

# **NJ JUVENILE DEFENSE**

## **A. OVERVIEW OF THE JUVENILE JUSTICE SYSTEM**

### **1. What does the New Jersey's juvenile justice system entail?**

Juvenile law deals with the crimes that are committed by your beloved teenagers. By federal law, a juvenile is a person under the age of eighteen when he violates the law he is charged with. New Jersey prosecutes various crimes committed by teenagers, from vandalism to felonies like rape and murder.

A juvenile has the same if not more rights than their parents would have if they were accused of a crime. These legal rights include the right to remain silent, the right to cross-examine witnesses against them, and the right to have legal counsel represent them at any hearing. Additionally, in New Jersey all juvenile court records are sealed, and they are not open to the public.

The juvenile justice system is based partly on the adult criminal justice system. Nonetheless, the major goal of juvenile court is to rehabilitate a juvenile. Meanwhile, the adult criminal system is designed to punish the offender and to obtain justice for the victim. Both systems are based to protect the public, and to make a criminal pay the price if he breaks the law and commits a crime.

### **2. What court has jurisdiction over juvenile delinquency cases?**

The Family Court has jurisdiction over juvenile delinquency cases. A delinquency case is started when an offense is committed by a juvenile, which if committed by an adult would constitute a crime. If a criminal case is pending, and if it is determined that the defendant is a juvenile, then the case should be transferred to the Family Court. In most cases, it is always preferable for the teenager if the case remains in the juvenile court. Nonetheless, juveniles who are involved in violent criminal crimes are increasingly being waived to the adult court.

The waiver of such juveniles will not be overturned absent a showing of an abuse of discretion. The burden of proof shifts to the juvenile in a challenge to waiving him to adult court after the state establishes the existence of prerequisite for such a waiver. The juvenile must show the probability of rehabilitation before reaching age 19 using juvenile court services and facilities.

### **3. What is the purpose of the juvenile court system?**

Most criminal charges against teenagers under 18 are handled by New Jersey's juvenile court system. The juvenile courts are set up to meet the special needs of young people charged with crimes; they have no juries, and there are strict rules about releasing minors to parents when it is deemed appropriate. However, juveniles should always have a lawyer to represent them throughout the juvenile justice system. Unlike adult courts, the juvenile courts focus on rehabilitation and education rather than punishment.

However, that doesn't mean New Jersey juvenile charges aren't very serious. The consequences of a finding of juvenile delinquency can follow a teenager well into adulthood. Juvenile crime is handled in a completely different way than adult crime. Instead of focusing on punishment, the juvenile justice system focuses on the treatment and rehabilitation of the juvenile.

There are many different options that are available to deal with juvenile crime. In the juvenile courts, the cases may be resolved through fines, treatment programs, detention in Juvenile Hall (juvenile jail), formal juvenile probation, informal juvenile probation, or a combination of alternatives. The juvenile court also has the authority, in juvenile delinquency cases, to remove children from their homes, terminate parental rights and direct various agencies to provide needed services. The juvenile court can also order children confined in locked facilities or juvenile jail, such as detention halls.

#### **4. What are the objectives and the goals of the juvenile justice system?**

In the adult criminal system, when a person commits a crime, he is then arrested, and he must then face his charges in the court. Thereafter, the court must determine what an appropriate punishment is. Meanwhile, in the juvenile justice system a juvenile case is treated entirely differently. If a juvenile is found to have committed the crime, then he is adjudicated to be delinquent. The Family Court does not use the term conviction. Instead they use the term delinquency. Another major difference is the type and length of sentence(s) that are imposed. In the juvenile justice system a teenager will generally receive a much more lenient sentence. Moreover, a finding of delinquency will not be considered to be a criminal conviction.

## **B. LEGAL RIGHTS OF THE JUVENILE**

#### **5. What legal rights do juvenile have?**

A juvenile has the legal right to be represented by a lawyer at every critical stage of a juvenile delinquency case.

