvenile referee program is not considered a diversion because if the judge accepts the referee's recommendations the juvenile is adjudicated delinquent, just as if the hearing had occurred before a judge.

Disposition

If a juvenile is adjudicated delinquent, the court then must decide on a disposition. A disposition is similar to the sentence that is imposed on an adult criminal. Dispositions may be imposed at the time of the adjudication, or the juvenile may be required to return for a separate dispositional hearing at a later date. Dispositions can take many forms and may combine several requirements in one order. Some of the most common dispositions are fines, restitution, community service, probation, mandatory attendance at some type of treatment program, and incarceration. In some circumstances the judge may also order parents or guardians to participate in the disposition. The dispositions available to the court are described in more detail later in this guide.

Confidentiality

The confidentiality provisions of the juvenile code were revised on June 29, 1994. Although juvenile delinquency proceedings are closed to the public, the prosecutor may now publicly disclose dispositions in serious juvenile delinquency cases. The confidentiality law also allows law enforcement officials to share delinquency information with schools and requires schools to be notified of delinquent activity in some circumstances.

Victims' Rights

Differences from the Criminal System

Some rights available to victims in the adult criminal system may not be available in the juvenile justice system. For example, most juvenile hearings are closed to the public and victims do not have a right to observe those hearings.

Information regarding the case

The juvenile code allows information regarding the identity of a juvenile, the offense charged, the adjudication and disposition to be given to a victim or a member of the victim's immediate family. A court order is needed to obtain a juvenile's address for purposes such as a civil lawsuit. If a victim needs a police report for insurance purposes the juvenile's name and other identifying information are usually blocked out.

HIV/AIDS testing

A victim of an aggravated sexual assault or a sexual assault may request that a juvenile who is charged with the offense or adjudicated delinquent of the offense be tested for HIV/AIDS. The victim will be notified of the results of the test through the office of victim-witness advocacy. Testing may be ordered prior to an adjudication of delinquency when charges are still pending.

Right to make a statement

The juvenile code provides that a predisposition report ordered by the court may include a statement by the victim of the offense. A victim has a right to make a statement before disposition if the offense committed is one that would be a crime (indictable offense) if committed by an adult.

Victim-Witness assistance

Each prosecutor's office has a county office of victim-witness advocacy which is available to assist victims of crimes or delinquent acts.

Victims of Crime Compensation Board

A victim of a juvenile delinquency offense may request compensation for injuries from the Victims of Crime Compensation Board.

After Court

Dispositions

After a juvenile is adjudicated delinquent, the court enters a disposition. The juvenile must then carry out all of the terms of the disposition. If the juvenile fails to complete the requirements of the disposition, the case can be brought back to court and the disposition can be changed to one that is more restrictive.

Dispositions and dispositional services are vital to the success of the juvenile delinquency system. Although the juvenile code may authorize a particular disposition, such as residential placement, if there are no placements available the judge will not be able to use that disposition. A variety of dispositions are authorized by New Jersey's juvenile code. Among the dispositions a judge can order are:

1. Order that the entry of a disposition be postponed and later dismiss the complaint if no further charges are filed in a specified period of time.
2. Place the juvenile on probation. Judges may also place juveniles on probation to persons in the community who are not probation officers.
3. Transfer custody of the juvenile to a relative or other qualified person.
4. Place the juvenile under the care of the Division of Youth and Family Services for the purpose of providing services in or out of the home.
5. Commit the juvenile to the Division of Mental Health Services for the purpose of placement in a residential facility for the treatment of persons who are mentally ill.
6. Fine the juvenile.
7. Order the juvenile to make restitution.

8. Order a parent or guardian to make restitution.
9. Order that the juvenile perform community service.
10. Place the juvenile in a suitable residential or nonresidential program for the treatment of alcohol or narcotic abuse.
11. Order the parent or guardian of the juvenile to participate in appropriate programs or services.
12. Place the juvenile under the custody of the Juvenile Justice Commission for placement in a group home or residential facility.
13. Postpone, suspend, or revoke for up to two years the driver's license of any juvenile who used a motor vehicle in the course of committing a delinquent act.
14. The court may order that a juvenile be incarcerated.

