

**Your Guide  
to  
Municipal  
Court**



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## INTRODUCTION

The local court in your community is known as the municipal court, and usually handles cases involving relatively minor legal matters. If you have been notified to appear in municipal court, you have probably been charged with a minor drug or alcohol violation, or a traffic, disorderly persons, assault and battery, domestic violence, harassment, theft of property under \$200 or zoning offense or a violation of other municipal ordinances.

Although the cases heard in municipal court may be relatively minor, the penalties for being found guilty by the court can be significant, including jail time, fines, motor vehicle points and surcharges and suspension of a motor vehicle license. Because of these penalties, individuals summoned to appear before a municipal court judge should take the matter seriously.

Your rights involving municipal court matters, as well as municipal court procedures and policies, are outlined in this pamphlet.

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## YOUR BASIC RIGHTS

### **If I am asked to appear in municipal court, what are my basic rights?**

Everyone who appears in a municipal court in the state of New Jersey—regardless of whether he or she speaks English, is a resident of the state or a U.S. citizen, or has a physical or mental disability—has the same rights. These rights include the right to be informed of the charges against you, the right to remain silent, the right to be represented by an attorney and the right to appeal.

### **When will the charges against me be explained?**

Before your first court appearance, the court will make sure you have received a copy of the charges against you (usually in the form of a ticket or summons). If you are actually arrested for an offense, you must be informed of the charges against you at the time of your arrest. For more serious matters, you have the right to a preliminary hearing, called an arraignment, at which the judge will make sure that you are aware of the charges against you, the potential penalties and will inform you of your basic constitutional rights.

### **Do I have to hire an attorney to handle my case?**

No. You have the right to defend yourself without an attorney.

**If I arrive in court without an attorney and decide I may need one after all, is there anything I can do?**

Yes. You have the right to postpone or adjourn your court case in order to consult with or hire an attorney. This right of adjournment is provided to give you or your attorney an opportunity to prepare a defense, including obtaining discovery. The discovery process allows each party to request relevant information and documents from the other side in an attempt to discover pertinent facts. Generally, discovery involves such things as police reports, photographs and requests for inspection.

**What if I can't afford to hire an attorney?**

If the court determines you cannot afford an attorney, in certain serious offenses that could result in a jail sentence, the loss of your driving privileges or a substantial fine, you can be assigned an attorney by the court. That attorney is called a public defender. Depending on your financial situation, you may have to contribute up to \$200 toward your attorney's fee.

**YOUR RIGHTS REGARDING TRAFFIC STOPS**

**If I am directed to pull over by the police, do I have to do so immediately, regardless of the circumstances?**

No. You have a right not to be stopped on a deserted stretch of highway by an unmarked police car. If this occurs, simply put on your vehicle's hazard lights and drive slowly to a lighted or populated area. You may also dial 911 and ask the police dispatcher if there is a law enforcement officer in your vicinity.

**Do I have to take a sobriety test?**

No. You have the right to refuse to take a roadside sobriety test to evaluate your balance. There is no punishment for refusing the test; however, the officer may take your refusal as an indication of intoxication and may, should other evidence be found, arrest you and will probably report your refusal to the judge, who may assume you would have failed the test.

**Do the same rules apply to a breathalyzer test?**

No. While there may be no harm in refusing a balance test, if you decide to refuse a breathalyzer test you will automatically lose your license for anywhere from six months to two years, and face a fine.

**Do I have to answer questions about my condition when I am stopped by the police?**

No. You have the absolute right to remain silent except as to such basic information as your identity.

**Do I have to let the police search my vehicle?**

No. Under the Fourth Amendment to the U.S. and New Jersey Constitutions you can deny police the right to search your vehicle without a search warrant. Be aware, however, that refusing to let them search your vehicle may result in it being held until a search warrant is obtained.

## **Are there any things I must provide to the police if I am stopped?**

Yes. If you are stopped by police, you must provide proper and valid identification, including license, registration and proof of insurance.

## **PLEAS AND PLEA BARGAINING**

### **What is a plea?**

A plea is a statement by you indicating that you are either guilty or innocent of the charges.

### **How do I enter a plea?**

You have the right to plead guilty or not guilty to all charges. If you decide to plead guilty, you must inform the court by the date listed on your ticket or summons. Otherwise, you must notify the court at least three days prior to the date of your listed court appearance that you will be pleading not guilty. If you fail to notify the court, your matter may not be listed on the hearing date and you may find yourself having to return to court at a later date.

