

# *A Crime Victim's Guide To The Criminal Justice System*

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State of New Jersey  
Department of Law and Public Safety  
Division of Criminal Justice  
Office of Victim-Witness Advocacy

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Cover design illustrates various aspects of victimization: the sudden and indiscriminate nature of crime; the confusion and disorientation that follows; the support and assistance offered within the criminal justice system and the very process of justice itself.

# A VICTIM'S GUIDE TO THE CRIMINAL JUSTICE SYSTEM APRIL 1991

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## **A Message to Crime Victims**

### **From Attorney General Robert J. Del Tufo**

On behalf of the law enforcement community, I want to express appreciation for your assistance to the criminal justice system. By your efforts, law enforcement officials can fulfill their responsibility to the public to ensure swift, fair and equal justice. Your interest, concerns and needs are priorities which the criminal justice system must continue to protect.

This booklet is designed to explain many of the aspects of the criminal justice system as well as to inform you of the kinds of services that are available to you through the State and County Offices of Victim-Witness Advocacy.

I thank you for your cooperation and participation.

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# INTRODUCTION

As a victim, you enter the criminal justice system by chance rather than by choice. Yet, your role is of prime importance to the criminal justice process. Your confidence and cooperation are essential to crime control efforts and prosecution. Therefore, the needs and issues of victims are of primary concern. If this is your first experience as a victim in a criminal case, you may find the investigation, prosecution and court procedures confusing. The Office of Victim-Witness Advocacy has prepared this booklet to serve as your guide through the criminal justice system and to answer any questions that you may have.

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.

Although victims have not always been treated in a manner which recognizes their unique role, current trends favor responsive attitudes characterized by sensitivity and understanding. Efforts to improve the treatment of victims and witnesses include the establishment of the State and County Offices of Victim-Witness Advocacy within the Division of Criminal

Justice and the twenty-one County Prosecutors' Offices, respectively.

The Office of Victim-Witness Advocacy works in cooperation with the County Prosecutors' Offices and endeavors to make your participation as a witness as convenient for you as possible. The services of the program respond to a diversity of needs, extending from the time immediately following the crime incident through the court process. Crisis and emergency assistance such as medical care, transportation, supportive counseling, home security checks, escorts and financial aid is 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 reduce inconvenience, trauma and frustration associated with the aftermath of the crime incident and court process.

The first chapter provides a step-by-step description of the criminal justice system in New Jersey and is later followed by a chapter describing your role at each step. 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. Contact information for each county office can be found in the Appendix.

Certain words which may be unfamiliar to you, but which are commonly used in court proceedings are defined in the Glossary.

## Chapter 1

# The Criminal Justice System: How it Works—A Detailed Explanation

The criminal justice process is often very slow. Understanding the process and some of the reasons for delays may enable you to deal more effectively with the system. The following provides a description of the criminal justice process; but remember, every case is different.

### Investigation/Arrest

There are four basic ways that a defendant may be charged and brought to court:

1. Arrest of the accused at the scene of the crime followed by issuance of a summons or warrant complaint.
2. Arrest based on an arrest warrant issued by a judicial officer in response to a sworn complaint.
3. Issuance of a summons based on a sworn complaint directing the defendant to appear in court on a fixed date.
4. Arraignment based on an indictment by a grand jury as a result of its investigation.

In all four instances, the evidence available must show that there is "probable cause" (good reason to believe) that an offense was committed and that the person to be charged took part in committing the offense.

The investigation leading to an arrest or charge may be lengthy, or it may only last a short time, depending on the circumstances of the offense, such as: is the suspect known or unknown; has the suspect left the area? Investigators must identify and interview witnesses. Laboratory reports may have to be completed. No matter how long it takes, *all* available evidence must be gathered so that all the facts can be presented.

### Complaint

The criminal justice process in New Jersey usually begins with the filing of a complaint. A complaint is a document alleging that a person has committed an offense.

The person who alleges that an offense was committed and swears out the complaint is called the complainant. Many times the complainant is the victim of the offense. The complainant's (or victim's) name and address are listed on the complaint. The person charged with committing the offense is known as the defendant. The complaint is an official court document and, once signed, it must be processed through the criminal justice system.

A complaint normally is sworn out in the local Municipal Court of the town or city where the offense took place. The Municipal Court Judge, court clerk or police officer in charge of the stationhouse is empowered to administer an oath to the complainant in order to properly allege that what is contained in the complaint is true. After the complainant takes the oath, s/he is allowed to swear out the complaint.

A complaint can be sworn out in any court having jurisdiction (see Chapter 2 on courts). Regardless of the way in which the complaint is sworn, the purpose and effect are the same.

There are two types of complaints in New Jersey: a *warrant complaint* and a *summons complaint* (see Sample I—warrant complaint and Sample II—summons complaint in the Appendix).

### Warrant Complaint (CDR-1)

The lower portion of a warrant complaint form, when signed by the appropriate judge or court clerk, contains an arrest warrant. The arrest warrant empowers any law enforcement officer in the State to arrest the named defendant for the offense(s) charged. The *New Jersey Court Rules* allow for arrest warrants when the offense involves one or more of the following crimes:

- Murder
- Kidnapping
- Aggravated Manslaughter
- Manslaughter
- Robbery
- Aggravated Sexual Assault
- Sexual Assault

Aggravated Criminal Sexual Contact  
Criminal Sexual Contact  
Aggravated Assault  
Aggravated Arson  
Arson  
Burglary  
Violations of the Comprehensive Drug Reform Act  
Any crime involving the possession or use of a firearm  
Conspiracies or attempts to commit such crimes

The court rules also allow for the issuance of arrest warrants in each of the following situations, whether or not it involves one of the above crimes:

- The accused previously failed to respond to a summons.
- The judge or court clerk has reason to believe that the accused is dangerous to himself, to others or to property.
- There are one or more outstanding arrest warrants for the accused.
- The whereabouts of the accused are unknown, and an arrest warrant is necessary to subject that person to the jurisdiction of the court.
- The judge or court clerk has reason to believe that the accused will not appear in response to a summons.

### Summons Complaint (CDR-2)

If the offense is not one previously mentioned above or does not meet any of the above conditions, the complainant must swear out a summons complaint. A summons complaint requires the defendant to appear in court on a certain date. The summons is located on the bottom portion of the complaint, in the same place that the warrant would be located on a warrant complaint. Failure to appear as stated in the summons can result in the judge issuing a bench warrant for the defendant's arrest. A bench warrant is the same as an arrest warrant.

Police can arrest a person whenever they have an arrest warrant. Without an arrest warrant, police have the authority to arrest persons for indictable crimes and domestic violence assault offenses when they have probable cause to believe that such a crime has been committed and the person to be arrested committed it. The crime does not have to be committed in the officer's presence. Probable cause to arrest is that amount of information that would warrant someone of reasonable caution to believe that a crime was

committed by the person to be arrested. If the offense is a disorderly persons, a petty disorderly persons or a motor vehicle violation, the officer must witness the incident in order to arrest the suspect. Otherwise, the warrant or summons must be issued based on a sworn complaint.

### Arrest of the Accused without Complaint

An arrest changes an individual's status in the criminal justice system; s/he is now a formal defendant. Prior to arrest, a person may have been a suspect, a target of an investigation or the subject of a grand jury inquiry. But arrest makes that person a defendant. A formal complaint must now be filed and certain rights come into play which are afforded to the defendant.

Upon arrest, a defendant will be searched and processed by the police or "booked." Certain information is taken from the defendant, such as name, address and date of birth. Photographs and fingerprints are taken. This procedure is followed in all indictable offenses and all drug offenses whether indictable or not.

The defendant's property is inventoried and stored away. It will later be returned to the defendant or to someone s/he designates if it is not being held as evidence.

### Release on Bail

Within a reasonable time, the defendant must be brought before either a Municipal Court Judge or a Superior Court Judge for a "first appearance." The defendant is released on his own recognizance or bail is fixed based upon guidelines established by the judge of that particular locale. An application for bail reduction can also be made at any time to an appropriate judge. All counties are required to have a judge on emergency call during the off-hours to handle this problem. Local police also have access to the local municipal judge for the fixing of bail. In addition, *New Jersey Court Rules* provide that, in certain cases, the police may allow a stationhouse release and issue the defendant a summons in lieu of an arrest warrant.

If a bail is set and is posted on the defendant, s/he is released until the next court appearance. If a defendant fails to appear in court when required, the bail posted can be forfeited.

In a certain category of cases, the Municipal Court does not have the power to set the bail. In these circumstances, bail must be fixed by a judge of the Superior Court.



The concept of bail is not to punish. Rather, it is to insure future appearances by the defendant. Our State Constitution does not permit the court to consider the need to detain a suspect solely on the basis that s/he is a danger to the community. The court considers the following when determining the likelihood that the defendant will flee:

1. Seriousness of the offense charged, the apparent likelihood of conviction and the extent of punishment prescribed by the law.
2. The defendant's criminal record, if any, and previous record on bail, if any.
3. Defendant's reputation and mental condition.
4. Length of defendant's residence in the community.
5. Defendant's family ties and relationships.
6. Defendant's employment status, record of employment and financial condition.
7. Identity of responsible members of the community who vouch for the defendant's reliability.
8. Any other factors indicating the defendant's mode of life, ties to the community or bearing on the risk of failure to appear.

Bail can take the form of personal recognizance. This is a promise by the defendant to appear when required. The defendant gives a personal bond in a specified amount to insure his/her appearance. If the defendant fails to appear, then judgement can be entered against the defendant for that amount. A personal recognizance can also be required to be justified. This means that the defendant must provide proof that the amount promised to be paid in the event of nonappearance is available. Personal recognizance can be further supported by a deposit of cash with the court clerk totalling 10 percent or some other percent of the total. This is often referred to as the 10 percent option feature. For example, a bail set at \$5,000 with a 10 percent option means that the bailor promises to be liable for \$5,000 if the defendant does not show up when s/he is supposed to, but only \$500 is actually deposited with the court clerk. In the event of default, judgment is entered for the full amount of \$5,000 with \$500 being immediately forfeited, thus leaving the judgement against the bailor in the amount of \$4,500. This 90 percent is useless unless the defendant or the defendant's bailor have assets in the jurisdiction. Sometimes the court requires that the full amount or a surety bond be posted.

A person may use real estate to fulfill bail obligations. If the defendant is unable to post bail, s/he is remanded to the county jail or local lock-up to await a court appearance.

### Case Review

Following the arrest of the accused by the police or the issuance of a complaint charging a person with an indictable offense, the matter is then reviewed by the County Prosecutor's Office. The County Prosecutor's Office and the Division of Criminal Justice have the sole legal responsibility for determining whether or not to prosecute a case. In that regard, the Prosecutor retains broad discretion. The fact that a victim or complainant has filed a complaint is by no means a guarantee that the matter will be prosecuted.

The Prosecutor's method of review varies from county to county. In one or more counties a Prosecutor will review a proposed complaint before it may be filed. At times, a Prosecutor will be assigned to review complaints within a day or two after they are filed. In some counties, the review takes place more formally at a Central Judicial Processing Court. In those instances, a notice is provided by the court personnel to the complainant and the defendant to appear before a presiding judge on a predetermined date. The appearance by the complainant is usually not mandatory, but it is recommended the complainant attend or call the Prosecutor's Office in advance. This is because the Prosecutor will make an initial decision at that stage about whether or not to prosecute.

Still, the most frequent form of review is that which occurs at the Case Screening Unit of the Prosecutor's Office itself. This unit reviews the police reports and interviews witnesses or police if necessary.

In all of the counties the review by the Prosecutor is toward the same goal, namely, a consideration of the legal sufficiency of the evidence in terms of the probability of a successful prosecution. Moreover, the Prosecutor may determine that the matter could more appropriately be handled at a local Municipal Court without diminishing the interests of the victim, the State, or the defendant. The decisions are based on legal consideration as well as practical considerations. Clearly, however, the decisions are not based on any unjustifiable standard such as race, religion, sex or any other arbitrary considerations.

The County Prosecutor's Office then decides whether to do one or more of the following:

1. Maintain the same charge(s) made by the police or used in issuing the warrant or summons.
2. Upgrade the charge(s) to a more serious offense, downgrade the charge(s), dismiss the charge(s) or add new charge(s).

If the Prosecutor's Office determines that there is insufficient evidence or that there is no legal basis for charging the accused with an indictable offense, the charge(s) is either dismissed or remanded to the Municipal Court for a hearing if a lesser offense is indicated.

If, however, the Prosecutor determines that there is sufficient evidence to show that an indictable offense has been committed by the accused, the case is prepared for grand jury presentment, and all investigative reports, evidence and witnesses' statements are collected by investigators.

