

## NOTICE TO THE BAR

### **MUNICIPAL COURTS – SUPPLEMENTAL REPORT OF THE SUPREME COURT COMMITTEE ON MUNICIPAL COURT PRACTICE – PROPOSED AMENDMENTS TO RULE 7:8-5 (DISMISSAL) TO PROVIDE FOR FUTURE DISMISSAL OF MINOR UNRESOLVED MUNICIPAL COURT MATTERS – PUBLICATION FOR COMMENT**

The Supreme Court invites written comments on the July 2019 Supplemental Report of the Supreme Court Committee on Municipal Court Practice. The report is published with this notice and also is available on the Judiciary's internet website at <http://www.njcourts.gov/courts/supreme/reports.html>.

Please send any comments on the report in writing by August 9, 2019 to:

Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts  
Comments on Municipal Court Practice Committee Supplemental  
Report – Dismissal Protocol  
Hughes Justice Complex, P.O. Box 037  
Trenton, New Jersey 08625-0037

Comments may also be submitted by email to: [Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov).

By order of January 17, 2019, the Supreme Court dismissed nearly 800,000 unresolved complaints on minor Municipal Court matters dating from January 1, 2003 with open arrest warrants for failure to appear. It further ordered that the issue of future dismissal of such minor municipal matters be referred to the Municipal Practice Committee, with the Committee charged as follows:

- (1) to examine whether dismissal of offenses more than ten years old should be considered and whether the types of matters eligible for dismissal should be expanded; and
- (2) to develop a process for the periodic review and dismissal of open, dated municipal court matters, which would include notice to municipal prosecutors and potential revisions to the court rules.

The Committee in its Supplemental Report has recommended amending Rule 7:8-5 so as to split the present language into two paragraphs and to include a new paragraph (c) that establishes a periodic dismissal protocol. The Committee's proposed rule language is presented on page 11 of the attached report.

The Supreme Court received the Committee's Supplemental Report and has asked that it be published for comment, but with two modifications to the proposed amendments to Rule 7:8-5. The full text of the rule amendments now presented for

public comment is as follows, with the Court's revisions, both to proposed new paragraph (c), shown in **bold text**:

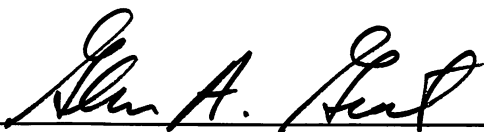
**7:8-5. Dismissal**

- (a) **Dismissal of Complaint Not Moved.** If the complaint is not moved on the day for trial, the court may direct that it be heard on a specified return date and a notice thereof be served on the complaining witness, all defendants and all other known witnesses. If the complaint is not moved on that date, the court may order the complaint dismissed.
- (b) **Dismissal of Complaint by Motion, Recall Warrant.** A complaint may also be dismissed by the court for good cause at any time on its own motion, on the motion of the State, county or municipality or on defendant's motion. On dismissal, any warrant issued shall be recalled, and the matter shall not be reopened on the same complaint except to correct a manifest injustice.
- (c) **Periodic Dismissal of Certain Municipal Court Complaints: At least once annually, after notice to the prosecutor and pursuant to procedures promulgated by the Administrative Director of the Courts, the court shall dismiss all eligible complaints that are more than ten years old, unless the court determines that, in the interests of justice, the complaint should not be dismissed.**

**Note:** Source-R. (1969) 7:4-2(i). Adopted October 6, 1997 to be effective February 1, 1998; amended July 28, 2004 to be effective September 1, 2004, amended \_\_\_\_\_, 2019 and redesignated as paragraph (a) and (b) and new captions added, new paragraph (c) added to be effective \_\_\_\_\_, 2019.

As noted in its report, in addition to the proposed amendments to the Court Rule, the Committee further has recommended that the Administrative Director of the Courts issue detailed guidance regarding the dismissal process for these older unresolved minor municipal court matters.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by email should include their name and email address. Comments submitted in response to this notice are subject to public disclosure.



Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

Dated: July 24, 2019