Additionally, a juvenile has the right to present all defenses available to any adult charged with a crime. The juvenile has all of the rights that are guaranteed to criminal defendants. Nonetheless, a juvenile still does not have the right to a jury trial.

**6. Why should I hire a lawyer to defend my teenager in a juvenile case?**

One of the best parts of being a teenager is the sense of having one's whole life ahead and the freedom of being young. But when a teenager is charged with a criminal or municipal offense like theft, marijuana or other drug possession, graffiti or making threats, that freedom and future may be threatened.

In New Jersey, any offense that could be charged as a criminal offense can also be charged as a juvenile delinquency offense if the alleged offender is less than 18. Municipal offenses, other than traffic offenses, can also be charged in juvenile court. Some common juvenile offenses include:

- \* Underage drinking
- \* Fighting
- \* Shoplifting
- \* Vandalism
- \* Trespassing
- \* Drug possession and sale
- \* Internet crimes
- \* Disorderly conduct
- \* Sexual offenses

**7. Does every teenager have to be represented by an attorney in a juvenile court case?**

Absolutely. New Jersey law mandates that every teenager must be represented by an attorney. Any family who can't afford to pay for an attorney can have a public defender appointed to represent their teenager. If indigency can't be established, then a parent must retain and pay for a lawyer for their teenager. Once the juvenile complaint is filed, then the juvenile and his parents must appear at the 5A Hearing even if they intend to hire a lawyer. A 5A Notice is the Family Court's summons for the parent(s) and juvenile to appear and also to file an application for a Public Defender.

**8. Should I incur the expense of hiring a lawyer to defend my son at his juvenile delinquency hearing?**

Yes! Juvenile delinquency charges are serious charges. These offenses involve teenagers who have allegedly committed offenses that if committed by an adult would be considered crimes.

If you can't afford a lawyer, then the court will appoint a lawyer or a public defender for your teenager. In the Supreme Court case of In re Gault, (US Supreme Curt 1967), the court held that all juveniles are entitled to legal counsel.

## **C. HOW THE JUVENILE JUSTICE SYSTEM WORKS**

### **9. How is a juvenile delinquency case started?**

A juvenile delinquency case is started by the filing of a complaint. The complaint is filed with the clerk, who then immediately refers the case to the intake serve and the County Prosecutor. The court intake service then recommends whether the complaint should be dismissed, diverted, or referred for further court action.

If the matter is diverted, then the juvenile will be referred to a juvenile conference committee or to a juvenile-family intervention unit.

When there is probable cause to believe that the juvenile is delinquent and the court intake service recommends court action, a summons will be issued to the juvenile and his parents.

If the nature of the case requires that the juvenile be immediately taken into custody, then the judge may issue a warrant lieu of the summons. Thereafter the juvenile may then be released or detained. A probable cause hearing is held to determine if the matter should proceed.

If the court finds probable cause, an adjudication hearing is held and if the juvenile is determined to be delinquent, a disposition hearing is conducted. The court will then enter an order of disposition, which could include placing the juvenile on probation or committing the juvenile to detention.

### **10. What factors do intake officers normally consider when deciding whether to file formal charges?**

The official factors that an intake officer is likely to consider include;

a. The severity of the offense. A serious crime is more likely to result in the filing of a complaint than a less serious crime.

b. The minor's age. Complaints are more likely to be filed in cases involving older than younger children.

c. The minor's past record. A formal complaint is more likely when a minor has had previous juvenile court involvement.

d. Strength of case. The strength of the evidence that a juvenile has committed a crime.

e. The minor's social history. Complaints are more likely to be filed when children have a history of problems at home or at school.

f. The parent's ability to control the juvenile. If there is a lack of parental control over the juvenile, then the more likely the intake officer will file a complaint.

**11. My son has just been arrested by the East Brunswick Police. What should I do now?**

After a teenager is arrested, then the police officer in charge must decide whether the juvenile should be decides whether the child should be sent to the County Juvie Hall, or transferred to a state program, or released to his parents. This decision is based on information obtained from the victim's statements, any police evidence, any admissions made by the juvenile, and whether the juvenile has a prior record.