### Presentation to the Grand Jury

The grand jury is composed of twenty-three citizens who are called to grand jury duty based on either voter registration or motor vehicle lists. Any action taken by the grand jury is voted on by these twenty-three members. In order for action to be taken, an absolute majority vote is needed. Therefore, twelve votes decide what course of action the grand jury takes. Grand jury proceedings are secret and are not open to the public. The only people allowed in the grand jury room are the grand jurors themselves, the clerk of the grand jury, the Assistant Prosecutor handling the case, a court reporter and the witness who is testifying. The Assistant Prosecutor will ask the witness questions concerning the incident. Then, the grand jurors will have an opportunity to ask the witness questions. As a practical matter, not all witnesses to a particular incident testify. If there are ten eyewitnesses to a crime, only one or two actually testify before the grand jury. The function of the grand jury is to review the evidence presented by the Prosecutor's Office and decide if there is sufficient evidence to indict the defendant. The grand jury must find the testimony of witnesses to be credible, and that testimony in and of itself must include all the elements of the crime. The grand jury does not decide the guilt of the defendant. It simply decides whether there is enough credible evidence to return an indictment and thereby compel the defendant to formally respond to the charge(s).

There is no defense attorney in the grand jury room to cross-examine the witnesses. Additionally, although the defendant may be invited to testify

before a grand jury, s/he does not have to do so, or at any other stage of the proceedings, as his/her Fifth Amendment privilege against self incrimination is applicable.

After hearing all the evidence in the case, the grand jury will decide what action to take concerning the charges. The grand jury can do one of three things: return a "No Bill," return a "True Bill," or remand downgraded charges to the Municipal Court. A "No Bill" is a decision by the grand jury that the evidence presented to it is not sufficient to justify an indictment. A "True Bill" is a decision by the grand jury that an indictment is justified.

If after hearing the testimony and reviewing physical evidence, the grand jury finds that there is insufficient evidence to bring the case to trial, it will vote to "No Bill" the charges. By voting a "No Bill," the grand jury dismisses the charge(s) against the defendant for lack of evidence.

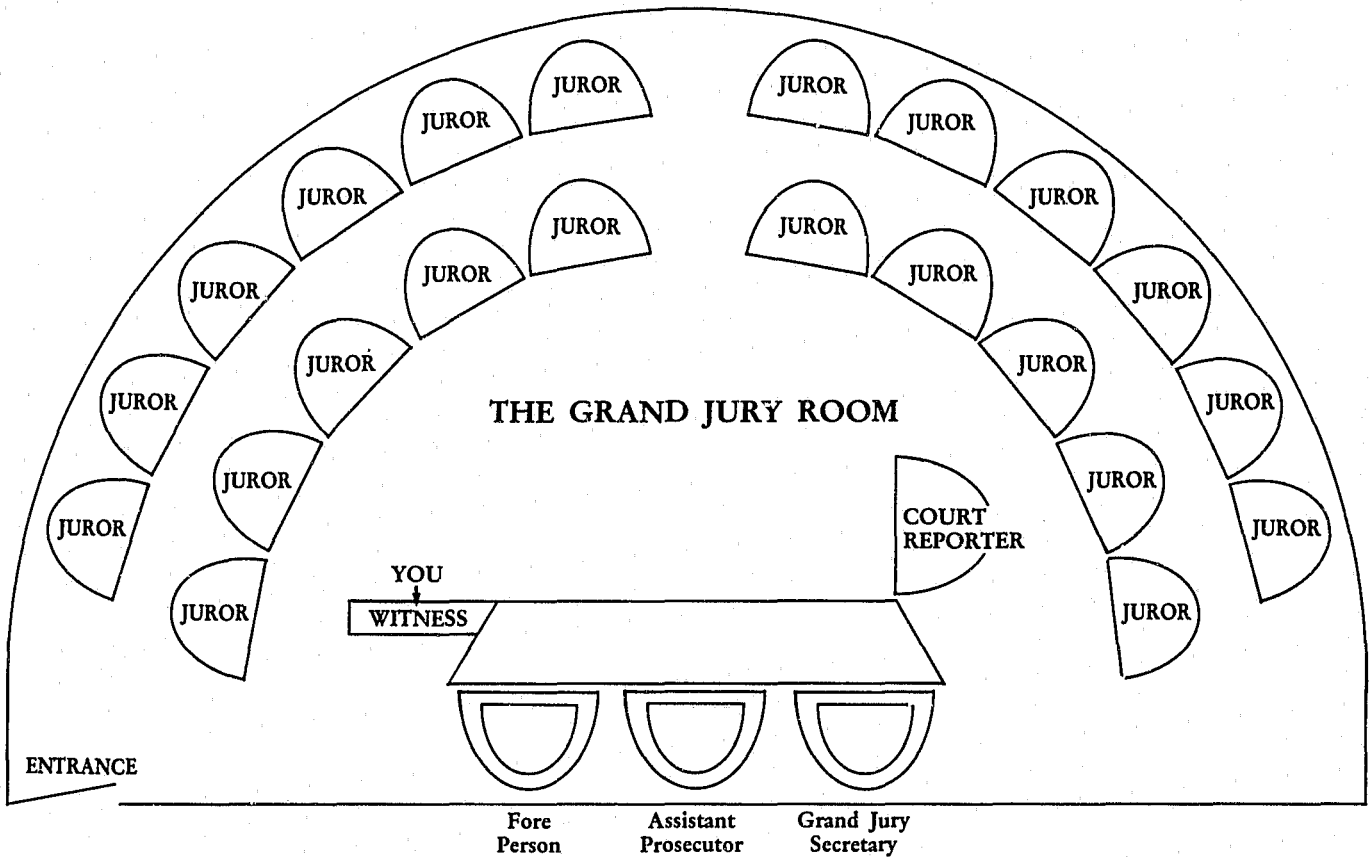
If a "No Bill" is returned, then that is usually the end of the case. However, the case may be "downgraded" and sent for trial on a lesser charge to Municipal Court in the municipality where the offense occurred. For example, if a defendant has been charged with aggravated assault, an indictable offense, but after hearing the evidence, the grand jury finds that the injuries to the victim were not severe enough to constitute aggravated assault, but rather only constitute a simple assault, which is a disorderly persons offense, it will vote not to indict the case ("No Bill"). However, in this example, they have found that an offense has been committed and that the charge of simple assault should be heard but not in the Superior Court. Therefore, it remands the case to the local Municipal Court where the incident took place. At that local Municipal Court, the charge will be tried as a disorderly persons offense.

If the grand jury decides to vote a "True Bill," the defendant is arraigned on the indictment and the case is assigned to an Assistant Prosecutor who further organizes and prepares it for trial. A trial date is eventually set by the court.

A defendant wishing to plead guilty prior to the grand jury stage can waive grand jury presentation of the charges. In such a case, s/he would be charged by an accusation filed by the County Prosecutor. Accusations are usually used when a plea agreement has been reached prior to grand jury review.

The grand jury can also hear matters even when a criminal complaint has not been signed. The grand jury has investigative power to call witnesses and to

## THE GRAND JURY ROOM\*



DEFENDANT WILL NOT BE PRESENT  
AT GRAND JURY.

\*This is an illustration of an average Grand Jury room; however, Grand Jury Rooms differ from county to county and may not be exactly as depicted here.

subpoena documents for investigations, even though no formal charges have been filed. These matters, commonly referred to as "grand jury investigations" can result in indictments. If, after undertaking an investigation where no complaints have been filed, the grand jury finds no problems, it can vote that there is "no cause for further action." This effectively closes the investigation.

### **Arraignment on the Indictment**

Approximately two weeks after the grand jury returns an indictment, the defendant must appear in court to be arraigned. The defendant is notified by the court shortly after the indictment is returned that s/he must appear for arraignment before a certain judge on a given date and time. If the defendant fails to appear, the judge will issue a bench warrant.

At the arraignment, the defendant must appear in court with an attorney. The defendant may be represented by an attorney from the Public Defender's Office or by a private attorney. An Assistant Prosecutor will also be present.

The purpose of the arraignment is to inform the defendant of the charges in the indictment, to review the amount of bail and to see that legal counsel is provided. Unless some change of circumstances has taken place between when bail was set and the arraignment, the Assistant Prosecutor usually will not object to a continuance of bail. When warranted, the court may impose a condition of bail which stipulates that the defendant is not to have contact with the victim.

It must be remembered that an indictment is not evidence of guilt. It is legally speaking only a formal document which accuses the defendant.

At the arraignment, the court sets a date for a pre-trial conference or, as it is called in some counties, a plea disposition conference.

### **Pre-Trial Proceedings**

Many events can occur prior to trial. For example, the defendant in the case may decide to plead guilty. The plea of guilty may come at the last moment before trial, sometimes because the defendant's attorney is hoping that the victim or witness will not show up or that the case will be dropped for other reasons. Such a plea is often an acknowledgement of the strength of the State's case.

On the other hand, the case may have to be dismissed because of some technical failure of the evidence or because the defendant cannot be found

or may have been judged to lack the mental capacity to stand trial.

It is also possible that a defendant may be admitted to a Pre-trial Intervention Program (PTI). This state-wide program is ordinarily limited to persons who have never been convicted of a crime. It is designed to provide accused persons with an opportunity to avoid prosecution by participating in a rehabilitative program meant to deter their future criminal behavior.

None of the above reasons mean that the victim is unimportant or unnecessary or that the victim's willingness to testify is not appreciated. In fact, the victim's presence and willingness to testify may be the deciding factor in determining what will be done in the case.

### **Plea Negotiation**

Any explanation of the criminal justice system in New Jersey must include an understanding of plea negotiation. Plea negotiation accounts for between 85 and 90 percent of all indictable criminal dispositions in this State. In other words, the bulk of the cases are disposed of in this manner.

The plea negotiation is an agreement reached between the Assistant Prosecutor and the defendant, through the defense attorney, whereby the defendant agrees to plead guilty to a charge or charges in return for some considerations granted by the Assistant Prosecutor. Those considerations, which will be enumerated, most often involve the dismissal of certain charges against the defendant or some kind of promise of what will be the maximum sentence.

Plea negotiation is a necessary aspect of the criminal justice process which promotes the speedy disposition of cases without the necessity of trial. The goal of the Assistant Prosecutor in plea negotiations is to try to achieve approximately the same result as would have occurred if the defendant had been convicted after trial.

In any case where a plea agreement has been reached between the parties, the final acceptance of that plea rests with the judge. If, for any reason, the judge feels that the plea is not proper, s/he will reject the plea and the defendant and the State will be placed in the same position as they were prior to the plea. When the defendant pleads guilty as part of a plea agreement, s/he must provide the judge with a factual explanation for accepting the plea. In other words, s/he must tell the judge the facts of the case that constitute a plea of guilty. If the plea is not accepted

by the judge, this factual basis must be disregarded and cannot be used against the defendant at a later time.

In almost every case, some type of plea agreement is offered. The Assistant Prosecutor considers the following factors when determining what plea agreement should be offered to the defendant: type of crime, prior record of the defendant, impact of the crime upon the victim, and the strength of the State's case.

The main objective of the plea agreement from the Assistant Prosecutor's point of view, subject to the code of professional conduct, is to ensure a guilty plea to the principal offense that occurred. As discussed before, in return for pleading guilty, the defendant will seek some sort of concession from the Assistant Prosecutor. The following is a list of the various concessions that can be made as part of a plea agreement: dismissal of charges, dismissal of indictment, partial forfeiture or return of property that was related to the crime, specific maximum sentence limits, or any combination thereof.

The reasons for a plea agreement from the Prosecutor's point of view is that it ensures a conviction to some charge. Additionally, a plea agreement may be offered to secure the testimony of one defendant against a codefendant. For example, if two people are charged with armed robbery, the Prosecutor may hope the one who did not have the firearm will testify against the other defendant. The Prosecutor, therefore, may promise a limited sentence in return for that testimony. Whether the prosecution seeks this "deal" will depend on the strength of the case, the codefendant's criminal record and whether it is worthwhile to offer a favorable plea in return for the testimony.

Another factor necessitating plea agreements is the crowded court calendar. It is impractical to think that all of the indictments returned in a particular county during the course of a year can be tried, even if the Prosecutor so desired. There are limited resources, both in the Prosecutor's Office and in the courts, that favor the speedy disposal of cases through plea negotiation.

The reason a plea agreement is accepted by both the Prosecutor and the defendant is that, while neither party gets completely what it wants, each gets a sure thing. This partial satisfaction is usually acceptable to both parties. Going to trial is a gamble—the defendant may be found guilty of all the charges and

severely punished, or the defendant may be acquitted and walk away a free person.

### Pre-Trial Intervention Program (PTI)

The Pre-Trial Intervention Program (PTI) diverts defendants prior to conviction from the criminal justice system into rehabilitative counseling and supervision. It is, in effect, probation without conviction. Upon successful completion of the program, the charges are dismissed. The purpose of PTI is to provide an alternative to prosecution for certain offenders who can be expected to be deterred by such an approach from future criminal conduct.

The Supreme Court has established guidelines for participation in the PTI program. Enrollment requires acceptance by both the PTI Project Director and the County Prosecutor. The Prosecutor, thus, has veto power over a defendant's enrollment in PTI. While this veto power is not absolute, a court will not overturn a Prosecutor's decision unless it is arbitrary and capricious.

The court will order a defendant's admission into PTI and overrule a Prosecutor's veto if the Prosecutor's decision was based upon a "patent and gross abuse of discretion." An abuse of discretion is one which either fails to account for all relevant factors, is based on irrelevant or inappropriate factors, or constitutes a clear error in judgement. In order for such an abuse of discretion to rise to the level of a "patent and gross" abuse, it must be shown that the prosecutorial error complained of will clearly subvert the goals underlying PTI. Since great deference is to be given to the Prosecutor's determination not to consent to diversion, a defendant must sustain a heavy burden to overcome a prosecutorial veto.