### **What happens if I plead guilty?**

If you plead guilty to the charges against you a trial is not necessary. If the charges involve a motor vehicle ticket, and the ticket indicates you can simply pay a fine to settle the matter, you do not have to appear in court. Otherwise, a court appearance will be required. Although you have admitted that you violated the law, when you arrive in court you will have the opportunity to explain to the judge any extenuating circumstances surrounding the incident. The judge will then determine how you should be penalized.

## **What if I am charged with a more serious offense?**

If you are charged with an indictable offense, such as assault and battery, you must appear in court, where you will be advised of your constitutional rights and the charges against you. Then the case will be forwarded to the county prosecutor for possible disposition or possible grand jury action. Unless the county prosecutor decides to downgrade the offense back to municipal court, all court appearances from then on will be in superior court at the county level.

### **What is a plea bargain?**

A plea bargain is an agreement between you and the prosecutor allowing you to plead guilty to a lesser offense, combine certain offenses and/or dismiss certain offenses. A plea bargain may result in a lesser fine or other penalty.

### **Why would the prosecutor let me plea bargain?**

Prosecutors agree to plea bargains because a trial is expensive and time consuming, and there is no guarantee you will be found guilty. While you do have the right to a trial, there is no guarantee you will be permitted to plea bargain. However, in most municipal courts you or your attorney may meet with the prosecutor to discuss the possibility of plea bargaining.

### **Are there restrictions when it comes to plea bargaining?**

Yes. Plea bargaining is not allowed in all cases such as those involving driving under the influence of alcohol or drugs. Also, in order to enter pleas you must be able to explain how you are guilty of the offense you are admitting to, and admit the offense was a violation of the law.

## **THE MUNICIPAL COURT PROCESS**

### **Who will be present at my municipal court hearing?**

In municipal court there can be many parties involved in a hearing. These may include the judge, who will hear the case and decide whether you are guilty and, if so, what your sentence will be; the police officer or a complainant who has filed the charges against you; the complainant's attorney or the municipal prosecutor who represents the state in bringing charges against you; you, the defendant, who is charged by the state with a violation of a law; and your attorney, if you choose to be represented by one; and any witnesses called by you, the state or the complainant.

### **What will happen during my court appearance?**

The judge will explain the charges to you, as well as the maximum penalties you could face. The judge will also explain your constitutional right to remain silent about the charges, and your right to hire an attorney or apply for the services of the public defender if you cannot afford one.

### **When will my case be heard?**

In municipal court, cases are usually heard in the following order: requests for adjournment; guilty pleas; contested matters where the individual is represented by an attorney; and other contested matters.

### **Will I have to testify?**

No. At the time of your trial, the judge will explain that you have the right to testify on your own behalf, but you are not required to do so. If you do decide to testify, the judge will swear in you and any other witnesses to speak the truth under oath.

### **If I decide not to testify, will the judge assume I am guilty?**

No. Under the law you are presumed innocent until proven guilty. The law does not require a person to prove his or her innocence. If you decide not to testify on your own behalf, no conclusion may be drawn from that decision.

### **How will the trial proceed?**

Because the government—represented by the prosecutor or the complainant's attorney—has to prove you are guilty, it will present its testimony and evidence first. After the prosecution finishes its case, you (if you are representing yourself) or your attorney may call witnesses and present evidence.

### **What are the rules when it comes to witnesses and evidence?**

You should bring all witnesses, photographs and documents to court, and give the prosecutor the opportunity to examine your evidence. When the prosecution presents a witness against you, you or your attorney have the right to question that witness. This is called the right of confrontation. Similarly, the prosecutor is allowed to question you (if you choose to testify) or your witnesses (if you present any).

### **What happens if I am found guilty?**

If you enter a guilty plea or if you are found guilty after a trial, the municipal court judge usually imposes a sentence immediately. Prior to sentencing, you may advise the judge of any extenuating circumstances you would like taken into account when deciding your sentence.

### **What type of sentence will I receive?**

Depending on the violation, your sentence may be a fine, a license suspension or revocation, repayment to a victim (restitution), community service, jail time, probation or a combination of these penalties. The judge also has the authority to require that you pay court costs.

### **What if I can't afford to pay my fine?**

If you are found guilty and can prove to the court that you do not have the money to cover a fine, you may apply to make payments in installments. The court will expect at least partial payment at the time your sentence is imposed.

### **Other than fines and/or jail time, what other penalties could I face?**

Some sentences can also carry penalties such as the suspension of your driver's license for traffic and non-traffic related offenses (such as drug offenses). For certain serious offenses, the municipal court can permanently revoke your driving privileges, impose restitution or enter a restraining order against you.

