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10 Lafayette Ave Apt 368
Morristown, NJ 07960

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Private Citizen Complaints Report
Hughes Justice Complex, PO Box 037
Trenton, NJ 08625

Dear Judge Grant,

Please accept this correspondence as a comment to the Supreme Court Working Group on Private Citizen Complaints in Municipal Courts. I would like to thank the committee for its review of this issue.

It is well established under New Jersey Law that victims of crime are entitled to rights in the criminal justice system. N.J. Const., art. I, para. 22. One of these rights is the right to free from intimidation. The State Assembly has recognized that one of these rights is the right to be free from intimidation by anyone, including the defendant. N.J.S.A. 52:4B-36(c). Another right is the right to have one's inconvenience minimized during the criminal justice process. N.J.S.A. 52:4B-36(d).

As the committee recognized, many private criminal complaints are filed by defendants for "tactical," reasons as cross-complaints against the victims of their crime. Clearly, most criminal cases cannot progress without the victim's testimony. Criminals know this, hence they frequently seek to prevent or intimidate the victim to prevent him or her from testifying. By permitting one who has been arrested and/or charged with a crime to file a civilian complaint against the victim of their crime with minimal proof, the current system is providing the means for a criminal defendant to use the criminal justice system to intimidate their victims.

Nothing is more intimidating than facing a criminal charge. Even if the charge is utterly baseless, there are multiple consequences that one faces for having been charged. For example, the charge must be disclosed on many applications for professional licenses, federal employment, or security clearances,

even if the charge is dismissed or expunged. Many of these consequences are faced for life. While the charge is pending, one is precluded from applying for Global Entry or TSA PreCheck. One with pending charges also would have difficulties applying for professional licenses.

The current system of permitting citizen complaints with minimal screening actually denies many crime victims access to the courts. A crime victim is forced to hire attorneys and take time off from work to appear for multiple hearings as a defendant. Unless the crime victim is able to spend thousands to hire attorneys and able to take several days off from work, the victim (now facing criminal charges) is forced by their victimizer to agree not to testify in exchange for having the charges against them dropped. The individual who the police concluded was responsible for the crime gets off scot free, ready to victimize someone else. It essentially creates a system by which one can victimize anyone who is not affluent, and obtain immunity by filing a frivolous complaint against their victim. The victim is left without restitution, and the criminal is emboldened to victimize someone else.

It is respectfully requested that the rules be amended to require additional screening to prevent tactical complaints unless there is a reasonable basis for the complaint. A reasonable step would be to require that these complaints be approved by the municipal prosecutor or police officer who signed the original complaint. An arresting officer or municipal prosecutor has a greater ability to determine if the charges are meritorious

Finally, citizen complainants are permitted in many municipal courts to appear *pro se* and prosecute their complaint. This process allows cross-complainants to pervert the course of justice and use the municipal court to further harass and intimidate their victims. Essentially, the citizen complainant is permitted to appoint himself as a "special prosecutor." A citizen complainant who filed a cross-complaint for tactical reasons has no interest in the prompt, fair or efficient resolution of the case. Instead, the citizen complainant's primary goal would be to prolong the process, to further victimize and inconvenience, hoping that the charges against them are dropped. The New Jersey Supreme Court has

recognized that a criminal defendant has the right to an impartial prosecutor. State v. Storm, 141 N.J. 245, 252 (1995). A cross-complainant cannot be an impartial prosecutor, as he or she has a personal interest in the outcome of the proceedings. A cross-complainant prosecuting a complaint has an inherent conflict of interest, as he or she is the purported victim, the sole witness, and the prosecutor.

The current system essentially incentivizes criminal defendants to file a frivolous complaint against their victim. Filing a frivolous complaint against his or her victim and the state's witness has little downside for a criminal defendant. It affords a criminal defendant the opportunity to further victimize his or her victim and evade punishment for a crime.

In conclusion, the current system of citizen complaints allows one who has been charged with a crime to abuse the system. It facilitates the further victimization of crime victims. If one cannot persuade a municipal prosecutor or police officer that the complaint is meritorious, why should the victim of crime have to hire an attorney, take several days off from work and disclose for life that he or she has been charged with a crime.

Respectfully,

G. William DeLaney, Esq.