
From: Roy Mcgeady <mcgeadyroy@gmail.com>
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To: Comments Mailbox
Subject: Working Group Report on Private Citizen Complaints

On Recommendation 4, I suggest moving the word "only" in the last sentence. I suggest it read "In addition, the rule should add a provision that only a judge may issue a CDR-2 or summons charging any indictable offense by a private citizen." This way "only" modifies "Judge" as opposed to the way it currently exists where it seems to modify "indictable offense" seeming to indicate that a judge cannot issue one for a DOP or PDP. The last clause of the last sentence of the comment to Recommendation 7 has it right in my opinion! Lastly, I suspect my next comment may be beyond the charge given to the Working Group, however, since it is touched upon I feel I need to comment. I am referring to Recommendation 7 which refers to the methods of determining probable cause. For many years defense attorneys at probable cause testimonial hearings have insisted on turning them into mini trials, wanting to cross examine the witnesses and even provide affirmative proofs to persuade the court that no probable cause exists. I suggest this is a good opportunity to codify that the defendant has no "right" to participate and that any defense participation is subject to the Judge or judicial officer's discretion. This would be similar to grand jury proceedings. I also feel it is consistent with the current Rule 7:2-2 which sets forth the procedure. That Rule is silent on the right of defendant's participation. On the contrary Rule 3:4-3 which deals with an entirely different type of probable cause but is often confused with Rule 7:2-2 specifically permits defense "cross examination". I have suggested for years that the Supreme Court didn't forget to put the right of cross examination in Rule 7:2-2 when it specifically included it in Rule 3:4-3. Roy McGeady
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