**12. How are the majority of juvenile cases handled?**

It must be emphasized that nearly half of all juvenile court cases are processed on an informal basis. These cases are heard before a Juvenile Conference Committee. Most of these cases end up being dismissed with an informal disposition.

If the case is of a more serious nature, then a juvenile delinquency complaint will be filed in the Family Court. The majority of these cases are settled via a plea agreement. The juvenile will admit to some type of guilt, and the prosecutor will agree to drop some of the charges, and to recommend a more lenient sentence. Moreover, the juvenile must also agree to comply with the requirements set by the court. These requirements may include;

a. Restitution. The child is required to reimburse the victim for the property damage he or she caused.

b. Community service. The child is required to spend a certain number of hours working in the community without pay.

c. School attendance. The child is required to attend school regularly and make satisfactory grades.

d. Counseling. The child is required to participate in counseling for drug or emotional problems.

After a disposition is reached, the juvenile will then be placed on probation for a set period of time. During this probation

period, the teenager will be supervised by a probation officer. After all of the fines have been paid, and the term of probation has been finished, then the case will finally be dismissed. If the juvenile blows off probation, does not pay the fines, then he will be violated, and the case will return to the juvenile Court.

### **13. What are the stages of a juvenile case?**

Once your teenager enters the juvenile justice system he will be required to go through the intake process, detention, adjudication, disposition and aftercare.

#### **A. Intake Process**

The first step of a juvenile case is called the intake process. The prosecutor or the court will decide whether to file the case in the juvenile court. They will analyze such facts as the evidence of the offense, the seriousness of the offense, the juvenile's previous criminal record, has rehabilitation efforts worked in the based, any input from the victim, the seriousness of the crime. Based on these finds, the case may be dismissed, sent to the Juvenile Conference Committee, or a formal juvenile complaint may be filed.

#### **B. Summons**

If it appears from a complaint that there is probable cause to believe that a juvenile is delinquent, and if the court intake service recommends court action, then a summons is issued to the juvenile and his parents. The summons is signed by the judge, or by the court.

#### **C. Warrant**

If the nature of the case requires the immediate custody of the juvenile, then the judge can issue a warrant in lieu of a summons. The warrant is in substantially the same form as the summons, except that it commands that the person named in the warrant be taken into custody and placed into detention or a shelter, or brought before the court.

#### **D. Adjudication and Disposition**

In New Jersey, a juvenile charged with a crime faces not a criminal conviction, but rather a juvenile adjudication of delinquency. "Delinquency," means the commission of an act by a juvenile that if committed by an adult would constitute either a crime; a disorderly persons' offense or petty disorderly persons' offense; or a violation of any other penal statute, ordinance or regulation (N.J.S.A. 2A:4A-23).

If the County Prosecutor decides to file a charge then they will

file a complaint for delinquency. In some cases if the juvenile charges are very serious, then the prosecutor will request that the case be sent up or waived up to the adult criminal court. If there is a waiver request filed by prosecutor then the court will have a waiver hearing. The judge will then decide whether the juvenile will then be tried in the Family Court or in the Adult criminal court. If your teenager remains in juvenile court, then an adjudication hearing will take place. The judge will then make a determination based on the evidence presented to the court.

#### **E. Dispositional Hearing**

Juveniles have no legal right to a trial by jury. Instead juvenile cases are decided by bench trial by the judge. The rules of trial in juvenile court are different from the adult court. At sentencing, the judge also has many more options that are unavailable to adult defendants. It is important to emphasize that most juvenile cases are settled without a trial.

If the juvenile is adjudicated as delinquent, then a disposition hearing will be held. At this hearing, the Family Court will then fashion a plan to try to rehabilitate the juvenile. The plan will consider the recommendation from probation, the prosecutor, and any statements made by the parents.