Parole

Juvenile parole officers are employed by the Juvenile Justice Commission. When juveniles are released on parole, juvenile parole officers are responsible for assuring that the juvenile follows through with a parole plan mandated by the State Parole Board. If a juvenile does not follow through with a parole plan, the juvenile can be sent back to a correctional facility. Additionally, juvenile parole officers may assist the juvenile in finding a job, enrolling in school or linking with counseling services when necessary.

Community Involvement

Community involvement is often an essential part of a successful juvenile justice disposition. Often, one of the reasons a juvenile commits acts of juvenile delinquency is that there is no adequate network of care or supervision provided by the juvenile's family. For juveniles who lack this care and supervision, it is sometimes possible to provide a substitute in the form of involvement in a church or community group, or through mentoring by community volunteers. When the family fails, it is the community that the juvenile justice system must rely on to give a juvenile the opportunity to develop the sense of self-esteem that is essential to becoming a responsible adult.

Chapter 6

Suggestions for Testifying

Testifying in court can be a difficult and emotional experience. The number one rule to remember when testifying is to **“tell the truth.”**

Preparing to Testify

Before you go to court to testify, you will meet with an investigator and/or an assistant prosecutor assigned to your case. During this interview they will review the facts of the case with you. You may be asked to look at pictures or evidence or to read statements by other witnesses to help you remember the event well. Try to remember all of the facts the best you can, even if you remember them differently from the first time you told them to the police. If you have any questions, ask them ahead of time. Again, the number one rule is to **“tell the truth.”**

To prepare for court, choose clothing that is clean and neat and shows respect for the court. You want others to hear what you say and not look at how you are dressed.

Testifying

On the day you go to court, you will not be permitted in the courtroom when other witnesses are testifying. You will be asked to wait in a separate, secure waiting area. Do not speak with other witnesses about your testimony. When called into the courtroom, go directly to the witness stand. You will be asked to take an oath. Then, you will sit down and begin to answer questions from the assistant prosecutor. The defense attorney will also question you regarding the facts of the case. If one of the lawyers asks you a question that you do not understand, or if the question is confusing, ask the attorney to repeat the question.

Testifying can be emotionally draining. Talking about the events in front of strangers can be difficult or even embarrassing. During the cross-examination by the defense attorney, you may feel that he or she is picking on you personally or trying to upset you as the victim. Try to remember that the defense attorney has nothing against you personally but is trying to win the case. Do not doubt yourself and do not argue with the defense attorney or offer any information that is not part of the answer to the question. During your testimony, try to remain calm even though you may be nervous.

Points to remember

1. **Be prepared.** Before you testify, try to remember the scene and what happened. Do not try to memorize your testimony; just be prepared to tell what happened in your own words.
2. **Listen** carefully to the questions. If you do not understand a question, ask that it be explained or repeated.
3. **Think** before you speak. Give an accurate answer to the best of your ability. If you do not know the answer to a question, or if you do not remember, say so.
4. **Speak clearly** and loud enough so that all the jurors can hear you.
5. **Answer** only the question that is asked of you. Do not volunteer information.
6. **Dress neatly** and appropriately for court. Avoid distracting mannerisms, such as chewing gum while testifying. Be serious and avoid joking.
7. **Stop** when the judge interrupts you or when an attorney objects to a question. Wait until the court gives its ruling. You will be told when to continue.
8. **Be courteous**, even if the lawyer asking the questions is not courteous to you. It is important that you do not lose your temper or argue with either attorney. Stay calm at all times while you are being questioned.
9. **Be honest.** You will be sworn to tell the truth at all times. Do not guess or make up an answer. The old adage is useful: Always tell the truth; it's easier to remember later.

Chapter 7

Questions Often Asked About The Criminal Justice System

1. **Q. How will I know if I have to go to court?**
A. You will receive a subpoena. A subpoena is a court order which tells you where and when to appear.

2. **Q. What should I do if I cannot come to court on the date I was subpoenaed to appear?**
A. Call the prosecutor's office and ask to speak with either the assistant prosecutor assigned to your case or the county office of victim-witness advocacy to explain that you cannot come. If you do not call and tell someone you cannot come to court on the date listed, you may be fined by the judge.

3. **Q. Where will I have to go to testify?**
A. Your subpoena will have the address of the court and a phone number to call before you come to court. You should call to make sure the hearing is still scheduled.