### **Could I face any other penalties?**

In some cases you may face what are called collateral sanctions if you plead or are found guilty of certain offenses. For instance, if you are employed in a government job and are convicted of certain disorderly or petty disorderly offenses involving dishonesty, you will immediately be terminated from your position. When it comes to traffic offenses, the Motor Vehicle Commission can suspend your driving or vehicle registration privileges, and require that you undergo drug, alcohol or psychological counseling. The Division of Motor Vehicles can also require that you pay surcharges in order to reinstate your driving privileges or maintain your driving privileges as a result of a municipal court conviction. Finally, certain violations can result in the assessment of motor vehicle points, which can increase your automobile insurance rate.

### **What happens if I don't fulfill the terms of my sentence?**

Failure to fulfill the terms of your sentence, including the payment of fines; completing community service or jail time; and attending anger management counseling, drug and alcohol counseling, driver training courses and other programs, could result in a jail sentence, loss of your driving privileges or a fine.

## **APPEALING A MUNICIPAL COURT DECISION**

### **Do I have the right to appeal the judge's decision?**

Yes. If you go to trial and plead or are found guilty in municipal court, you have the right to appeal the judge's decision to the New Jersey Superior Court if you believe something was handled incorrectly in your case. An appeal can be made involving the municipal court judge's decisions based on evidence or legal issues, and can involve your entire sentence or part of your sentence.

### **How do I go about filing an appeal?**

An appeal must be filed with the superior court in the county where your case was heard within 20 days of your conviction. To appeal a conviction you will need to file certain documents with the court, pay an appeal fee and provide a deposit to obtain a transcript of your trial from the municipal court.

### **What happens while the appeal is underway?**

You can request that the trial judge consider a stay (postponement) of the sentence until the appeal has been decided. This request must be made to the superior court in the county where the case was originally heard.

### **How will my appeal be decided?**

A superior court judge at the county courthouse will hear your appeal. The judge will only review the court transcript for violations, and will not hear live testimony. So, make sure you fully present your case in municipal court.

## **SEEKING LEGAL ASSISTANCE**

### **If I have questions about the charges against me, can someone in the municipal court help me?**

No. The judge and the court staff are not permitted to give legal advice. If you have questions about the charges against you, it may be best to contact an attorney.

### **What can I expect an attorney to do for me?**

An attorney will follow a step-by-step process on your behalf, including:

1. Meeting with you and witnesses.
2. Gathering and analyzing all available facts and information, including police reports, witness statements, government records and documents, and a review of the scene of the alleged violation.

3. Studying the law and previous court decisions that may apply to the case, and preparing a legal statement, where appropriate, to present to the judge.

4. Advising you of the different options available, and what actions you should take, including writing letters and completing legal documents.

5. Preparing legal documents for use in court.

6. Negotiating a plea agreement on your behalf if you wish plea bargain.

7. Presenting your side of the case and witnesses in court, and cross-examining the state's witnesses, including the police, expert witnesses and fact witnesses.

8. Obtaining a civil reservation, which prevents a guilty plea from being used against you in a subsequent civil proceeding.

9. Appealing the court's decision if you are convicted.

### **How do I find an attorney with experience in municipal court cases?**

If you would like to hire an attorney who handles municipal court matters, you may choose one on someone's recommendation, or you may call your county bar association and ask about their lawyer referral program. County bar associations may be reached at:

#### **Atlantic County Bar Association**

Lawyer Referral Service  
Atlantic County Court House  
1201 Bacharach Blvd.  
Atlantic City, NJ 08401  
(609) 345-3444  
Fax: (609) 345-6279  
Email: atcobara@aol.com

#### **Bergen County Bar Association**

Lawyer Referral Service  
George W. Newman Law Building  
15 Bergen Street  
Hackensack, NJ 07601  
(201) 488-0032  
Fax: (201) 488-0073

#### **Burlington County Bar Association**

Lawyer Referral Service  
45 Grant Street  
Mt. Holly, NJ 08060  
(609) 261-4862  
Fax: (609) 261-5423  
Email: burlcobar@worldnet.att.net

#### **Camden County Bar Association**

Lawyer Referral Service  
800 Cooper Street  
Suite 103  
Camden, NJ 08102  
(856) 964-4520  
Fax: (856) 964-9016  
Email: dkw@camdencountybar.org  
www.camdencountybar.org



**Cape May County Bar Association**

Lawyer Referral Service  
P.O. Box 425  
Cape May Court House, NJ 08210  
(609) 463-0313  
Fax: (609) 465-1656  
Email: capemayctybarasn@aol.com