The disposition plan may contain a variety of requirements, such as: counseling, detention center confinement, community service, group home placement, or restitution. The plan may be for a few months or even for a full year. In the more serious cases, the judge could order that the juvenile should be sent to a detention center. The most popular detention center is called the New Jersey Training School for Boys, and it is located in Jamesburg, N.J.

#### **14. My son is locked up at the "juvie hall" for vandalism. How can I request that the court release him?**

You are entitled to a pre-release hearing. Pending the disposition of a juvenile delinquency case, a juvenile should not be detained unless the release will adversely affect the juveniles' health, safety or welfare. In no event can your son be detained without the permission of the judge. The court will analyze the following factors at any pre-hearing release. The judge will release the juvenile if the following factors are satisfied;

- a. The nature of the offense charges is charged is such that the juvenile's release will not constitute a danger to community;
- b. There is no parent to whom the juvenile can be released and all reasonable measures have been exhausted by either the police or by the court personnel to locate and contact any such person;

- c. The age of the juvenile;
- d. The identity and address of the juvenile are verified; and
- e. Reasonable certainty exists that the juvenile will return to school or home safely, and will appear at his hearing.

**15. Can my son simply plead guilty and avoid the family expense of having to hire a lawyer?**

No. The very first court notice in Family Court is a mandatory assignment of counsel hearing notice. This notice is a directive to the teenager and his family that they must hire an attorney to appear at the hearing, or apply for a public defender to handle the case. No case shall be undertaken by the court unless and until representation is obtained for the teenager.

**16. Can I also be present at my son's juvenile delinquency hearing?**

There is no New Jersey law that requires a parent to be present at a juvenile hearing. However, I have had many experiences wherein a judge has called a parent from the bench and ordered them to come to court immediately. Most judges will try to embarrass a parent if they blow off attending their teenager's juvenile court date.

**17. Can I speak at my son's juvenile delinquency hearing?**

You may speak if the judge asks you questions directly or if you are called as a witness. You also may ask to speak to the judge. Generally, your teenager's lawyer will speak for him. The County Prosecutor will speak for the State. The Probation Department may also be called as a witness.

**18. Can the victim attend and speak at the disposition/sentencing hearing?**

Yes. A Crime Victim's Bill of Rights allows the victim to come to the hearing. The victim, and his parents if the victim is a child, will receive notice of the hearing.

**19. Can my child's juvenile record be used against him as an adult?**

Yes, even though a juvenile case is a civil case, once the juvenile grows up and if he commits crime, then his juvenile record will show up on any pre-sentence report.

**20. What is detention?**

Just as there are separate courts for juveniles, there are



separate pre-trial jails. These are called detention centers. They are also called "juvie halls." Detention centers are very boring and unpleasant places. However, the New Jersey state workers try to make the teenager as comfortable as possible here. The teenager's main objective is normally to have the judge release him to the custody of his parents as soon as possible.

**21. Are teenagers ever locked up with adult offenders?**

No, they are not. Teenagers are detained in the juvenile hall and not in the County Adult Jail/Workhouse.

**22. What legal rights does a teenager have in the juvenile justice system?**

Yes. The teenager has the same legal rights similar to adult court, such as getting notice of the charges, right to a trial, being able to cross-examine witnesses and call his own witnesses, right to counsel, right to remain silent, right to appeal, etc. The teenager in a juvenile court does not have the right to trial by jury. However, the judges will normally go out of their way to ensure that the teenager gets a fair trial or a fair deal. Juvenile courts, after all, were formed with the idea of helping the teenager, or reforming him if at all possible, rather than punishing him.

**23. Are parents permitted to participate in meetings between their teenager and the lawyer?**

Sometimes, most defense lawyers will want to meet with the juvenile alone because he is the client even if the parents are paying for the lawyer's services. However, if the time comes to make important decisions, then it is common for lawyers to include the parent's in the discussion.