4. **Q. Can I bring my young children with me?**
A. Court proceedings can take a long time, so you should try to find a responsible adult to care for your children at home. If you cannot find someone, call the county office of victim-witness advocacy office. If possible, call before the date of the court proceeding.

5. **Q. Is transportation available?**
A. Yes. Transportation to and from the courthouse will be provided or arranged for upon request to the victim-witness coordinator when your appearance in court is required.

6. **Q. If I have to testify in court, I may miss work or school. What should I do?**
A. Show your employer or a school official your subpoena and explain that you must appear. The employer or a school official may contact the county office of victim-witness advocacy if there are any questions.

7. **Q. Who is the assistant prosecutor and what is the difference between a prosecutor and an assistant prosecutor?**
- A. The assistant prosecutor is an attorney who represents the people of the state of New Jersey in court during criminal cases. It is his or her job to see that justice is done. The assistant prosecutor is an employee of the county prosecutor. The county prosecutor oversees the county prosecutor's office and all law enforcement agencies in the county.
8. **Q. What do I do at a grand jury hearing?**
- A. You will be asked to answer questions about your identity and what you know about the case. The grand jury hearing takes place in front of twenty-three citizens, a court reporter, a court clerk, and an assistant prosecutor. No one else is allowed in the room when you testify. The hearing is not open to the public.
9. **Q. What should I do if I am contacted by a lawyer or investigator for the defendant?**
- A. You do not have to speak with anyone who works for the defense until the trial. However, if you do talk with the defense, you should notify the prosecutor's office **before** you answer any questions. The assistant prosecutor and county investigator may wish to be present during any interview.
10. **Q. What should I do if my court date has been postponed or continued?**
- A. You should go to court on the new date at the new time. Your new subpoena takes the place of the first.
11. **Q. Do I have to go to court for every status or pre-trial conference?**
- A. You do not have to go, but you may if you wish. You have the right to attend any and all public court proceedings in your case.
12. **Q. What will happen in court?**
- A. As a victim or witness, you may be questioned by the assistant prosecutor and then by the defense attorney. You will be asked to tell what you know about the case. Just tell the truth. If you do not understand a question, ask the attorney to explain it to you. Do not answer based on what you think the attorney may have meant.
13. **Q. What happens in trial?**
- A. The assistant prosecutor has to prove "beyond a reasonable doubt" that the defendant committed the crime as charged and will present evidence to prove his case. The defendant's attorney may present his own evidence although he or she does not have to. The defendant does not have to testify.

14. **Q. Will I be permitted to stay in the courtroom before and after I testify?**
A. As a witness, you may be **sequestered**, or kept out of the courtroom until you testify. Witnesses are not permitted to discuss their testimony with each other, or to hear other witnesses' testimony before they give their own testimony. The assistant prosecutor will let you know whether you may stay in the courtroom or whether you must wait outside the courtroom. After you testify, you are allowed to be in the courtroom for the remainder of the trial.
15. **Q. What if I decide not to prosecute or testify in court?**
A. Our criminal justice system depends upon the cooperation of victims and witnesses. If you are feeling uncomfortable about helping to prosecute your case, you should contact the assistant prosecutor or the victim-witness coordinator. Both of these people will be very happy to sit with you and listen to your concerns or fears.
16. **Q. What should I do if I am threatened by someone who wants to force me to drop the charges?**
A. You should immediately notify the assistant prosecutor or investigator assigned to your case. Your safety is **very** important. If you feel you are in danger right now, call 911 or the local police.
17. **Q. What is bail?**
A. Bail is cash or a bond that the defendant gives to the court as a promise that he or she will appear in court at the next scheduled hearing. The amount of bail is set by the court and depends upon the type of the offense, the defendant's ties to the community and other factors.
18. **Q. Whom should I notify if I move?**
A. Contact the county office of victim-witness advocacy if you change your address or telephone number. You should also contact the police department in the town where the crime occurred so that you can be given notice when the defendant is arrested or released on bail.
19. **Q. I had money stolen and I have medical bills for my injuries from the crime. Who is going to pay these bills? How can I get my money back?**
A. If a defendant pleads guilty or is found guilty by a jury, he or she should be ordered by the judge to pay **restitution** (money) to you for the cost of your medical bills, property that is stolen or damages or other losses.