Technically, a defendant accused of any crime is eligible for the program. However, defendants charged with more serious crimes that involve violent injury will rarely be admitted. The guidelines governing PTI detail categories of criminal offenders that should generally be rejected from the program. These categories included offenders whose crime: (1) is part of an organized criminal activity; (2) is involved in a continuing criminal business; (3) is deliberately committed with violence; or (4) involves a breach of the public trust where PTI enrollment would depreciate the seriousness of the offense. Furthermore, an applicant cannot be considered by the PTI program without the Prosecutor's advance consent for any crime of the 1st or 2nd degree and for the sale of drugs where the offender is a non-drug dependent person.

Once enrolled, an order is entered suspending the proceedings for six months. During that time period, the defendant attends PTI counseling sessions and is monitored by the program staff. This six-month period can be extended once for another six months. If the defendant has successfully complied with all the PTI conditions at the end of the period of enrollment, the charges are dismissed. If the defendant has not complied with the program requirements or if the defendant commits another offense, s/he can be terminated from the program. In that case, the matter is restored to the criminal justice system at the point where proceedings were previously suspended.

The PTI program can provide a meaningful alternative to prosecution for appropriate defendants. It removes many less serious cases from the trial calendars, thus helping to reduce court congestion. It can also be an effective tool in the rehabilitation of selected offenders within the criminal justice system.

### **The Pre-Trial Conference or Plea Disposition Conference**

The various counties refer to the pre-trial conference differently. Sometimes it is called a plea disposition conference or a calendar call. Regardless of the title given, the purpose and way it is handled is the same in each county. The purpose of the pre-trial conference is to inform the court whether a plea agreement has been reached. Before appearing in court, the defense attorney and the Assistant Prosecutor will discuss the case and will attempt to reach a plea agreement. If such an agreement has been reached, the court will be informed at the beginning of the pre-trial conference. At that point, the plea agreement will be officially entered into the court record. If a plea agreement has not been reached, the court will schedule the trial date.

These conferences are usually held in open court. The defendant is always required to appear. If the defendant fails to appear, the judge will issue a warrant for the defendant's arrest. The attorney representing the defendant must also appear. Additionally, the Assistant Prosecutor assigned to the case will appear as the representative for the State.

### **Scheduling of Trial Date**

All parties must appear on the trial date; however, this date is not usually firm because the court sets numerous trials for the same date. The judge knows that most cases will either plead out before the actual trial or will be postponed due to unforeseen circumstances such as witnesses who are unavailable, at-

torneys who are unprepared to proceed or defendants who do not appear. Various other reasons prevent a trial from not starting when it is scheduled. Therefore, in order to guarantee maximum usage of the courtroom, it is necessary for numerous trials to be set for the same date.

If all the trials are ready on the date given and no plea agreements are worked out, the judge will prioritize the cases. As soon as the first case is completed, the second trial will commence and so forth.

If many trial dates have been set for a particular case and it has yet to be heard, the court will set what is called a preemptory date giving the trial priority on its next trial date. This preemptory date is similar to what some judges refer to as a "try or dismiss" date. These dates force the prosecution to proceed with the trial or the judge will grant a motion by the defense to dismiss the case. The opposite of this is not true. In other words, if the defense is not ready to proceed with its case, the judge cannot direct a verdict of guilty. The only options left to the judge in such a case are to order the trial to proceed, revoke the defendant's bail or fine the defense attorney.

### **Trial**

Indicted defendants are tried in the Law Division of Superior Court, Criminal Part. Trials may or may not involve a jury. A defendant is entitled to a jury trial unless s/he waives that right in writing. Most criminal trials in the Superior Court involve a jury. In a jury trial, the judge rules on questions of law and the jury determines factual issues including the ultimate decision of guilt.

Verdicts in criminal cases must be unanimous; that is, all twelve deliberating jurors must agree. If the jurors cannot reach a unanimous verdict, a "mistrial" or "hung jury" is declared. A mistrial means that the trial is terminated without conclusion and in most cases is subject to being retried before another jury.

Each defendant is presumed to be innocent. That presumption remains with the defendant throughout the trial unless the jury determines that s/he is guilty beyond a reasonable doubt. The burden of proof is always on the State; that is, the State must prove that the defendant is guilty beyond a reasonable doubt. If the State fails to prove the defendant's guilt, s/he is entitled to an acquittal. Reasonable doubt is not a mere possible or imaginary doubt. Rather it is an honest and reasonable uncertainty as to the guilt of the defendant existing in the minds of the jury after it has given fair and impartial consideration to all of

the evidence. Therefore, even if the members of the jury believe the defendant is guilty, they must find him/her not guilty if there is any reasonable doubt in their minds. These legal principles are stressed to the jury both at the inception and at the conclusion of trial. It is what makes the prosecution of defendants at trial so difficult. Moreover, complex rules of evidence prevent the Prosecutor from providing certain information to the jury. Often times very damaging information to the defendant will be ruled inadmissible. This is a consideration in seeking to resolve the matter by plea negotiations.

After these general instructions to the jury, the Assistant Prosecutor follows with an opening statement. The defense counsel, if s/he wishes, may also present an opening statement. An opening statement outlines what each counsel expects to prove.

A defendant does not have to testify at his/her trial. Neither the Assistant Prosecutor nor the judge can comment upon the defendant's failure to testify or anticipate the defendant's testimony in their remarks. To do so would violate the constitutional rights of the defendant and might result in a mistrial.

After the openings, the State presents its case by calling witnesses who are subject to cross-examination by the defense. When the testimony of the State's witnesses is completed, the State rests. At this point, the defense may make a motion for a judgement of acquittal. A judge must determine whether the State has presented sufficient proof to be considered by a jury. The judge must assess whether, giving the State the benefit of all reasonable inferences from the evidence, a jury of fair-minded people could find the defendant guilty beyond a reasonable doubt. The judge does not determine the credibility of the witnesses in passing on this motion.

If a judge grants the motion for acquittal and dismisses the jury, jeopardy attaches and that decision cannot be appealed. The judge's decision is equal to a verdict of not guilty by the jury and the defendant can never be tried again for those charges. In the vast majority of cases, a motion for acquittal is usually denied because there is sufficient evidence to warrant a jury's consideration. After denial of this motion, the defense presents its case. In some cases, the defense may elect to rest without presenting evidence. However, if the defense presents witnesses, the State is given the opportunity of cross examination. After the defense rests, the Assistant Prosecutor submits proof in rebuttal. This rebuttal, however, is limited to matters which refute specific items introduced in the defendant's case.

At the conclusion of both cases, the attorneys make summations to the jury. Summations are in reverse order of the openings. The defense goes first and the Assistant Prosecutor concludes.

These final statements are in the form of arguments with the defense attorney and Assistant Prosecutor advocating a verdict on behalf of each side. The judge then instructs the jury on the legal principles that it should consider in determining the case. This instruction, called the "judge's charge to the jury," includes the general principles of criminal procedure as well as instructions on the specific statutes and issues involved in the particular case. The judge's charge may also include a commentary on the evidence.

The jury then retires with the exhibits (the physical pieces of evidence) to deliberate. It is instructed that, if it wishes to communicate with the court, it should be in writing, signed by the foreperson. Often, jurors will send a note asking a particular question about the law or testimony. Where it is possible, the jury's request is honored.

Finally, the jury either reaches a verdict or reports that it cannot agree. When a jury initially reports that it cannot agree, the judge usually gives it an additional instruction urging the jurors to continue to try to reach a verdict but not yield their conscientiously held opinions. If the disagreement in the jury continues and the court feels that further deliberations are fruitless, a mistrial can be declared. The case is then subject to being retried. When a jury renders a verdict, it is delivered in open court. After the verdict, at the request of either side, the judge will individually poll the jurors to see if they agree with the verdict as announced by their foreperson.

### **Date of Sentencing**

If there is guilty plea or finding, the judge sets a tentative sentencing date. Before a definite date can be set, the Probation Department must compile a Pre-Sentence Investigation Report (PSI).

### **Pre-Sentence Investigation Report (PSI)**

The PSI is a confidential, written report that a judge utilizes to help him/her decide what sentence to impose. The report consists of a summary of the defendant's family, medical and criminal background; nature of offense; and other material relevant to the determination of a sentence. The PSI also includes a statement of the impact of the crime on the victim.

## Options for Sentencing

Options for sentencing, including incarceration, probation, restitution, community service, fines and penalties, are available to the judge depending on the type of offense. The sentence which the court is permitted to impose is determined by the presumptive term established by the Criminal Code and a weighing and balancing of specifically enumerated aggravating and mitigating circumstances found in the Code. The weighing and balancing of these aggravating and mitigating factors, in both a quantitative and qualitative analysis, enable the sentencing court, in its discretion, to either raise or lower the presumptive term within the range of permissible penalties for the particular offense when determining the appropriate sentence to be imposed upon the defendant.

According to New Jersey's Criminal Code (Title 2C), the penalties faced upon conviction of a first degree, second degree, third degree, fourth degree, disorderly person (D.P.) and petty disorderly person (P.D.P.) offense are as follows:

- First: 10-20 years in State Prison; fine of \$100,000; or both.
- Second: 5-10 years in State Prison; fine of \$100,000; or both.
- Third: 3-5 years in State Prison; fine of \$7,500; or both.
- Fourth: up to 1 1/2 years in State Prison; fine of \$7,500; or both.
- D.P.: 6 months in county jail; fine of \$1,000; or both.
- P.D.P.: 30 days in county jail; fine of \$500; or both.

Additionally, certain very serious crimes have penalties in excess of those listed above. For example, purposeful or knowing murder, as well as felony murder, is a crime of the first degree but a defendant shall be sentenced to a term of 30 years during which that defendant shall not be eligible for parole. That same defendant can also be sentenced to a specific term of years between 30 years and life imprisonment during which s/he shall serve 30 years before becoming eligible for parole. If certain aggravating factors are present, a defendant can be charged with capital murder. If a defendant is convicted of capital murder, that defendant can be sentenced to death based upon the result of a special penalty hearing.

Furthermore, a defendant convicted of aggravated manslaughter is guilty of a crime of the first degree

and can be sentenced to an ordinary term of imprisonment of between 10 and 30 years. A defendant convicted of first degree kidnapping shall be sentenced to a term of imprisonment between 15 and 30 years. Certain special types of kidnapping involving victims, less than 16 years of age, require even higher periods of incarceration of either a term of 25 years imprisonment during which time the defendant shall not be eligible for parole or a specific term between 25 years and life imprisonment during which the defendant shall serve 25 years before being eligible for parole.

Alternatively, the court can impose a fine of double the amount that the defendant gained or the victim lost by the criminal conduct as well as an additional amount for restitution.

In certain situations, the Prosecutor may request that a person who has been convicted of a crime of the first, second, or third degree be sentenced to an extended term of imprisonment if certain conditions are met. Any of the following conditions qualify the defendant for an extended term:

1. The defendant is considered a persistent offender. A persistent offender is a person who was at least 21 years old when s/he committed his/her most recent crime. S/he also must have been previously convicted on two different occasions of two offenses when s/he was an adult. The latest of these offenses or the date of the defendant's last release from jail, whichever is later, must be within ten years of the date of the offense for which the defendant is currently being sentenced.
2. The defendant is considered a professional criminal. The law considers a person a professional criminal when s/he has committed a crime as part of a continuing criminal activity and has committed such a crime with two or more persons. The circumstances of the crime must show that s/he is knowingly devoted to criminal activity and that the criminal activity is a major source of his/her livelihood.
3. If the defendant was paid to commit the crime, s/he qualifies for an extended term. Additionally, if the defendant paid someone else to commit the crime, s/he would qualify for an extended term. For example, if someone paid an individual to commit an aggravated assault, both the person who paid to have the crime committed and the one actually committing the assault would be subject to extended terms.



4. A previous offender carrying a firearm is subject to an extended term. When the defendant is at least 18 years old and has a previous conviction for an offense involving the use of a firearm, s/he will automatically be given an extended term.

The penalties faced when sentenced for an extended term are as follows:

- First: 20 years to life imprisonment; fine of \$100,000; or both.
- Second: 10-20 years in State Prison; fine of \$100,000; or both.
- Third: 5-10 years in State Prison; fine of \$7,500; or both.
- Fourth: 5 years in State Prison; fine of \$7,500; or both. This applies only to cases involving a firearm.

The gradation of the offense committed is especially important when it is the defendant's first conviction. If the defendant has been convicted of a third or fourth degree offense, and it is a first conviction, there is a presumption in the criminal code that s/he will be given probation rather than incarceration in State Prison. However, even with this presumption, the defendant can be given up to 364 days in the county jail as a condition of probation. Alternately, if the defendant has been convicted of a first or second degree crime, even if it is a first conviction, the presumption is that s/he will be incarcerated in State Prison, unless having regard to the character and condition of the defendant, it is of the opinion that imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

### Restitution

After a hearing, restitution can be ordered by the judge as part of the defendant's sentence. It is money paid by the defendant to the victim for financial losses occurring as a result of the offense. If restitution is ordered, the defendant will usually be required to send the payments to the Probation Department or the Parole Board and they in turn will issue payment to the victim.