**24. Can the teenager just plead guilty to get the case over with?**

Yes, but it is called accepting responsibility. Generally, this results in a reduced penalty/sentence for the juvenile. By accepting a plea agreement in many cases a juvenile can receive a lenient sentence of just informal probation. The teenager and his parents should always first consult with a lawyer before doing this.

**25. Is there a right to a jury trial in juvenile courts?**

No, there is no right to a jury trial for a juvenile case in New Jersey.

**26. What is the burden of proof in a juvenile case?**

The burden of proof to convict a juvenile is proof beyond a

reasonable doubt. This is the same standard that is used in the adult court.

## **D. JUVENILE DISPOSITIONS**

**27. If a teenager is found delinquent what type of disposition can the Family Court impose?**

The Family Court will not act until a pre-dispositional report is prepared by the juvenile probation officer. At the disposition hearing the court will also hear testimony and recommendations from other interested person.

Thereafter, the court has many options that are available. The court could send the teenager home with a warning. In most cases, the juvenile is placed on probation. Thereafter, he must report to a probation officer on a regular basis. A judge could also establish a curfew. The juvenile could be ordered to attend counseling, submit to random urine testing for drug or alcohol use, perform community service, and/or pay restitution. Restitution is designed to pay compensation to victims for their losses.

The juvenile may also be ordered to participate at a Juvenile Justice Center or another youth program. The juvenile could be placed into a foster home, a residential care facility, or a special treatment school. Finally, the juvenile could also be placed at a juvenile correctional facility. This used to be called a reform school.

The court will normally avoid sending the juvenile to the New Jersey Training School for Boys, located in Jamesburg, NJ. In some cases the court will stay a sentence or place a jail term on hold for the juvenile. If the juvenile violates probation the judge will then send the juvenile to jail.

**28. What happens if a juvenile is adjudicated delinquent of a crime?**

If a juvenile is found to be guilty of a crime then he may receive probation, have fines imposed, ordered to perform community service, be required to pay restitution to the victim, or be sentenced to serve hard time at a juvenile correctional facility. In the majority of the cases, a defense lawyer will be able to work out a plea agreement. The juvenile will plead guilty to some of the offenses. In return the prosecutor will recommend a more lenient sentence.

**29. What are the penalties that a judge can impose in the juvenile justice system?**

The penalties for juvenile crimes could include jail time at a juvenile correctional facility, fines, and restitution. A juvenile conviction can ruin a teen's life. Spending time at the "Juvie Hall" is a miserable way to live and it robs a teen of his teenage years. Instead of a teen playing sports, doing homework, playing with friends or working part time, the teen now has to deal with having a count with the guards, he will be required to march, and he is basically trained to be a prisoner. The New Jersey Criminal Justice system imposes harsh penalties on juveniles who commit criminal offenses. Even though it favors rehabilitation over incarceration, and it is generally preferable to the adult system, there are still harsh consequences that can ruin a teen's life.

## **E. DIFFERENCES BETWEEN A JUVENILE AND ADULT CASE**

### **30. How does a juvenile case differ from an adult case?**

Because juveniles do not have a constitutional right to a jury trial unless they are tried as an adult, the judges hear most juvenile cases. Juveniles also do not have a right to a public trial or to bail. However, the fundamental elements of due process also apply in a juvenile proceeding as they do in the criminal trial of an adult. For example, a teenager who is charged in a juvenile proceeding is entitled to notice of the charges given in advance of any adjudication of delinquency; a lawyer, including one paid for by the state if the family cannot afford one; the right to confront and cross-examine witnesses; the right to pretrial release unless the child is a danger to himself or others; and the right to assert the Fifth Amendment privilege against self-incrimination. Finally, the state is required to prove its charges beyond a reasonable doubt, just as in the trial of any adult on a criminal charge.

Under most state laws, juvenile offenders do not commit crimes. Instead, juveniles commit delinquent acts. The trial of a juvenile case is called an adjudication hearing. Here, the judge hears the evidence and determines whether the teenager is delinquent.

