

MUNICIPAL COURT ADMINISTRATORS ASSOCIATION OF NEW JERSEY



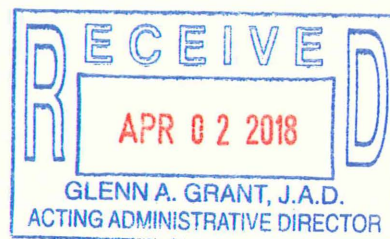
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March 23, 2018

Honorable Glenn A. Grant, J.A.D.
Administrative Office of the Courts
Hughes Justice Complex
25 Market Street
Trenton, NJ 08625



Re: MCAA Comments to Private Citizen Working Group Recommendations

Dear Judge Grant:

The Municipal Court Administrators Association of New Jersey wishes to comment on two of the recommendations made in the Report of the Supreme Court Working Group on Private Citizen Complaints in the Municipal Courts. Specifically, we wish to address concerns we have with Recommendation 4 and Recommendation 6 of the Report.

Recommendation 4 in its last sentence states that the rule should be amended to add a provision that only a judge may issue a CDR-2 or summons charging any indictable offense made by a private citizen. We believe this is overly broad and not necessary. Authorized municipal court administrators and deputy court administrators have been finding probable cause on indictable offenses for years. We have received training specifically on probable cause through the Principles of Municipal Court Administration program. We would not have received our accreditation without the training. The Rules of Court already provide a mechanism if an authorized municipal court administrator or deputy court administrator have a question about probable cause in which the complaint would be referred to the judge. This safety net provides sufficient protection and does not warrant removal of our authority to find probable cause on indictable charges.

Also at issue is the fact that many private citizen complaints involve offenses coming from our commercial sector. Loss prevention officers at retail stores are not considered law enforcement officers and must have a judicial officer find probable cause on their complaints. Courts with large retail zones or malls would be required to delay the processing of complaints with shopliftings over \$200.00 or credit card offenses until a judge could review the complaints.

Many of these judges are part-time and may not see the complaint for days after filing. This seems to be an unnecessary delay to cure a problem that may or may not exist.

Recommendation 6 states that all indictable offenses should be reviewed by the county prosecutor's office prior to issuance. We fear that this could blur the line between the State and the Courts more than is already perceived by the public. While court staff strive to ensure the complaint accurately portrays what the complaining witness is charging, there is fear the court will be blamed if the county prosecutor substantially changes or dismisses the charge without consultation of the complaining witness. We believe the current system of having a judicial finding of probable cause on the charge as proffered by the complaining witness is still the best. It provides the safeguards available to prevent spurious complaints and the county prosecutor can still decide to go forward or not with the complaint.

In closing, we believe the municipal courts in this state are staffed by professional personnel trained by the Administrative Office of the Courts. Ever since the authority to find probable cause on complaints was granted to court personnel over twenty five years ago, there have been very few problems with the process. This system should be continued as it has been a success for all this time. We also believe that when a private citizen comes to the court to file a complaint, court staff should deal with the charge as presented to the court. Once probable cause has been established it would be up to the county prosecutor's office to decide to remand, dismiss, or go forward with the complaint as they see fit.

I wish to thank you for the opportunity to express our concerns with these recommendations. If you should need to contact me for any reason I can be reached at (973) 535-7969.

Respectfully submitted,

Walter R. Mollineaux, CMCA
President, MCAA of NJ