### Sentencing

The defendant, defense attorney and Assistant Prosecutor appear before the judge in open court for the final determination of the sentence.

The defense attorney states any errors that are perceived in the PSI, mitigating and aggravating circumstances that apply, and any other significant information pertaining to the possible sentence. The defendant and the victim are also allowed to speak to the court at this time. The Assistant Prosecutor reviews much of the same areas covered by the defense attorney but from the State's and victim's viewpoints. The judge, after considering any new information just received in conjunction with the information that has been studied prior to this court appearance, announces the sentence and the reasons for imposing the sentence.

### Appeal

After a defendant has been convicted guilty of an offense and sentenced, s/he has the right to file an appeal with the Superior Court of New Jersey, Appellate Division. The defendant is, in essence, asking the Appellate Court to review all the proceedings to insure that no legal errors occurred which resulted in his or her being improperly convicted or sentenced. A defendant may ask the appellate court to review the legality of the investigative stage which led to his or her arrest, the propriety of the legal proceedings in the courtroom which resulted in his or her conviction and the legality and length of the sentence imposed. Not only does a defendant have this right to appeal from a jury trial, s/he has this right after a nonjury trial and even after s/he has plead guilty as a result of a negotiated plea agreement.

By contrast, the State has very limited rights of appeal. For example, the State may not appeal the return of a not guilty verdict by the jury. Constitutional principles of double jeopardy prohibit appeals by the State in such circumstances. The New Jersey Criminal Code does permit the State the right to appeal a sentence in certain limited, prescribed situations where the State believes the sentence imposed is too lenient. This is not, however, a general right granted to the State.

After the Appellate Division of the Superior Court has reviewed a defendant's conviction and sentence, a defendant may seek to have the New Jersey Supreme Court review the case. A defendant has only a very limited right to demand that the Supreme Court hear his or her matter. A defendant convicted of capital murder in which the death penalty has been imposed has an automatic right of appeal to the Supreme Court. In most other circumstances, however, a defendant must file a petition seeking certification to the Supreme Court but the Court is under no obliga-

tion to accept the case for review. Normally, the Supreme Court only accepts cases which present issues of constitutional importance or of general state-wide significance which require the court's attention.

Finally, once a defendant has exhausted all appeals on the State level and is still incarcerated or subject to state supervision through probation or parole, s/he has the right to continue the appeal process through the U.S. Federal Court system. To do this, a defendant files a petition in a U.S. District Court seeking a writ of *habeas corpus* relief. By seeking this writ, a defendant is alleging that s/he is being improperly held in state custody in violation of his or her federal constitutional rights. Normally, if a petition is successful, the Federal Court gives the State the opportunity to retry the defendant in compliance with all constitutional safeguards in order to correct any errors before it actually issues the writ and releases the defendant. A successful writ requires the State to produce the defendant to the Federal authorities because the State is holding that person in violation of some constitutional provision. Needless to say, the State vigorously opposes all petitions seeking *habeas corpus* relief.

As outlined above, a defendant has a number of avenues to challenge his or her conviction and sentence on appeal. The appellate process can take years to complete, but the State opposes each challenge at every step in the process. It is fair to say that the State is always diligent when it comes to defending lawfully obtained convictions and sentences imposed upon defendants.

## Parole

The purpose of parole is to determine if, when and under what circumstances the best interest of society will be served by allowing an offender to serve a portion of his/her sentence under supervision in the community. Since most sentences—even life sentences against which various credits are earned—have an expectancy of release, there needs to be a way to reintegrate the offender from the absolute controls of incarceration to community life under strict regulations before restoring complete freedom. Parole provides this mechanism.

A person convicted of a crime will receive a sentence from the court based upon the nature of the offense, any prior criminal record and other factors presented during the trial. That sentence represents the maximum amount of time that a person will be subject to the jurisdiction of the correctional system for the particular offense. The law prescribes a strictly

mathematical formula—involving a minimum percentage of the total term as well as credits actually earned by the inmate—which produces the point at which the punitive aspects of the sentence are considered to have been served and the issue becomes one of evaluating the likelihood of future criminal activity. So, while the public is often startled to learn that an offender sentenced to ten years might be eligible for parole in just a few years, it is important to remember that the person will not be released until it has been determined that s/he is fit for parole. Parole is a privilege granted to offenders who earn it—it is not a right.

When an inmate becomes eligible for parole, s/he is scheduled for a parole hearing. At this hearing, the Parole Board must consider the inmate's adjustment while incarcerated based on infractions committed in the institution, participation in counseling, any vocational or educational accomplishments, the evaluation of the institutional psychiatrists and psychologists, the nature and pattern of previous and present offenses, statements of the institutional staff, the opinion of the Prosecutor and the sentencing judge, the "parole plans" of the inmate which describe proposed residence and employment confirmed by a parole officer's investigation, documentable changes in behavioral and attitudinal patterns, the availability of community resources or support services to assist a safe transition, and statements of the victim or any other concerned party. The role of the victim is explained in further detail in Chapter 3 of this brochure.

If it is determined that the inmate's progress is such that s/he could not be safely trusted on parole release, a denial is issued and a future eligibility term (F.E.T.) is established. An F.E.T. is a specific amount of additional time that the inmate must serve before the Board will again consider him/her for parole. The length of an F.E.T. is generally based upon the nature of the offense for which the inmate is incarcerated.

If the Board is satisfied that the inmate, having served the primary eligibility term, does not pose a threat to the community and that there is not a substantial likelihood that he would commit a new crime, a parole release date will be set and certain specific conditions will be imposed. The conditions include standard rules for the parolee such as obeying all laws, living in the approved residence and reporting to a parole officer on a regularly scheduled basis as well as special, tailor-made conditions deemed appropriate for individual parolees. Special conditions can include requirements that the inmate participate

in either in-patient or out-patient drug or alcohol treatment programs or mental health counseling programs; that the parolee perform some prescribed community service; that certain fees, fines, penalties or restitution be paid where appropriate and feasible; and any other measures that would improve the successful assumption of responsible citizenship.

These conditions of parole are important because they allow the Board to return a parolee to custody upon violation of any one of these conditions without waiting for a new offense to be committed. If the Board determines that the trust of parole has been violated and that the parolee now appears to be likely to commit—or to have committed—a new offense, s/he will resume serving the sentence behind bars.

### **Intensive Supervision Program (ISP)**

The Intensive Supervision Program is administered by the Administrative Office of the Courts (AOC) and is available to a select group of inmates who have served between 30 and 60 days of incarceration. The program's purpose is to return inmates to society in a tightly monitored and structured setting. The program is designed as a way for non-violent offenders to earn their way out of prison.

The program includes successive phases through which an inmate must pass. During each phase, s/he must demonstrate a continuing dedication and ability to live within the program requirements.

To be considered for entry to ISP, an inmate must have been convicted of a non-violent offense and must *not* have received a parole ineligibility term. No application may be submitted until after at least 30 days but no more than 60 days of incarceration. Thus, each applicant will have experienced some period of confinement.

The inmate application form contains a brief description of the program and requires the inmate to complete some personal and criminal history identification information. The inmate must identify a Community Sponsor and Network Team at this stage.

An ISP Officer will be assigned to interview the applicant at the institution to have the inmate prepare the proposed plan. Simultaneously, ISP staff will compile information concerning the applicant, including his/her presentence report and Judgement of Conviction. Statements from the sentencing judge, Prosecu-

tor and victim/complainant will be elicited. ISP staff will interview those identified by the applicant as the Community Sponsor and the Network Team. Their responsibilities will be reviewed with them and their suitability, willingness and ability to participate will be assessed.

All of the information compiled will then be submitted to an ISP Screening Board. This Board, composed of a representative of the Department of Corrections, the Director of ISP and a public member appointed by the Chief Justice, will review the material and interview the applicant to determine his/her sincerity, motivation and ability to meet the obligations set forth in his/her plan. The Board will assess the reasonable probability of successful program completion and will consider community expectations and reactions in determining the cases to recommend for entry into ISP.

If the applicant is deemed eligible for this program, his/her application will be forwarded to a three-judge Resentencing Panel. The Panel will review the application for resentencing to determine if the applicant is eligible for entry into ISP. If the Panel determines that the applicant is eligible, it will grant the application for resentencing and adjourn the hearing for 90 days, place the applicant on recognizance to the Community Sponsor and require adherence to the applicant's plan and conditions of ISP. During this trial period his/her behavior will be closely monitored. If during the *first* 90-day period the applicant affirmatively cooperates with ISP, a second 90-day period extension may be granted by the Resentencing Panel. If during the *second* 90-day extension the applicant continues to affirmatively cooperate with ISP, the resentencing hearing is convened. At this time, the Resentencing Panel will resentence the applicant to the original sentence of incarceration minus time served and suspend the imposition of sentence in accordance with *N.J.S.A. 2C:45-1 et seq.*, subject to the applicant's continued demonstration that s/he is meeting the goals set forth in the plan.

If during the two 90-day trial periods and subsequently during the suspension term the applicant fails to live up to his/her plan and ISP conditions, s/he will be brought back before the Resentencing Panel for review. The Resentencing Panel will determine if the applicant should be returned to prison to serve his/her custodial sentence.

## Chapter 2

# The Court System of New Jersey

This section of the booklet presents simply and briefly how the courts are structured and describes the types of cases heard by the various courts. The diagram on page 42 illustrates the structure of New Jersey's court system.

### Municipal Courts

There are more than 500 Municipal Courts in New Jersey. These Municipal Courts are courts of limited jurisdiction handling criminal and quasi-criminal matters. A Municipal Court is presided over by a Municipal Judge who is appointed to a three-year term by a local governing body. The judge generally is not full-time and is allowed to maintain a private law practice. There are no jury trials in Municipal Court. The judge rules on both the law and on questions of fact in those matters that come before the court for final disposition.

The Municipal Court handles motor vehicle offenses, ordinance violations and disorderly persons offenses. A disorderly persons offense is considered quasi-criminal. The judge can subject the offender to a maximum fine of \$1,000 and up to six months in jail. Guilt must be established beyond a reasonable doubt for a conviction, and defendants are entitled to a presumption of innocence as in any criminal proceeding. Offenses that fall into the disorderly persons category include simple assault, theft or receiving stolen property under \$200 and a variety of other violations of the law. Disorderly persons offenses do not carry with them the disqualifications attendant to a criminal conviction such as a loss of voting rights.

The Municipal Court serves as the court in which the more serious criminal offenses originate. More often than not, the defendant is advised of his rights, given a copy of the complaint and has bail fixed at this court. The Municipal Court Judge does not have the authority to handle indictable charges and normally refers them to the County Prosecutor.

The Municipal Courts handle five million cases a year. They include complaints which were downgraded from indictable charges to disorderly person charges.

### Superior Court

Superior Court, the major State trial court, is divided into four branches on the trial level and an Appellate Division. The trial branches of the Superior Court are Civil, Chancery, Criminal and Family.

The Superior Court handles the adjudication of all indictable offenses. Superior Court cases can be either jury or non-jury.

In indictable offenses, the defendant is entitled to a jury trial unless that right is waived in writing. The criminal jury consists of twelve persons who decide the guilt or innocence of the defendant after hearing the testimony, listening to the arguments of counsel, and receiving instructions from the judge as to how to apply the law.

The Family Section of the Superior Court handles all juvenile delinquency complaints and all family-related cases such as divorce, child support and visitations, paternity, adoption, child abuse and domestic violence. Any act committed by someone under 18 years of age which, if committed by an adult would be either a crime or a disorderly persons offense, is an act of juvenile delinquency. However, the same principles of presumption of innocence, burden of proof and the requirement for proof beyond a reasonable doubt also are present in these trials.

Any appeals concerning the Municipal Court's decision are made to the Superior Court, Criminal Part, and are *de novo* on the record. This term means that witnesses are not called into court. Rather, a transcript of the proceeding in the Municipal Court is prepared and forwarded to the Superior Court Judge. All proceedings in Municipal Court are recorded verbatim by sound machines. The Superior Court Judge then must decide the case anew based on the transcript.

The judges of Superior Court sit in courthouses in the county seats of the twenty-one counties in the State\*. The Court is divided into vicinages, some of which include more than one county, and an Assignment Judge is appointed by the Chief Justice to

\*In Atlantic County, the Family Section of the Superior Court is held in Atlantic City.