Juvenile cases are handled in the Family Division and not by the Criminal Division, of Superior Court. The goal of Juvenile Court is to rehabilitate. The juvenile system is designed to rehabilitate a teenager rather than to punish him. In an adult case, the case will be captioned as State vs. John Doe. Meanwhile, in a juvenile case it will be captioned as The State of New Jersey in the Interest of John Doe, A Juvenile.

A juvenile case begins with a determination of probable cause.

When a person under the age of 18 is accused of committing an offense, the matter is brought to a court's attention. This is usually the Municipal Court. Most juvenile cases start when the local police department file a complaint. Thereafter, a judge or a court official such as the Court Administrator or Clerk must determine if there is probable cause to believe that the juvenile has been delinquent, and if he can be taken into police custody.

Juvenile charges are then filed in the county where the juvenile resides, instead of where the offense occurred. While in custody, a juvenile is brought before a judge at least once every three weeks, to review the need for his continued detention. In some cases a juvenile is released to his parents and is permitted to go back home. However, the judge will order that the juvenile is subject to home confinement, electronic monitoring, curfews, continued employment or school, and/or other conditions.

## **F. JUVENILE SENTENCES**

**31. What type of rehabilitation programs does the New Jersey juvenile justice program provide?**

New Jersey's juvenile justice system provides many diverse options for rehabilitating the youth. The system strives to understand each juvenile and to treat each as an individual. In appropriate cases, there are programs and plea bargains that allow for dismissals and downgrades, intensive supervision, probation, job training, substance abuse remediation, pyromania counseling, anger management, and much more.

The juvenile justice system favors the teenagers who make efforts to improve, and who shows promise for a law-abiding future. Supportive families, success in school, part-time or full-time employment, involvement organized community, religious or athletic activities all suggest that the youth has a significant likelihood of rehabilitation. Juveniles with these advantages benefit most from the non-penal philosophy of the juvenile system. The juvenile's lawyer should work toward a resolution that is realistic and rehabilitative, one that has a chance of succeeding. The diligent handling of juvenile criminal case may be the difference that saves a troubled juvenile.

## **G. SEALING JUVENILE RECORDS**

**32. Are juvenile records sealed?**

Many juveniles and parents assume that juvenile records are sealed and/or erased once the juvenile reaches 18 years of age. Unfortunately, this can be a very harmful misconception. Even

though juvenile records are sealed, in New Jersey your Record of Arrest and Prosecution (RAP sheet) still contains every arrest, charge, and conviction you have ever had while living in New Jersey. Your RAP sheet will contain every arrest whether it occurred when you were a juvenile or an adult. It is important to emphasize that your RAP sheet is available to police, prosecutors and other public officials. If you have RAP sheet that contains many arrests then this could haunt a person for his life. The police will be aware of the RAP sheet if the person is ever pulled over or stopped. Employers could get a hold of a RAP sheet.

Additionally, sometimes a RAP sheet can even be accessed by the public. Therefore, if your teenager has been adjudicated delinquent of any charge that would constitute a first, second, or third degree crime if it had been committed by an adult, then the public and even the news media may have access to these sensitive records.

**33. What impact will a juvenile record have on a teenager's future life?**

If your teenager has a New Jersey juvenile crime record, then his future could be severely limited. Any kind of public employment could be jeopardized. Additionally, all professional licensing associations such as state Bar Associations, Nursing and Medical Schools, and Accounting Boards will require disclosure of all arrests and charges, whether they occurred as a juvenile or an adult.

## **H. TRYING A JUVENILE AS AN ADULT**

**34. What does it mean to be tried as an adult?**

Juveniles who are tried as adults are subject to the harsher punishment options of adult criminal courts. For example, juveniles who are tried as adults and convicted can receive sentences that juvenile court judges lack the power to impose such as life sentences. Moreover, a juvenile will normally be locked up in adult jails and prison rather than juvenile treatment facility.