**Cumberland County Bar Association**

Lawyer Referral Service  
P.O. Box 2031  
Vineland, NJ 08362-2031  
(856) 692-6207  
Fax: (856) 692-7768

**Essex County Bar Association**

Lawyer Referral Service  
345 Eisenhower Parkway  
Plaza II  
Livingston, NJ 07039  
(973) 533-6775  
Fax: (973) 533-6720  
Email: info@essexbar.com  
www.essexbar.com

**Gloucester County Bar Association**

Lawyer Referral Service  
Justice Complex  
P.O. Box 338  
Woodbury, NJ 08096  
(856) 848-4589  
Fax: (856) 384-9580  
Email: baroffice@gcbanj.org  
www.gcbanj.org

**Hudson County Bar Association**

Lawyer Referral Service  
583 Newark Avenue  
Jersey City, NJ 07306  
(201) 798-2727  
Fax: (201) 798-1740  
Email: hcba.law@verizon.net

**Hunterdon County Bar Association**

Lawyer Referral Service  
P.O. Box 573  
Annandale, NJ 08801-0573  
(908) 735-2611  
Fax: (908) 735-0305  
Email: suzannevrانcken@yahoo.com  
www.huntcolaw.org

**Mercer County Bar Association**

Lawyer Referral Service  
1245 Whitehorse-Mercerville Road  
Suite 420  
Hamilton, NJ 08619  
(609) 585-6200  
Fax: (609) 585-5537  
Email: Francine@mercerbar.com  
www.mercerbar.com

**Middlesex County Bar Association**

Lawyer Referral Service  
87 Bayard Street  
New Brunswick, NJ 08901  
(732) 828-0053  
Fax: (732) 828-5862

**Monmouth Bar Association**

Lawyer Referral Service  
Monmouth County Courthouse  
Freehold, NJ 07728  
(732) 431-5544  
Fax: (732) 431-2843

**Morris/Sussex County Bar Association**

Lawyer Referral Service  
28 Schuyler Place  
Morristown, NJ 07960  
(973) 267-5882  
Fax: (973) 605-8325

**Ocean County Bar Association**

Lawyer Referral Service  
Ocean County Courthouse  
P.O. Box 381  
Toms River, NJ 08753  
(732) 240-3666  
Fax: (732) 240-4907

**Passaic County Bar Association**

Lawyer Referral Service  
Passaic County Courthouse  
77 Hamilton Street, 2nd Floor  
Paterson, NJ 07505  
(973) 278-9223  
Fax: (973) 279-6015

**Salem County Bar Association**

Lawyer Referral Service  
(856) 935-5629

**Somerset County Bar Association**

Lawyer Referral Service  
Somerset County Courthouse  
10 N. Bridge Street  
P.O. Box 1095  
Somerville, NJ 08876  
(908) 685-2323  
Fax: (908) 685-9839  
Email: hwendover@somersetbar.com

**Union County Bar Association**

Lawyer Referral Service  
Union County Courthouse, 1st Floor  
2 Broad Street  
Elizabeth, NJ 07207  
(908) 353-4715  
Fax: (908) 354-8222

**Warren County Bar Association**

Lawyer Referral Service  
413 Second Street  
Belvidere, NJ 07823  
(908) 387-1835  
Email: warrencountybar@yahoo.com

**About the New Jersey State Bar Foundation**

The New Jersey State Bar Foundation, founded in 1958 as the charitable and educational arm of the New Jersey State Bar Association, is an organization dedicated to promoting free law-related education and giving all New Jersey residents a basic understanding of the legal system. Programs sponsored by the Foundation include seminars on such topics as wills, landlord-tenant matters, divorce, special education, real estate, disability law and health issues. Dedicated to providing programs for children and teachers, the Foundation sponsors mock trial competitions for elementary, middle and high school students, and training sessions for teachers on conflict resolution and peer mediation, as well as teasing and bullying. For students, the Foundation publishes a legal newspaper for kids titled, *The Legal Eagle* and a newsletter promoting tolerance called *Respect*. Both publications are produced three times a year.

Other publications published by the Foundation include *Law Points for Senior Citizens*; *AIDS and the Law in New Jersey*; *Domestic Violence: The Law and You*; and *Disability Law: A Legal Primer* (fourth edition), which was cosponsored with the Essex County Bar Association. Some of these publications are available in Spanish and all are available in alternative formats for individuals with disabilities. For more information or copies of program materials, visit the Foundation online at [www.njsbf.org](http://www.njsbf.org) or call 1-800-FREE-LAW.



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