The Victims of Crime Compensation Board is a state agency which helps innocent victims of violent crime with uninsured medical, counseling, and funeral expenses. A victim-counselor from the county office of victim-witness advocacy can help you to fill out the proper forms for restitution or compensation.

20. **Q. How can I find out what's happening with my case?**
- A. Victims are notified of upcoming court events or changes in the status of all cases. Notifications are normally made by mail. Contact the county office of victim-witness advocacy if you have not received any notices or have any questions about your case.
21. **Q. What if the defendant is not convicted?**
- A. If the defendant is acquitted (found not guilty), you may feel that justice has failed, especially if you are certain she or he was guilty. It is very important to remember that our system of justice calls for guilt to be proven beyond a reasonable doubt in order to convict someone in a criminal case. However strong the evidence may seem to you, it may not be sufficient to remove reasonable doubt from the minds of the judge or jury. Even if a case is dismissed or the defendant acquitted, you should realize that with your help the court has done as much as it could.

Chapter 8

Emotional Response to Crime

Our daily lives have a certain rhythm or balance. Emotional balance involves everyday stress, both positive and negative. We have good times like a wonderful dinner with family and bad times like an awful day at work. But for the most part, we stay in a familiar range of equilibrium or balance.

When things happen to us that are not part of what we see as normal, we are thrown into a state of crisis. What happened is traumatic to us and throws off our rhythm. It is difficult to get our lives together. The word *normal* seems foreign.

As a crime victim, you have been traumatized by a terrible event. No one is ever prepared to be a crime victim and for the most part, it is unexpected. During the crime you experienced what is called a **crisis reaction**. This is normal even though it may not seem so. There are two parts to the crisis reaction: a physical response and an emotional response.

Physical Reaction

During the physical response, we do not think; we react immediately with our basic animal instincts. Some of these reactions are:

1. *Frozen Fright*: a state of physical disorientation and numbness
2. *Fight or Flight* reaction: the body decides to fight or to flee depending on the danger.
 - adrenaline flows through the body
 - the body may relieve itself of excess material, like food and urine
 - some physical senses can become acute or super sharp while others may shut down
 - heart rate increases
 - hyperventilation, sweating, etc.
3. Exhaustion: physical arousal associated with fight or flight cannot be maintained for a long time. Exhaustion will eventually take over.

Emotional Reaction

The various emotional stages of our reactions are:

- Stage 1: shock, disbelief and denial
- Stage 2: a range of emotions, such as anger/rage, fear/terror, sorrow/grief, confusion/frustration or self-blame/guilt.
- Stage 3: reconstruction of equilibrium whereby a person finds a new sense of balance and normality in life. The emotional roller coaster is over.

When you look back on what happened to you, you may feel “if only I had done this” or “I should have....” While these feelings are normal and we all say the same things, there is no room for blaming oneself or anyone else. Crime is an evil event and it is important to know that the body takes over functioning during the crime and operates at an instinctual level for survival. The trauma of being a crime victim can be accompanied by many losses:

- loss of control over our lives
- loss of faith in one’s God or other people
- loss of a sense of fairness or justice
- loss of a loved one, self or personal property
- loss of a sense of immortality and invulnerability
- loss of future

Physical and emotional reactions are, to repeat, normal. Moreover, the shock you experienced and your sense of loss will now slowly turn into grief and a time of bereavement. It is a time of mourning and no matter how small or great the loss, no matter how intense the trauma, there is no timetable for grief. Grief will have its own way and we need to respect it. Some people recover in a short period of time; others, take longer. Sometimes, a word or an event brings back everything involved with the original trauma and we are overwhelmed with emotions. These “trigger events” will always be there, such as anniversaries of the event, holidays, news reports, seeing the defendant, the same sense stimulation we had during the crime. However, the more we can understand the dynamics of what is happening, the more we can then prepare for these difficult moments in our lives. Even the intensity of long-term stress reactions usually decreases over time.

During the various stages of the criminal justice system you can expect to experience a wide range of emotions. Everyone will react differently but you must expect to encounter--sooner or later--various forms of fear, anxiety, irritability and anger. You may experience difficulty in concentrating as well as changes in eating and sleeping habits. The whole

process may seem confusing and frustrating and you may be upset with those who are trying to help you. It is a very difficult time.