**35. Why might a case be transferred from juvenile to adult court?**

A juvenile court judge may transfer a case to adult court when, in the judge's opinion, the juvenile is amenable to rehabilitation as a juvenile. Typically, juveniles are transferred to adult court when they are charged with more serious offenses, or if they have a lengthy juvie record. Some judges usually also take into account the juvenile's age. The

older the juvenile then the more likely that the case will be transferred to adult court.

**36. What will happen to my son if he is tried as an adult?**

In the more serious cases, such as robbery, aggravated assault, murder, then the juvenile will most likely be charged as an adult. Unfortunately, the vast legal protections that the juvenile justice system provides will not apply to the adult criminal court. The hearings in the adult court are not confidential. Moreover, the sentences in the adult court are much more severe. For most allegations of juvenile delinquency, the teenager will proceed through the juvenile justice system, where the rights and procedures are different from those in adult criminal court. However, if your teenager is charged with a serious crime, such as a sexual offense, burglary, robbery, gang-related offense, or crime where a weapon was used, then the prosecutors' office may argue for your teenager to be tried in adult criminal court. Once again, in the adult criminal court the sentencing exposure is much greater.

**37. When can a juvenile be tried as an adult in New Jersey?**

In New Jersey the County Prosecutor frequently wants to waive juveniles up the adult court for crimes of violence. These crimes include homicide, robbery, and aggravated assault. The prosecutors are often given the discretion to charge a juvenile in either adult or juvenile court. Some other factors that the prosecutor considers are nature of the crime, extent of prior record, juveniles' intellect and philological development, and past rehabilitative treatment.

Not all juveniles are tried in the juvenile court. Some are waived up to adult court where they receive adult court treatment and are exposed to adult penalties. Among the factors a court will consider in determining whether to waive a juvenile up to adult court is the gravity of the crime, the juvenile's age, history, gang affiliation, involvement of firearms, motor vehicles, and sexual activity. If a juvenile is found delinquent of a serious charge then he is sent to a juvenile prison. The largest juvenile prison is The Training School for Boys that is located in Jamesburg, NJ.

If a juvenile case is waived up, then the person can face prison terms that can range from a term of 10 to 20 for a first degree robbery charge, to a life term for murder. A waiver hearing is always held to determine if the case is should remain in the Family Court or whether it should it be transferred up to adult court. The major factor that the Family Court will analyze is whether the juvenile can be helped by the juvenile justice system. If the court concludes that the juvenile can be rehabilitated then the case will remain in the juvenile court.

**38. What are the consequences if my son is tried as an adult?**

If a juvenile is tried as an adult then he will be treated just like any other criminal defendant. All court hearings will be open to the public. Meanwhile, in the juvenile system the cases are closed and sealed. A juvenile will also receive the same sentence as imposed on adult criminal defendants. Moreover, any jail time will be served at a New Jersey state prison, and not at the Training School for Boys or to a group home. A juvenile would also have to serve the same amount of jail time as an adult criminal. The criminal sentences for juveniles are much more lenient. In summary, the amount of prison time that a juvenile could be required to serve could be dramatically increased if his case is waived up to the adult court.

**39. What felonies are likely to be tried in adult court?**

A juvenile is usually tried in the adult court for violent and serious offenses, including murder and attempted murder, arson of an inhabited building, robbery with a dangerous or deadly weapon, some forms of rape, some forms of kidnaping and car jacking, some felonies involving firearms, certain controlled substance offenses, and certain violent escapes from a juvenile detention facility.

**40. What arguments can a juvenile's lawyer use to try to persuade a judge not to transfer a juvenile case to adult court?**

The following arguments can be raised at a waiver hearing;

- a. Although an offense is serious, the juvenile is still a child who would benefit from the services available in the juvenile system.
- b. The juvenile has not in the past had sufficient opportunity to be rehabilitated.
- c. The juvenile has not in the past had sufficient opportunity to be rehabilitated.
- d. The juvenile is likely to suffer physical or emotional harm in the adult systems.
- e. The juvenile court system provides sufficient safeguards so that the community can be protected while the juvenile undergoes treatment.