<b>SUPREME COURT</b>	<b>Final Appeal In:</b>
<i>Chief Justice and 6 Associate Justices. Initial term of 7 years with tenure on reappointment. Mandatory retirement at 70.</i>	<ol style="list-style-type: none"> <li>1. Constitutional questions</li> <li>2. Issues where dissent in Appellate Division</li> <li>3. Capital causes</li> <li>4. Certifications</li> <li>5. In such cases as provided by law</li> </ol>

<b>SUPERIOR COURT</b>	<b>APPELLATE DIVISION</b>	<b>Appeals From:</b>
	During the 1989-90 court year, there were 28 judges in the Appellate Division, each chosen by the Chief Justice from one of the Superior Court's trial divisions.	<ol style="list-style-type: none"> <li>1. Law and Chancery Divisions</li> <li>2. Tax Court</li> <li>3. State Administrative Agencies</li> <li>4. As provided by law</li> </ol>
	<b>LAW</b>	<b>CHANCERY</b>
	<b>CRIMINAL DIVISION</b> <ol style="list-style-type: none"> <li>1. General jurisdiction in all criminal cases.</li> </ol> <b>CIVIL DIVISION</b> <ol style="list-style-type: none"> <li>1. General jurisdiction in all civil cases</li> <li>2. Appeals from Municipal Courts.</li> <li>3. Probate</li> </ol> <b>SPECIAL CIVIL PART</b> <ol style="list-style-type: none"> <li>1. Contract, penalty, and tort actions up to \$5,000</li> <li>2. Landlord and tenant actions</li> <li>3. Small Claims up to \$1,000</li> </ol>	<b>GENERAL EQUITY DIVISION</b> <ol style="list-style-type: none"> <li>1. General jurisdiction in equity cases</li> <li>2. Probate</li> </ol> <b>FAMILY DIVISION</b> <ol style="list-style-type: none"> <li>1. Juvenile delinquency</li> <li>2. Dissolution (Matrimonial)</li> <li>3. Non-Dissolution (Domestic Relations)</li> <li>4. Adoptions</li> <li>5. Juvenile and family in crisis</li> </ol>

*362 Judges authorized. Term, tenure, and retirement same as Supreme Court.*

The Court's 15 vicinages, each administered by an Assignment Judge, carry out the court functions in the State's 21 counties.

<b>MUNICIPAL COURTS</b>
<p>363 Judges. Term 3 years.</p> <ol style="list-style-type: none"> <li>1. Traffic and motor vehicle violations</li> <li>2. Ordinance violations</li> <li>3. Disorderly persons offenses</li> <li>4. Fish, game, and navigation violations</li> <li>5. Other specified crimes</li> <li>6. Probable cause hearings on indicatable offenses</li> </ol>

<b>SURROGATES' OFFICE</b>
<p>21 Surrogates. Elected. Term 5 years.</p> <ol style="list-style-type: none"> <li>1. Uncontested probate matters</li> <li>2. Deputy clerk of the Superior Court for probate matters.</li> </ol>

<b>TAX COURT</b>
<p>9 Judges authorized. Term same as Superior Court except for the 1979 appointments. Tenure and retirement same as Supreme Court. The Tax Court reviews the determinations of agencies and officials charged with administration of:</p> <ol style="list-style-type: none"> <li>1. Local property tax assessments</li> <li>2. State tax assessments</li> <li>3. Equalization tables promulgated by the director of the Division of Taxation or the County Board of Taxation.</li> </ol>

administer each vicinage. Superior Court Judges are appointed by the Governor for an initial seven-year term and are subject to confirmation by the New Jersey Senate. On reappointment, judges are granted tenure to the mandatory judicial retirement age of 70.

The Superior Court handles more than 950,000 cases a year.

### **Appellate Division, Superior Court**

Appeals concerning trials in the Superior Court, Criminal Part and Family Part, are taken to the Appellate Division of the Superior Court. Such appeals are based upon transcripts of the original trial. All the proceedings in the Superior Court are taken down verbatim either by a court reporter or by a sound recording. However, on these appeals, the Appellate Judges do not substitute their view of guilt or innocence for that of the trial judge or jury. They do not determine the case anew. In contrast to the Municipal appeals, these determinations are not new trials based on the transcripts. Rather, appeals of this nature involve a determination of whether any legal errors were made by the trial court.

Every defendant has a right to appeal to the Appellate Division. The Appellate Division includes twenty-eight judges who sit on panels of two or three to hear appeals at various locations throughout the State. Appellate Division Judges, including the Presid-

ing Judge for Administration, are selected from Superior Court Judges and assigned to the Division by the Chief Justice.

The Appellate Division handles more than 6,200 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. There is a right to appeal to the Supreme Court if a constitutional issue is involved, if there is a split decision in the Appellate Division of Superior Court or in any capital (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 Justice 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 to the mandatory judicial retirement age of 70.

The Supreme Court handles approximately 500 appeals a year.

# The Victim's Role in the Criminal Justice System\*\*

### Offense Committed

After an offense has been committed, your role as a victim may include: making formal statements to police and investigators concerning the crime; identifying the suspect from an array of photographs or a line-up; submitting to a medical examination and photographing of injuries; and signing a complaint.

You may want someone to accompany you to the hospital or to the police station. For sexual assault victims, rape crisis counselors are available in most counties to meet you at the hospital during your examination.

In addition to any physical injuries you may have suffered as a result of the offense, you may also experience many emotional reactions. Most of us, before a crime occurs, believe we are less likely than others to be victims of crime. We see ourselves as safe and invulnerable. Therefore, when we do fall victim to an assailant, we must cope not only with the direct consequences of the offense itself, but also with loss of our belief in our own safety. Now we begin to feel that we are at risk of future attacks.

During and immediately after the attack, you may experience shock, fear, denial, anxiety and/or grief. Other victims have described feelings of self-blame and guilt, emotional numbness, a feeling of violation of self and home and humiliation and embarrassment—especially if a medical examination for sexual assault is required. All of these are common reactions to having had our lives controlled by another—the assailant.

It is important that you verbalize these reactions. But don't be forced into talking to friends or family about the incident until you're ready.

### Investigation/Arrest

The investigation leading to an arrest may be lengthy, or it may only last a short time, depending on the circumstances of the offense.

During this time, you may be called upon to make an identification at a physical line-up or a photo

identification. There may be periods of time during the investigation when you hear nothing about your case and you may feel it has been "lost" in a shuffle of papers. The Office of Victim-Witness Advocacy in the Prosecutor's Office will contact the investigator for you to find out if there is any progress or why there seems to be a delay in your case.

Your emotional reactions during this time may be changing from that of immobilizing fear to anger and resentment. You may still fear future attacks and continue to suffer self-blame and guilt. You may find yourself mentally reliving the crime, and in doing so, you also relive the feeling of loss of control over your life. Even if the commission of the offense lasted only a few minutes, during that time you still felt that the assailant, not you, was in control of your life. Depression is a natural reaction to these feelings. None of us likes to admit that, even for the briefest time, someone else had control over us.

If there is no arrest made in your case, you will undoubtedly feel angry and bitter; the feelings of helplessness may be stronger now, too. You might consider speaking to a trained counselor now if you have not already done so. Counseling and support groups can help you to understand your feelings and will reassure you that the offense was *not your fault*.

### Case Review

Following the arrest of the accused by the police or the issuance of a complaint charging the accused with an indictable offense, the matter is then reviewed by the County Prosecutor's Office. The County Prosecutor's Office will determine whether or not to prosecute a case. Under the New Jersey Crime Victims Bill of Rights, you have the right 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

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\*\*Portions of this section are reprinted from "Crime Victim's Court Handbook", Ocean County Prosecutor's Office of Victim-Witness Advocacy.

charges will be filed. The Office of Victim-Witness Advocacy will provide you with assistance in preparing your statement and answering any questions that you may have about this process.

### Grand Jury

As a victim, you may be subpoenaed to testify before the twenty-three member grand jury. On the day that you are to appear at grand jury, you must bring your subpoena and present it to the court officer stationed in front of the grand jury room. Even though your subpoena will specify a time for you to be there, be prepared to wait. Victim-witness counselors are available to accompany you to this proceeding and wait with you; however, *no one except the Assistant Prosecutor is permitted in the grand jury room with you while you testify*. Usually, before you actually testify, the Assistant Prosecutor or other member of the Prosecutor's staff will review the facts with you, including the statement that you gave to the police.

Emotionally, you may now be realistically appraising the offense and its effects, putting it into proper perspective with your life. Often it is at this time that your anger begins to be turned towards the justice system. It seems now that the "system" rather than the offense itself is the cause of disruption in your life.

If you have concerns or questions regarding the status of your case, counselors from the Office of Victim-Witness Advocacy in the Prosecutor's Office are available to assist you. They can let you know if the grand jury returned an indictment and can help you with other problems that may arise.

If you are feeling overwhelmed by the experience and are still having difficulties coping with the effects of the crime, it is never too late to start counseling. You may now feel ready to talk to a friend or loved one.

### Arraignment/Pre-Trial Intervention

You do not have to appear at the arraignment but can contact the Office of Victim-Witness Advocacy to determine the bail status and under what circumstances the defendant may have been released pending trial.

Some defendants charged with an indictable offense are eligible to apply for pre-trial intervention, a process in which the offender may be diverted from normal criminal prosecution and directed to other appropriate forms of treatment. You, as the victim

of the crime, will receive a letter from the Probation Department requesting your opinion as to whether the offender's application into the program should be accepted or rejected. If accepted, you may request restitution as one of the conditions of the program. The final decision for acceptance into the program rests with the judge who takes into consideration recommendations from both the Probation Department and Prosecutor's Office.

Knowing the defendant is "out on the street" until trial can be upsetting to a victim. Often, a condition of release is that the defendant have no contact with the victim. Should the defendant, or someone on his/her behalf, try to contact or harass you, you should notify the County Prosecutor's Office immediately.

At any time after the offense, you may begin imagining ways to "get revenge." You may begin venting your anger at those around you. This is a normal reaction, as is the fear of future victimization or retaliation from your assailant. You may want to reassure your safety by contacting the Crime Prevention Officer in your local police department. The officer will do a security check on your home and advise you of steps to take to improve home security. This may help to reduce your fears and anxieties.

Between the arraignment and the trial, both the defense attorney and the Assistant Prosecutor may contact you to make written or oral statements. It is in your interest to cooperate with the Prosecutor's Office. Please note that *you have no obligation* to speak to the defendant's attorney or anyone else on his/her behalf.

Although you are not present at the Pre-Trial Conference, you have the right to advise the Assistant Prosecutor of your concerns regarding any plea agreement. Victim input is an important part of this procedure, but the final decision to accept or reject the agreement rests solely with the Prosecutor.

The Office of Victim-Witness Advocacy is the resource that you can use to advise the Assistant Prosecutor of any victim-related issues.

### Trial

If you are a testifying witness, you will receive an "on-call" subpoena prior to the scheduled trial date (see Sample Subpoena in the Appendix). Do not go to the courthouse on that date without first calling the Prosecutor's Office or the Office of Victim-Witness Advocacy.

Delays are a constant source of stress to victims



and witnesses. You will mentally and emotionally prepare yourself to testify, only to find that the trial has been delayed for several weeks. It is quite normal for a victim's sense of frustration to grow each time the trial is delayed. Each time your case is rescheduled, you may find yourself reliving the events of the crime in your mind. The support of family and friends can be very important, especially now. You may want to talk over your anger and frustration at these delays and inconveniences with them, with a counselor or with someone at the Office of Victim-Witness Advocacy.

If your case goes to trial, you will meet with an Assistant Prosecutor to review your case. You may be shown photographs taken at the crime scene, statements or other evidence to refresh your recollection.

Testifying is a very emotionally draining experience. Detailing the events in front of strangers in the courtroom is difficult and, at times, embarrassing. You may feel the cross-examination by the defense attorney is a personal attack on your truthfulness. The tactics used by defense lawyers may seem hostile to you, and it may seem that they are trying to upset or rattle you by their tone of voice or physical mannerisms. Whatever his/her style, you must remember that the defense attorney is merely doing his/her job and has nothing personal against you. Also, any challenges the defense attorney makes to your testimony should not be taken personally, and by no means should you engage in an argument with the attorney when you testify.

Since the defendant will be present throughout the trial, often accompanied by family members, you will feel less intimidated if you, too, have such accompaniment. Victim-witness counselors are available to accompany you to trial, to wait with you in a private, secure and comfortable area, and will go into the courtroom with you as a visible source of support during your testimony.

### **Pre-Sentence Investigation/Sentencing**

As part of the Pre-Sentence Investigation, the Probation Officer will send you a letter requesting your input. S/he will be interested in knowing what effect the offense has had on your life and your feelings as to the appropriate sentence.

Your statement will be included in the Pre-Sentence Investigation Report to be considered when the judge determines the sentence. The sentence imposed will be based on, among other considerations, all the information included in the report; therefore, we

strongly urge you to submit a statement to the Probation Department so the judge will have a complete picture of the impact of the offense. Victim-witness counselors will gladly help you prepare your statement. In addition, under the New Jersey Crime Victims Bill of Rights, you have the right to make an in-person statement directly to the sentencing court concerning the impact of the crime.

### **Sentence**

You will be notified by the Office of Victim-Witness Advocacy of any sentence imposed by the court. You may attend the sentencing if you want to but it is not required. A counselor from the Office of Victim-Witness Advocacy can accompany you to the sentencing upon your request. Any questions or requests for information you may have can be directed to the Office of Victim-Witness Advocacy in your County Prosecutor's Office.

A sentence is not always a jail or prison sentence; the judge may instead choose probation, fine, restitution, community service, or any other punishment or combination thereof permitted by law, which the judge feels is appropriate based on *all* of the information before him/her.

### **Intensive Supervision Program**

If the defendant in your case has applied to the Intensive Supervision Program, the Administrative Office of the Courts will ask you to complete a victim questionnaire form. The victim questionnaire form provides you with an opportunity to express your agreement or disagreement with this type of sentencing option; requests a list of your losses for the purpose of ordering restitution; and provides for the notification of date, time, and place of the Resentencing Panel hearing if you should choose to attend.

