

**Administrative Determinations by the Supreme Court
On the Recommendations of the Supreme Court Working Group on Private
Citizen Complaints in the Municipal Courts
(Issued August 2, 2019)**

This sets forth the Supreme Court's actions on the report and recommendations of the Working Group on Private Citizen Complaints in the Municipal Courts (Working Group). Chief Justice Stuart Rabner established the Working Group in 2017 and charged it to consider three issues:

- Should private citizen complaints continue to be accepted by the municipal courts?
- Should limitations be placed on the type of matters for which a private citizen complaint can be filed and/or against whom?
- Should some form of screening, either by law enforcement or some other form, be required prior to a judicial officer making a probable cause determination?

The Working Group, led by Hon. Philip S. Carchman, P.J.A.D., retired on recall, engaged in an in-depth review and on December 17, 2017 issued a final report including eight recommendations (five substantive and three clarifying/housekeeping).

The report and recommendations were published for public review and comment. After the close of the comment period, the Supreme Court reviewed each of the eight recommendations and the comments submitted in response to those recommendations and now makes the determinations set forth in this document. The determinations will be implemented through amendments to the Rules of Court, which are issued by the same notice as these determinations to be effective October 1, 2019.

Recommendation 1.

Every complaint made by any person should continue to be accepted for filing, however R. 7:2-1(b) and R. 3:2-1(a) should be amended to clarify that mere acceptance of the complaint for filing does not mean that a finding of probable cause has been made or that the Complaint-Warrant (CDR-2) or summons has been issued.

Administrative Determination: The Court approved this recommendation, which will be implemented through amendments to Rule 7:2-1(b) and Rule 3:2-1(a).

Recommendation 2.

R. 7:2-2(a)(1) should be amended to remove the reference to dismissing a complaint where a judge finds no probable cause or where the statutory time limitation to issue a Complaint-Warrant (CDR-2) or summons has expired. Instead, the judge should be directed to not issue the Complaint-Warrant (CDR-2) or summons. Where a no probable cause finding is made and a Complaint-Warrant or summons does not issue, the complaint should not be kept in a held status. In addition, duplicative rule language should be removed and an incorrect cross-reference should be corrected.

Administrative determination: The Court approved this recommendation, which will be implemented through amendments to Rule 7:2-2(a)(2) and Rule 3:3-1(h).

Recommendation 3.

New subparagraphs should be created at the beginning of R. 7:2-2 that clearly define probable cause. For purposes of clarity, the rule should be restructured so that probable cause is no longer buried in R. 7:2-2(a)(1). In addition, a cross-reference to the current exceptions to finding probable cause should be added.

Administrative Determination: The Court approved this recommendation, which will be implemented through amendments to Rule 7:2-2.

Recommendation 4.

R. 7:2-2 should be amended to provide that a judge or authorized municipal court administrator or deputy court administrator (judicial officer) may issue a Complaint-Warrant (CDR-2) or a summons charging a disorderly persons offense, petty disorderly persons offense or any other non-disorderly persons offense within the jurisdiction of the Municipal Court made by a private citizen. In addition, the rule should add a provision that only a judge may issue a CDR-2 or summons charging any indictable offense made by a private citizen.

Administrative Determination: The Court approved this recommendation, which will be implemented through amendments to Rule 7:2-2(b)(1) (as to the authority of judicial officers) and Rule 7:2-2(b)(3) and Rule 3:2-1(a)(2) (as to the limitation that a Complaint-Warrant (CDR-2) or a Complaint-Summons (CDR-1) charging any indictable offense made by a private citizen may be issued only by a judge). The cross-reference in Rule 7:2-1(e) will be amended to reflect the revisions to Rule 7:2-2, and Rule 3:2-1 also will be amended to conform to the Part 7 Rule changes.

Recommendation 5.

R. 7:2-2 should be amended to provide that prior to issuance, the Complaint-Warrant or summons must be reviewed by a county prosecutor on private citizen complaints charging disorderly persons offenses against a: (i) party official or public servant as defined in N.J.S.A. 2C:27-1(e) and (g); (ii) a candidate or nominee for public office as defined in N.J.S.A. 19:1-1; or (iii) a judicial nominee. The county prosecutor can approve (decide to move forward with the matter) or deny (decide to not pursue charges/prosecute matter). Prior to approval, the prosecutor has the authority to modify the charge.

Administrative Determination: Approved as modified. The Court determined that prior to issuance, the Complaint-Warrant or summons must be reviewed by a county prosecutor on private citizen complaints charging disorderly persons offenses against a candidate or nominee for, or person holding, public office as defined in N.J.S.A. 19:1-1. The county prosecutor can either approve (decide to move forward with the matter) or deny (decide to not pursue charges/prosecute matter). Prior to approval, the prosecutor has the authority to modify the charge. The Court revised the language presented by the Working Group to provide for a 45-day period of review for private citizen complaints charging disorderly persons offenses subject to prosecutorial review and to allow for extensions of up to ten days each on a showing of good cause. The rule amendments further provide that county prosecutor denials of citizen

complaints charging disorderly persons offenses shall be reported to the Assignment Judge. Notice of the denial shall be provided to the citizen complainant and the defendant.

Recommendation 6.

R. 7:2-2 should be amended to provide that prior to issuance, the Complaint-Warrant or summons must be reviewed by a county prosecutor on private citizen complaints charging any indictable offense against any individual. The county prosecutor can either approve (decide to move forward with the matter) or deny (decide not to move forward with the matter) the charge. Prior to approval, the prosecutor has the authority to modify the charge. Part III rules should mirror the Part VII rule amendments on indictables.

Administrative Determination: The Court approved this recommendation, which will be implemented through amendments to Rule 7:2-2 and to Rule 3:2-1. The Court revised the language presented by the Working Group to provide for a 45-day period of review for private citizen complaints charging indictable offenses and to allow for extensions of up to ten days each on a showing of good cause. The Court also approved additional language providing that the absence of county prosecutor approval or denial within the timeframe set forth in Rule 7:2-2(b)(6) and Rule 3:2-1(a)(4) shall be deemed as not objecting to the citizen complaint, which will move forward for judicial review for probable cause. The rule amendments further provide that county prosecutor denials of citizen complaints charging indictable offenses shall be reported to the Assignment Judge. Notice of the denial shall be provided to the citizen complainant and the defendant.

Recommendation 7.

R. 7:2-2 should be amended to clarify that a CDR-2 or summons charging any offense made by a private citizen may be issued if it appears from the complaint, affidavit, certification, citizen complaint information form, or testimony that there is probable cause. The finding of probable cause shall be noted on the face of the CDR-2 or summons and confirmed by the judicial officer's signature.

Administrative Determination: The Court approved this recommendation (as modified to remove the reference to the "citizen complaint information form" from the items considered by the judicial officer), which will be implemented by amendments to Rule 7:2-2.

Recommendation 8.

R. 7:3-1(c)(1) should be amended to correct a cross reference to R. 7:2-2. R. 7:3-1(c)(2) should also be amended to align with the amendment to R. 7:2-2(a)(1) (Recommendation 2) that removes the reference to dismissing the summons or Complaint-Warrant where there is no probable cause. Instead, the summons or Complaint-Warrant (CDR-2) shall not be issued.

Administrative Determination: The Court approved this recommendation as to the corrections of cross-references to Rule 7:2-2 and Rule 7:2-2(a)(1), with an added correction as to a cross-reference to Rule 7:2-2(j). This will be implemented through rule amendments.

The Court extends its appreciation to all of the members of the Working Group. The report and recommendations reflect the collaborative work by everyone involved.