One way to establish a new rhythm in our lives is to give ourselves the gift of time. It is important to realize that any crime leaves emotional scars no matter what the financial and physical injuries might be. However, there are people who care: your family and friends, groups for crime victims and religious leaders. The offices of victim-witness advocacy in every county are prepared to help you during this time of personal loss and anxiety. When you take time to talk to others about what happened or participate in a program or support group, you have taken an important step in the recovery process.

Glossary of Terms

Aggravating Factors - factors listed in the New Jersey Criminal Code which must be considered by the court when punishing a criminal. These factors are judged with the circumstances in an analysis of the crime. That analysis determines whether the court keeps a penalty within the range allowed in the law or raises or lowers the penalty.

Appeal - a case filed in a higher court by the defendant claiming that either the penalty or the legal proceedings were unconstitutional or improper.

Arraignment - a court hearing held after a grand jury indictment where a person who is charged with a crime is advised of all charges, is asked to plead guilty or not guilty to the charges, is advised to the right to counsel and the right to trial by jury.

Assistant Prosecutor - a lawyer employed by the county prosecutor's office who prosecutes criminal cases for the State.

Bail - money or a bond used to serve as a promise by the defendant that he or she will come to court on a specific date rather than remain in the county jail until that date.

Community Service - as condition of probation or a Pre-Trial Intervention (PTI) program, the court can order the defendant to perform a certain number of hours of community services, such as cleaning parks, custodial work in a hospital, etc.

Complaint - an official document to be signed by a victim or police officer which accuses someone of committing a crime.

Defendant - person against whom a charge or complaint is filed.

Deposition - recorded testimony of a witness that is given before the trial and in front of the defense attorney and the Assistant Prosecutor. The purpose of taking a deposition is to determine and preserve the testimony of a witness. This does not take the place of testimony in court. The witness must appear and testify in the criminal trial if called.

Grand Jury - a twenty-three person jury that hears evidence presented by the Prosecutor to determine whether or not there is a good reason for a formal charge.

Indictment - a formal written charge made by a grand jury indicating that there is enough evidence to say a person may have committed a crime.

Jury - (Petit Jury) - a group of twelve citizens selected without prejudice to hear evidence relating to charges stated in the indictment during a criminal trial.

Mandatory Term - a prison sentence of a certain amount of time which must be given any defendant convicted of a certain crime(s).

Mitigating Factors - factors listed in the New Jersey Criminal Code which must be considered by the court when imposing a sentence. These factors are weighed with the aggravating factors, in an analysis, in order to make a decision. That decision determines whether the court keeps a sentence at the Criminal Code's term for the particular offense or whether it allows the court the discretion to either raise or lower that term from the presumed sentence.

No Bill - a decision made by the Grand Jury which says that there is not enough evidence to say the accused may have committed a crime.

Parole - a program to supervise a person who is released from prison before his or her sentence is completed.

Parole Ineligibility - a period of time in prison when the inmate is not able to be considered for parole release.

Penal Code - a section of the law that defines criminal offenses in the State of New Jersey and what the penalties are for such offenses.

Perjury - false testimony given under oath.

Plea Negotiation - a process where the Assistant Prosecutor and the defendant try to reach a plea agreement in which the defendant agrees to plead guilty to a charge or charges in return for some considerations granted by the Assistant Prosecutor.

Pre-Sentence Investigation Report (PSI) - a confidential report prepared by the Probation Department for the judge to use in deciding on a sentence. The report consists of a summary of the defendant's background, information about the crime, a victim impact statement, and other material needed to determine a sentence.

Probation - a program to supervise a person who is found guilty of a crime, but who is not put in prison.

Restitution - money given to the victim by the defendant to pay for lost wages, stolen or damaged property or medical and counseling expenses. Restitution is ordered by the judge at sentencing.

Sentence - a punishment given to the defendant by the judge which can include prison, probation, restitution, community service, mental health counseling, substance abuse counseling, fines or penalties, or any combination of these.

Subpoenas - a written official summons to appear in court to give testimony. There is a penalty if the person given a subpoena does not come to court.

Victim Impact Statement - a statement by the victim about how the crime has affected his or her life. This form is used by the Assistant Prosecutor and the judge in considering plea agreements and sentencing.

Witness - someone who has personal knowledge about the case and may be asked to testify in court.