### **Appeal**

Although the prosecution, by law, has no right to appeal a "not guilty" verdict, the defendant *does* have a right to appeal a "guilty" verdict. Once the defendant is found not guilty, he cannot be tried again for the same offense. When an appeal is made, a higher court (known as an appellate court) will review the case to see if there is any legal reason to overturn the verdict. If the appellate court finds such a reason, the decision of "guilty" may be overturned.

The appeal process may take several months or even years. Because appeals involve questions of legal errors made during the trial, the victim's presence is

not necessary at appeal hearings. If you want to be notified of the appellate court's decision, you should notify your County Office of Victim-Witness Advocacy.

### **Parole**

If the defendant in your case is convicted of a first or second degree crime, the County Prosecutor must notify you, as the victim of that crime—or nearest relative of a murder victim—of your right to testify to the Parole Board before parole consideration. This notification is in writing and includes a form which you should use to register your interest with the Parole Board.

When the registration form is received by the Parole Board's Victim Input Unit, the Board's staff will open a file on the case and make appropriate schedule programming. In this way, contact with you will automatically be triggered well in advance of the inmate's first eligibility. At this point, you have the right to either submit a written statement, meet with a senior hearing officer of the Board, or appear personally to testify to the Parole Board.

If you elect to meet with a senior hearing officer, a hearing will be scheduled for that purpose. Every effort will be made to accommodate you in scheduling the hearing. Most hearings will take place at the Parole Board's Office of Victim Services. However,

in special situations it may be possible to conduct the hearing elsewhere.

The statement or testimony you provide should include the following: the continuing nature and extent of any physical, psychological, or emotional harm or trauma suffered; the extent of any loss of earnings or ability to work; and the continuing effect of the crime upon you or your family. Additionally, any other information that would help the Board determine the likelihood of new crime being committed or the development of special parole conditions would be welcomed.

By law, the Board cannot make any decisions in the case of an inmate sentenced after July 11, 1984 of a first or second degree offense without reviewing and considering your input as the victim unless you prefer not to participate. In the cases of inmates sentenced prior to July 11, 1984 the Board's Victim Input Unit will be available to schedule an interview for if you request one. However, there is no way for the Board on its own to identify and contact you if your case falls within this pre-July 11, 1984 category because there was no victim registration mechanism in place at the time these cases were sentenced. If you are the victim in a first or second degree case of an offender serving time in New Jersey, you should contact the Parole Board's Victim Input Unit for details.

# Suggestions for Testifying

You should try to recall the events before you come to court. You will be interviewed by the Assistant Prosecutor or Investigator assigned to the case before you actually testify. Try to recall as much as you can. The more you are able to recall, the better you will be as a witness. Remember all you can, but don't memorize your story. If you have any questions before testifying, please feel free to ask them. If you recall facts after the interview, don't be afraid to call the Assistant Prosecutor or Investigator assigned to the case.

When you are called into court to testify, walk directly to the front of the courtroom where a court officer will swear you in as a witness and ask you to state your name. Speak clearly. Be seated and wait for the Assistant Prosecutor to ask a question. Wait until the Assistant Prosecutor or defense attorney finishes his/her question before you attempt to answer it.

### Points to Remember

- 1. Always Tell The Truth.** Testify as accurately as you can about the facts. You are under oath, and it is a crime to tell a deliberate falsehood. Every fact should be readily admitted. Do not exaggerate. Do not stop to figure out whether your answer will help or hurt the case. Just answer the question to the best of your recollection. Sometimes a defense attorney may ask whether you have discussed the case with anyone. If indeed you have discussed the matter with others, then simply say "yes." The defense attorney may try to imply that you have been told what to say. The best response is to freely admit that you have talked with whomever you have talked with; the police, the Assistant Prosecutor, other witnesses or relatives. Obviously, the Assistant Prosecutor will talk to all of the witnesses before calling them to the stand and inquire of them what they know about the case.
- 2. Understand The Question.** You cannot give a truthful and accurate answer unless you completely understand the question. If you do not hear the entire question, ask the judge to have the attorney repeat it; if you do not understand the question, ask the judge to have it rephrased. Look at the attorney when s/he is asking you the question.
- 3. Think Before Answering.** Think carefully and formulate your answer before responding. If an attorney makes an objection, do not speak until the judge has ruled on the objection.
- 4. Answer the Question That Is Asked and Then Stop.** It is not necessary to volunteer any other information which is not responsive to the question. If you do not want to answer a question, do not ask the judge whether you must answer it. If it is an improper question, the Assistant Prosecutor trying the case will object and take it up with the judge. Otherwise, you should answer the question as you would any other. Stop instantly when the judge interrupts you or when the defense attorney or Assistant Prosecutor objects to a question.
- 5. Give A Positive Answer.** If you are sure of your testimony, you should avoid such phrases as "I think," "I believe," "in my opinion," or "probably." The judge and the jury are interested in only the facts. Don't give them your conclusions or opinions.
- 6. Give An Audible Answer.** The court reporter must be able to record your answers and the jurors must be able to hear and understand all of your testimony. Do not nod your head to give a "yes" or "no" response. Keep your hands away from your mouth, and do not chew gum.
- 7. Be Courteous.** Always be courteous, even if the defense attorney questioning you may appear discourteous. Being courteous is one of the best ways to make a good impression on the judge and jury. Do not be afraid to answer "Yes sir" and "No sir;" and to address the judge as "Your Honor." Don't argue or avoid giving a direct reply. Do not appear cocky or respond with "smart aleck" remarks. Do not be evasive. Otherwise, you may be reprimanded by the judge. Do not lose your temper no matter how hard you are pressed. If you lose your temper, you may appear to exaggerate, appear unobjective or emo-

tionally unstable. Keep your cool. If you lose your temper, you have played right into the hands of the cross-examiner. If a defense attorney is abusive or argumentative, the Assistant Prosecutor will point this out to the court and request that s/he be admonished to ask questions in a proper fashion.

8. **Do Not Guess.** If you do not know the answer to a particular question, you should admit "I do not know." However, you should not use this response as an excuse merely to avoid answering a question. You are permitted to give estimates or approximations of time and distance but be certain that your estimate is reasonable, and everyone knows that you are estimating.
9. **Look at the Jury While You Are Testifying.** Relax and address the jurors in the same genuine manner in which you would speak to your friends or neighbors. During cross-examination do not look to the Assistant Prosecutor or judge for help before answering the question or for approval after you answer.
10. **Don't Try To Memorize What You Are Going To Say Before You Testify.** Try to picture the scene, the objects there, the distance and just what happened so that you can recall more accurately when you are asked.
11. **Present A Neat Appearance.** Proper dress in court is important. You do not have to impress anyone with your clothing, but be neat and presentable.
12. **Take Your Time.** Give the question such thought as it requires to understand it and formulate your answer. Do not give a snap answer without thinking but neither should there be an unnaturally long delay to a simple question if you know the answer. If you are interrupted in the middle of your answer, you may ask the judge for permission to finish your answer. Explain your answer if the answer cannot be correctly understood on the basis of a simple "Yes" or "No." If your answer is not clear, clarify it immediately.
13. **Be Serious In And Around The Courtroom.** Avoid laughing and talking in the presence of the jury or anywhere in the courthouse where you may be observed. You may not be laughing or talking about the case, but the jury may believe that you are. Stay clear of jurors during recesses. Under no circumstances should you approach a juror even on a matter wholly foreign to the case on trial. To do so is to invite suspicion. Politely but firmly avoid letting jurors talk to you. You have no obligation to talk to the defense attorney, friends or relatives of the defendant, or the defendant.
14. **Try Not to Be Nervous.** Being a witness is not an every day event, but try not to be nervous. After a few questions, you will see how easy it is to just tell the truth. We hope these tips will help you feel more comfortable about testifying. If you tell the truth and if you remember that you are just talking to friends and neighbors, you will do just fine.
15. **Always be Prompt.** Appear at the time and date you are instructed. No one wants you to spend unnecessary time waiting to testify.
16. **Only State What You Actually Remember.** There is nothing wrong with forgetting a fact. Oftentimes, the trial occurs long after the events that you witnessed. Do not be afraid to say that you do not know or do not remember something. Be honest and tell the truth as you know it. Do not try to make things up!
17. **Use Your Own Words.** Do not try to impress anyone. Be natural and sure of yourself. To be a truthful and an effective witness, be yourself.
18. **Do not Try to Outsmart the Attorney or the Judge.** If you think that a trick question has been asked, don't try to give a smart answer. Try not to engage in a "battle of wits" with the attorney. Just tell the truth.
19. **Unless Certain, Do not Say, "That's All Of The Conversation" Or "Nothing Else Happened."** Instead say "That's all I can recall," or "That's all I remember happening." It may be that after more thought or another question, you will perhaps remember something important.

## Common Questions about the Criminal Justice System

Q. How will I be notified to testify?

A. You will receive a subpoena. A subpoena is a court order requiring you to appear in court at a particular time. If the case has been adjourned to another time or date, you will be promptly notified of this change.

Q. What is the role of the Prosecutor in the Criminal Justice System?

A. The Prosecutor has the official duty of investigating crime and prosecuting criminal cases in court. S/he represents the people of the State of New Jersey during the trial of a criminal case.

Q. What should I do if I am unable to appear on the day of testimony?

A. You should promptly call the County Prosecutor's Office and ask to speak with the Assistant Prosecutor assigned to prosecute the case or with the Victim-Witness Coordinator.

Q. What should I tell my employer?

A. Explain simply that you have received a subpoena to testify in a criminal case and that the law requires you to appear. Most employers are understanding and supportive. However, if there are any questions or problems, the employer should contact the Victim-Witness Coordinator.

Q. Where will I have to go to testify?

A. Look at your subpoena for the location of the court in which you are required to appear. If you need directions, call the phone number which appears on the subpoena or the Victim-Witness Coordinator.

Q. Should I discuss the case with the defense attorney before the trial?

A. **You are not required to discuss your testimony with anyone before the trial.** If you consent to give an interview, it is requested that you immediately contact the County Prosecutor's Office

before you answer any questions. The Assistant Prosecutor may want to be present during the interrogation. If a written statement is taken, be sure to secure a copy of it for yourself.

Q. How can I determine the status of a criminal case?

A. The Victim-Witness Coordinator is required to notify the victim of any change in the status of the case. Notifications are normally made by mail.

Q. Will I be involved in the sentencing proceeding?

A. After a verdict or plea of guilty, the judge sets a date for sentencing. During this time, the Probation Department will evaluate the defendant's potential for rehabilitation and prepare a sentence recommendation. As the victim, you will be contacted by either the Probation Department or Victim-Witness Coordinator to give a written statement of the impact the crime has had on your life. The judge then considers the recommendation and other evidence offered by either the Assistant Prosecutor or defense before deciding upon a sentence. In addition, you can make an in-person statement directly to the sentencing court concerning the impact of the crime.

Q. What happens if the case is continued?

A. If you are advised that the date to appear has been changed, you will be expected to appear on the new date and time. It is as binding as the original subpoena and can carry the same consequences if you fail to appear.

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.

Q. What can I do with my children?

A. Courtroom proceedings can be long and complex, so try to find a neighbor, friend or relative to care

for your children. If you are unable to do so and must bring them to court with you, the Office of Victim-Witness Advocacy will try to assist you with your child care needs.

Q. What will happen to me in court?

A. As a witness for the State, you may be questioned by the Assistant Prosecutor and then by the defense attorney who will cross-examine you (ask you additional questions). You may feel during the questioning that your testimony is under suspicion or that your personal motives are doubted. But the process of cross-examination is not meant as a personal attack toward you. It is essential in our adversarial criminal justice system to ensure that all sides of the case are told and to establish the truth. The judge is there to assist you if you do not understand a question and to see that you are treated respectfully. If you don't understand a question, do not be afraid to say so. You need not be present during the entire trial and will be called only when needed. Remember, if you have any questions or concerns, you should call the Office of Victim-Witness Advocacy.

Q. Why am I important?

A. Without witnesses, criminals cannot be convicted. What you know about a crime may be crucial for convicting a criminal. No matter how unimportant your information may seem to you, it may help determine what really happened and help fight crime.

Q. What can I expect as a witness?

A. You will be asked to tell what you know about the case. You may be questioned by both the Assistant Prosecutor and by the defense attorney.

Q. How often will I have to go to court?

A. Every case is different. Usually a witness will only be asked to come to court a couple of times. Sometimes the trial is postponed to avoid scheduling conflicts for the judge, defense lawyer or Assistant Prosecutor. This is called a continuance. The Assistant Prosecutor or the Victim-Witness Coordinator will let you know as far in advance as possible when you should come to court.

Q. What if the case doesn't go to trial?

A. Sometimes a witness's testimony is not needed. A case may be dismissed by the judge or by the Prosecutor's Office before trial. Often the defen-

dant pleads guilty, eliminating the necessity of a trial.

Q. Should I tell the Prosecutor's Office if I move or change my phone number?

A. Yes. It is important that the Assistant Prosecutor and the Victim-Witness Coordinator know where to reach you quickly so you know what is happening with your case and so that you do not make unnecessary trips to court. Sometimes a defendant will go free if a witness cannot be located.

Q. Who can I call if I have a question about my case?

A. Call the Victim-Witness Coordinator whenever you have a question.

Q. What do I do at a grand jury proceeding?

A. If you are subpoenaed to testify at grand jury, the Assistant Prosecutor may want you to sit in the witness chair and answer questions about who you are and what you know about the case. This proceeding is not in the presence of a judge, but a jury of twenty-three citizens, the Assistant Prosecutor, a court reporter and the grand jury clerk. No one else is allowed in the grand jury room at the time you are testifying.

Q. What if someone threatens me to drop the charges?

A. Such a person is obstructing justice and may be committing a crime. Call the investigator or Assistant Prosecutor in charge of the case.

Q. What happens in a trial?

A. In a trial, the Assistant Prosecutor presents the case for the State and has the burden of proving beyond a reasonable doubt that the defendant did commit the crime as charged. The defendant may present evidence, although s/he has no obligation to do so. Furthermore, the defendant may not be compelled to testify.

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 s/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.

Q. What is the purpose of bail?

A. Bail is cash or a security bond to assure the defendant's appearance in court at the next scheduled hearing. The amount or value of bail is set by the court and may vary depending on a number of factors including the seriousness of the offense charged.

Q. What if I change my mind about prosecuting or testifying?

A. A crime committed against any person is legally a crime against the State. Our community and each of us as individuals deserve protection against criminal wrong-doers. For this reason, the court can compel testimony of a victim or witness to a crime. A great deal of costly work will proceed and be wasted if the victim does not testify. The loss of a case because a victim or witness drops out is a tragedy. Should you have any reluctance about testifying in a case, please discuss your concern with the Victim-Witness Coordinator or the Assistant Prosecutor handling the case. They will try to help with any problems, doubts or questions you may have. Our criminal justice system depends on your patience and commitment. While some delays and frustrations are unavoidable, efforts are made to minimize the inconveniences to you.

Q. Are witnesses permitted to be in the courtroom before and after testifying?

A. As a witness, you may observe the proceedings unless you are excluded from the courtroom by the judge. This is called sequestration of witnesses. In any event, witnesses should not discuss their testimony with each other.

Q. How and when is sentencing determined?

A. A defendant who has been found guilty or has pleaded guilty is sentenced by the judge presiding at the trial. Using State statutes as a guideline, the judge sentences the defendant in a manner appropriate to the offense and other circumstances related to the case. The defendant may be sentenced to prison or placed on probation or ordered to make restitution and/or ordered to pay fines and penalties.

Q. Can I be compensated for losses I have suffered as a victim?

A. Your insurance may provide coverage for personal injury or property loss due to a crime. The court may order the offender to make restitution—to pay for the cost of your injuries, damages or losses. The Violent Crimes Compensation Board provides monetary compensation for certain uninsured out-of-pocket losses, as a result of personal injury and for counseling.

## Chapter 6

# Your Rights as a Victim and the Assistance that is Available to You

### Crime Victim's 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 presentence report.

### Drunk Driving Victim's Bill of Rights

- 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 the 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:
  1. Information about their role in the court process.
  2. 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.
  3. Timely notification of the case disposition, including the trial and sentencing.
  4. Prompt notification of any decision or action in the case which results in the defendant's provisional or final release from custody.
  5. 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.

## **Survivors' Rights to Information and Property**

### **Information**

The timing of release of information varies according to the circumstances surrounding the death. Law enforcement agencies may be required to withhold information concerning homicide or suspicious death cases so that the investigation is not jeopardized.

Procedures for the release of information may be different from county to county. This section contains general information. Your funeral director or County Prosecutor will be able to provide you with information concerning local practice and procedure.

### **Autopsies**

An autopsy may be performed when the death involves: violence, including motor vehicle collisions, unknown disease, suspicious circumstances, prison inmates, patients in psychiatric facilities, public health threats, job-related circumstances, young children, and people in the hospital less than one day.

The preparation of the autopsy report usually requires two or three weeks with a maximum of 30 days. Toxicology studies may take longer. You may obtain these reports from the Office of the County Medical Examiner by identifying yourself as the next of kin or by giving written authority to a legal representative. Although as the next of kin you are entitled to these reports, you may wish to have your physician review them with you in order to be able to better understand medical terminology, etc. In certain criminal cases, the case must be closed before the autopsy or toxicology report can be released.

### **Property**

Personal effects on the person at the time of death, such as clothing, eyeglasses or dentures, may be claimed by the next of kin through the funeral director. Valuables such as jewelry or currency may have

been safeguarded by the local police or hospital personnel. Personal property which is not to be used as evidence in a suspicious death or homicide may be claimed in the same manner. The survivors may have to assume costs which are necessitated by transportation, impoundment or storage of personal property.

### **Restitution**

New Jersey's criminal laws are designed to encourage restitution to victims for losses resulting from crime. No longer are judges forced to choose between ordering an offender to make restitution to the victim and imposing any other possible sentence. The New Jersey penal code allows for restitution as a separate sentence or in combination with other sentencing alternatives, such as incarceration, fine, probation or suspended sentence. It should be noted that the sentencing court must provide a defendant with a restitution hearing to challenge the amount of restitution being sought and to present evidence of his/her financial ability to make such payments and in amounts which are not deemed to be unduly burdensome. Restitution can also be ordered as a condition of parole or as a condition of pre-trial diversion.

By law, the amount of restitution ordered cannot exceed the victim's loss. The offender's ability to pay is also a factor to be considered; however, offenders can be ordered to pay in installments. Payments are not made directly to the victim but are collected by the Probation Department or the Bureau of Parole.

As the victim of a crime, if you feel you are entitled to restitution from the defendant, advise the Assistant Prosecutor, Victim-Witness Coordinator, Probation Officer, Parole Officer, or the judge responsible for your case.

### **Violent Crimes Compensation Board (VCCB)**

Compensation for losses due to injuries is available to eligible victims of violent crime through the New Jersey Violent Crimes Compensation Board. In the case of the death of the victim, payment may be ordered to or for the benefit of the dependents of the deceased victim. Persons who are injured while trying to prevent a crime or while assisting a police officer in making an arrest also may be eligible for compensation.

Violent crime victims or dependents seeking compensation must meet the following criteria:

- The claim must be filed within two years after the date of the personal injury or death, unless

the Board determines that good cause existed for the delayed filing.

- The crime must be reported to the police within three months after its occurrence.
- Victims may not be entitled to an award if they contributed to their injuries or provoked the incident. If the victim is the person responsible for the crime or an accomplice of such person, he or she is not eligible to receive an award.
- The victim must have at least \$100 in out-of-pocket medical expenses unreimbursable from other sources or at least two continuous weeks of lost earnings. This requirement does not apply to senior citizen applicants 60 years of age or older or to any applicant who is disabled.
- Victims who are injured or killed by relatives or by persons with whom they live may be eligible for compensation if the victim is not presently living in the same household as the offender or the victim cooperates in the prosecution of the offender.

### Emergency Award

Applicants may be eligible for emergency financial assistance if, as a result of the crime, lack of funds cause an undue hardship. Inability to buy food, make rent or other payments, or to secure medical treatment because of a financial hardship should be called to the attention of the Board. One or more emergency awards of up to \$500 each, not to exceed a total of \$1,500 can be made while applications are pending.

1. You may file for compensation (\$25,000 maximum) for medical costs and wage losses. In the case of the death of the victim, funeral expenses of up to \$2,000 may be paid by the State.
2. You may be eligible for emergency financial assistance.
3. You may request free counseling services if you are having difficulty coping with problems resulting from the crime.
4. You have the right to be represented before the Board by an attorney, at no cost to you.

### Counseling Services

If you are having difficulty coping with problems resulting from a crime, the Violent Crimes Compensation Board will provide assistance to include information and advice on filing a claim with the Board, emergency funds and clothing, employment

opportunities, referrals to other social service agencies, and the obtaining of legal advice or representation.

Information and applications are available at municipal police departments, your County Office of Victim-Witness Advocacy or your local hospital. You can also write to: Violent Crimes Compensation Board, 60 Park Place, Newark, New Jersey 07102.

### Office of Victim-Witness Advocacy

The goal of the State and County Offices of Victim-Witness Advocacy is to improve the treatment of victims and witnesses and ensure their rights by providing the assistance and services necessary to speed their recovery from a criminal act and to support, aid and advocate for them as they move through the criminal justice process. Each county has a Victim-Witness Coordinator responsible for implementing the victim-witness rights program in that county.

The State and County Offices of Victim-Witness Advocacy attempt to minimize the confusion and trauma suffered by victims of crime in New Jersey. Listed below are some of the services that the Offices of Victim-Witness Advocacy provide:

### Case Status Notification

The Office of Victim-Witness Advocacy notifies all victims of case developments and possible delays in proceedings. The notification system consists of a series of letters which correspond to the following significant phases of criminal prosecution:

1. 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. Other unique or special occurrences.

### **Court Accompaniment and Transportation Services**

Victims and witnesses are provided with transportation and a court escort when their appearance is required. Transportation assistance can be in the form of reimbursement to victims for travel expenses they incurred or by staff transporting victims and witnesses themselves.

### **Employer and Creditor Intercession**

When victims or witnesses are threatened with financial hardship or loss of employment from creditors or employers as a result of their physical injuries or their cooperation with the criminal justice system, County Victim-Witness Coordinators are responsible for interceding on their behalf. Employers and creditors are typically provided with verification letters explaining why a victim's or witness's participation is essential for the prosecution of a case. County Victim-Witness Coordinators notify creditors and attempt to forestall further punitive action should a victim be temporarily unable to continue payments. When necessary, coordinators personally meet with employers to secure their cooperation in limiting or curtailing any loss of pay or benefits that an employee would suffer as a direct result of the crime and their participation in the criminal justice process.

### **Expedited Property Return**

Under the *Attorney General Standards to Ensure the Rights of Crime Victims*, property retained for prosecution should be returned as soon as possible but not later than 45 days of the judgement of conviction unless evidentiary requirements pertaining to an appeal prohibit it. Property not retained for prosecution should be returned within 30 days of recovery. In

many cases, photographs can be presented at trial in place of the actual physical evidence. County Victim-Witness Coordinators assist victims with the property retrieval process by providing information and advocating with law enforcement officials on their behalf.

### **Victim-Witness Waiting Rooms**

County Victim-Witness Coordinators provide separate waiting facilities for victims and witnesses. Some counties use the County Victim-Witness Coordinator's office to accommodate victims and witnesses if courthouses lack facilities.

### **Child Care**

Victims and witnesses are provided with child care services when their appearance is required throughout the duration of a criminal case. In most cases, county office staff provide care for children themselves, but some have negotiated agreements with local, State approved day care centers to provide services on a temporary basis.

### **Counseling and Support Services**

Crisis intervention and short-term counseling are provided by county office staff and referrals are made to a variety of social service agencies for further care. Several county programs sponsor support groups for sexual assault victims and homicide survivors. Office staff also assist victims with relocation to shelters and with obtaining food and clothing.

### **Information on Financial Entitlements**

County Victim-Witness Coordinators and their staff are responsible for providing victims and witnesses with information that will help them secure victim compensation and monetary restitution from a criminal defendant. All county coordinators are trained to assess the special needs of victims of crime and to determine whether they may be eligible for financial awards. Claim forms for compensation are usually sent to victims with their initial contact letter, or distributed during the initial interview. In addition, coordinators and staff work with assistant prosecutors and investigators to identify those victims who might be eligible for assistance. Office staff also assist in documenting and verifying losses suffered by victims to expedite claims and to advocate for restitution.

### **Victim Impact Statements**

The County Victim Witness Coordinator informs victims of their rights to provide a victim impact statement prior to charging decisions and to the court upon notification of sentencing. Pamphlets and other printed forms explaining the victims' right to have input at formal charging and sentencing have been prepared by several county offices. County office staff often assist victims with the preparation of both oral and written statements.

### **Parole Input**

County coordinators help with victim input into the parole process by notifying victims of this right and informing them about how to register with the

State Parole Board so that they may address the Parole Board or provide a statement prior to the time of the defendant's parole hearing.

### **Criminal Justice Information**

Because involvement in the criminal justice system can be confusing, county coordinators routinely provide an explanation to victims of proceedings that may occur during the prosecution phase. They also give victims an idea of what to expect (i.e. time frames, possible sentencing options, etc.). Coordinators frequently help to orient victims by providing court room walk-throughs, preparing them for what will happen in the Grand Jury and giving them advice about testifying.

## GLOSSARY OF TERMS

**Aggravating Circumstances**—A series of factors listed in the New Jersey Code of Criminal Justice which must be considered by the sentencing court when imposing sentence. These factors are weighed with the mitigating circumstances, in a quantitative and qualitative analysis, in order to achieve a balance. That balance determines whether the sentencing court keeps a sentence at the Criminal Code's presumptive term for the particular offense or whether it allows the court the discretion to either raise or lower that term from the presumptive sentence.

**Appeal**—An application to a higher court to correct or modify the judgement of a lower court.

**Arraignment**—The first appearance before the court of a person who is charged with an offense and is advised of all pending charges, is asked to plead guilty or not guilty to the charges, is advised of the right to counsel and of the right to trial by jury.

**Assistant Prosecutor**—An attorney empowered to prosecute criminal cases on behalf of the State.

**Bail**—Amount of money/bond set by the court to guarantee defendant's reappearance in court on a designated date.

**Community Service**—As a condition of probation or PTI, the court can order the defendant to perform a certain number of hours of community services such as cleaning parks, addressing newsletters, custodial work in a hospital, etc.

**Complaint**—An official document to be signed by a victim or police officer which outlines charges brought against the defendant. The complaint represents charges that violate the law of the State of New Jersey. The Prosecutor represents the State in the legal proceedings which follow.

**Defendant**—Person against whom a charge/complaint is filed.

**Deposition**—A deposition is the recorded testimony of a witness, given under oath in the presence of both

the defense attorney and the prosecuting attorney. The purpose of taking a deposition is to determine and preserve the testimony of a witness. A witness must however, actually appear and testify in the criminal trial except under dire medical exceptions.

**Grand Jury**—A twenty-three person jury that hears evidence presented by the Prosecutor to determine whether or not there is probable cause (sufficient reason) for a formal charge.

**Indictment**—A formal written charge made by a grand jury alleging that a specific person has committed a specific crime.

**Jury**—(Petit Jury)—A group of twelve citizens selected without prejudice, to hear evidence relating to charges stated in the indictment or accusation.

**Mandatory Term**—A prison sentence which must be imposed. The court has no discretion to refuse to impose the specified term of incarceration.

**Mitigating Circumstances**—A series of factors listed in the New Jersey Code of Criminal Justice which must be considered by the sentencing court when imposing sentence. These factors are weighed with the aggravating circumstances, in a quantitative and qualitative analysis, in order to achieve a balance. That balance determines whether the sentencing court keeps a sentence at the Criminal Code's presumptive term for the particular offense or whether it allows the court the discretion to either raise or lower that term from the presumptive sentence.

**No Bill**—A determination by the Grand Jury that the evidence presented by the prosecution is not sufficient to justify an indictment.

**Parole**—The release, under conditions of supervision, of a person who has been sentenced to prison and has served part of his/her maximum sentence.

**Parole Ineligibility**—Fixed period of incarceration during which an offender may not be considered for release on parole.

**Penal Code**—The Penal Code, enacted in 1979, defines what constitutes offenses in the State of New Jersey and fixes the penalties for such offenses.

**Perjury**—Deliberate false testimony given under oath.

**Plea Negotiation**—An agreement reached between the Assistant Prosecutor and the defendant, through the defense attorney, whereby 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 use by the judge in determining sentence. The report consists of a summary of the defendant's background, nature of the offense, victim impact statement, and other material relevant to the determination of a sentence.

**Probation**—Allowing a person found guilty of a crime to remain at large (free) under certain conditions imposed by the court.

**Restitution**—Requires that the defendant give money or other property back to the victim in order to compensate for financial loss caused by the offense.

**Sentence**—The punishment imposed on the defendant by the judge which could include incarceration, 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 under possible penalty of law for failure to appear.

**Victim Impact Statement**—A statement from the victim which becomes a part of the court file so that the judge knows the impact of the crime upon the victim.

**Witness**—Someone who has personal knowledge concerning the case in question and may be asked to testify to that knowledge.

## USEFUL ADDRESSES AND PHONE NUMBERS

**New Jersey State Parole Board**  
CN 862  
Trenton, New Jersey 08625  
(609) 292-4582

**Violent Crimes Compensation Board**  
60 Park Place  
Newark, New Jersey 07102  
(201) 648-2107

**Hotline: 1-800-242-0804**

**Division on Women  
Domestic Violence Prevention Program**  
101 South Broad Street, CN 801  
Trenton, New Jersey 08625-0801  
(609) 292-8840

**Domestic Violence Hotline: 1-800-572-SAFE**

**Child Abuse Hotline**  
1-800-792-8610

**NJ Coalition Against Sexual Assault**  
P.O. Box 10351  
New Brunswick, New Jersey 08906  
(908) 932-1181 (President)

**NJ Coalition for Battered Women**  
2620 Whitehorse-Hamilton Sq. Road  
Trenton, New Jersey 08690  
(609) 584-8107

**Coalition of Crime Victims Rights  
Organization-NJ**  
P.O. Box 94  
Mendham, New Jersey 07945  
(201) 992-0660

## OFFICES OF VICTIM-WITNESS ADVOCACY

### ATLANTIC COUNTY

Office of Victim-Witness Advocacy  
Atlantic County Prosecutor's Office  
19th Avenue at Rt. #40  
Vocational School Complex  
Mays Landing, New Jersey 08330  
(609) 645-5808

### BERGEN COUNTY

Office of Victim-Witness Advocacy  
Bergen County Prosecutor's Office  
215 Court House  
Hackensack, New Jersey 07601  
(201) 646-2057  
(201) 646-2964

### BURLINGTON COUNTY

Office of Victim-Witness Advocacy  
Burlington Co. Prosecutor's Office  
49 Rancocas Road  
Mt. Holly, New Jersey 08060  
(609) 265-5048

### CAMDEN COUNTY

Office of Victim-Witness Advocacy  
Camden County Prosecutor's Office  
518 Market Street, Parkade Building  
Camden, New Jersey 08101  
(609) 757-8400

### CAPE MAY COUNTY

Office of Victim-Witness Advocacy  
Cape May County Prosecutor's Office  
Main Street  
Cape May Court House, NJ 08210  
(609) 465-1163

### CUMBERLAND COUNTY

Office of Victim-Witness Advocacy  
Cumberland County Prosecutor's Office  
43 Fayette Street, CN 01  
Bridgeton, New Jersey 08302  
(609) 451-8000

### ESSEX COUNTY

Office of Victim-Witness Advocacy  
Essex County Prosecutor's Office  
New Courts Building  
Newark, New Jersey 07102  
(201) 621-4707

### GLOUCESTER COUNTY

Office of Victim-Witness Advocacy  
Gloucester Co. Prosecutor's Office  
Court House Annex  
Woodbury, New Jersey 08096  
(609) 853-3701  
(609) 853-3695

### HUDSON COUNTY

Office of Victim-Witness Advocacy  
Hudson County Prosecutor's Office  
Administration Building  
595 Newark Avenue  
Jersey City, New Jersey 07306  
(201) 795-6508

### HUNTERDON COUNTY

Office of Victim-Witness Advocacy  
Hunterdon Co. Prosecutor's Office  
P.O. Box 756  
Flemington, New Jersey 08822  
(908) 788-1403



**MERCER COUNTY**

Office of Victim-Witness Advocacy  
Mercer County Prosecutor's Office  
P.O. Box 8068  
Trenton, New Jersey 08650  
(609) 989-6428  
(609) 989-6274

**MIDDLESEX COUNTY**

Office of Victim-Witness Advocacy  
Middlesex County Prosecutor's Office  
P.O. Box 71, JFK Square  
New Brunswick, New Jersey 08093  
(908) 745-3394

**MONMOUTH COUNTY**

Office of Victim-Witness Advocacy  
Monmouth County Prosecutor's Office  
P.O. Box 1261, Court House  
Freehold, New Jersey 07728-1261  
(908) 431-6439

**MORRIS COUNTY**

Office of Victim-Witness Advocacy  
Morris County Prosecutor's Office  
Court House  
Morristown, New Jersey 07960  
(201) 285-6200

**OCEAN COUNTY**

Office of Victim-Witness Advocacy  
Ocean County Prosecutor's Office  
CN 2191, Court House  
Toms River, New Jersey 08754  
(908) 929-2027

**PASSAIC COUNTY**

Office of Victim-Witness Advocacy  
Passaic County Prosecutor's Office  
77 Hamilton Street  
Paterson, New Jersey 07505  
(201) 881-4887

**SALEM COUNTY**

Office of Victim-Witness Advocacy  
Salem County Prosecutor's Office  
87 Market St., P.O. Box 462  
Salem, New Jersey 08079  
(609) 935-7510

**SOMERSET COUNTY**

Office of Victim-Witness Advocacy  
Somerset County Prosecutor's Office  
Administration Building  
P.O. Box 3000  
Somerville, New Jersey 08876  
(908) 231-7100

**SUSSEX COUNTY**

Office of Victim-Witness Advocacy  
Sussex County Prosecutor's Office  
19-21 High Street  
Newton, New Jersey 07860  
(201) 383-1570

**UNION COUNTY**

Office of Victim-Witness Advocacy  
Union County Prosecutor's Office  
Administration Building  
Elizabeth, New Jersey 07207  
(908) 527-4595

**WARREN COUNTY**

Office of Victim-Witness Advocacy  
Warren County Prosecutor's Office  
Court House  
Belvidere, New Jersey 07823  
(908) 475-2663

**STATE OFFICE OF VICTIM-WITNESS  
ADVOCACY**

Division of Criminal Justice  
25 Market Street, CN 085  
Trenton, New Jersey 08625  
(609) 984-3880

WE

The State of New Jersey
vs.

COURT
COUNTY OF
COURT DOCKET NUMBER(S)
COURT CODE NUMBER
COMPLAINT RESULT OF CASE RETURNED BY PROSECUTOR
PRIOR CASE DOCKET NUMBER

Defendant:
Address:
City, State:

COMPLAINT

Complainant: of
(NAME OF COMPLAINANT) (IDENTIFY DEPARTMENT OR AGENCY REPRESENTED)

Residing at
(ADDRESS OF PRIVATE CITIZEN COMPLAINANT)
Upon oath says that, to the best of (his) (her) knowledge, information and belief, the named defendant on or about the

day of 19 in the of MUNICIPAL CODE NO. County of N.J. did,

Table with 3 columns: Charge Number 1, Charge Number 2, Charge Number 3. Each column contains 'N.J.S.'

Subscribed and sworn to before me this day of 19

Signed (NAMED AND TITLE OF PERSON ADMINISTERING OATH) Signed (COMPLAINANT)

To any peace officer or other authorized person: Pursuant to this warrant, you are hereby commanded to arrest the named defendant and bring (him) (her) forthwith before this court to answer the foregoing complaint.

Bail has been fixed by in the amount of \$ or (Specify condition of release, e.g. R.O.R.)

Date Warrant Issued

Court Appearance Date Time (AM) (PM) SIGNATURE OF JUDGE OR CLERK

COURT ACTION (Cases wherein judgment or Conditional Discharge is entered in this court)
Table with columns: CHARGES, WAIVER INDY.JURY, PLEA, DATE OF PLEA, ADJUDICATION OR COND. DISCH., DATE, JAIL TERM, SUSP., FINE, SUSP., COSTS, SUSP., PROBATION TERM, COND. DISCHARGE TERM

OTHER ACTION BY THIS COURT
Table with columns: DATE, 1 (DEFENDANT DISCHARGED AS TO PROBABLE CAUSE, PROSECUTOR GIVEN PRIOR NOTICE), 2 (DEFENDANT HELD FOR GRAND JURY, ORIGINAL COMPLAINT, RECORD, BAIL TRANSMITTED), 3 (NO ACTION BY THIS COURT, COMPLAINT REFERRED TO PROSECUTOR), PROBATION TERM SUPERVISED (YES/NO), INSTITUTION TO WHICH SENTENCED

BAIL INFORMATION
Table with columns: DATE, AMOUNT BAIL SET, RE/ON BAIL, R-O-R, COMMITTED DEFAULT, COMMITTED WITHOUT BAIL, PLACE COMMITTED

PROSECUTING ATTORNEY AND DEFENSE COUNSEL INFORMATION
Table with columns: PROSECUTING ATTORNEY, NONE, STATE, COUNTY, MUNICIPAL, OTHER, DEFENSE COUNSEL, NONE, RETAINED, PUBLIC DEFENDER, ASSIGNED, OTHER

MISCELLANEOUS INFORMATION



SUBPOENA TO TESTIFY

Superior Court of New Jersey

COUNTY LAW DIVISION—CRIMINAL BRANCH

STATE OF NEW JERSEY,
COUNTY OF ....., SS.:

To: .....

You are hereby commanded to attend and appear before the SUPERIOR COURT, .....
County Law Division—Criminal Branch, at the ....., N. J., on the
..... day of ....., 19..... at 9:30 o'clock in the forenoon and from day to day thereafter
until excused by the court to testify in the case of the STATE vs. ....
on behalf of the STATE and you are ordered to appear without prepayment of witness fee. Failure to comply
with this Subpoena shall make you liable for such penalties as are provided by law.

(L.S.)

(Prosecutor)

Clerk of ..... County

by ..... Dated:

NOTICE: Witness, in order to procure his fee, must present this subpoena, after the final dispo-
sition of this case to the Prosecuting Attorney for certification as to the number of Court appear-
ances, then present same at the Sheriff's Office for payment.

Witness appeared in Court ..... (.....) days.

.....
Prosecuting Attorney

.....
Court Clerk

No. ....

SUPERIOR COURT OF NEW JERSEY
COUNTY LAW DIVISION—
CRIMINAL BRANCH

Term of .....

THE STATE FOR
VS.

SUBPOENA TO TESTIFY

Returnable ..... 19.....

Returned served this ..... day

of ..... 19.....

METHOD OF SERVICE

Personal [ ] Household [ ] Other [ ]