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Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Municipal Court Operations, Fines, and Fees Report
Hughes Justice Complex; P.O. Box 037
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Dear Judge Grant,

I write in response to the Supreme Court's July 17, 2018, invitation for public comments on the recent report of the Committee on Municipal Court Operations, Fines, and Fees. Chief Justice Rabner formed the Committee with an eye towards reform, as municipal courts across the country have come under scrutiny for alleged constitutional violations, for their lack of independence from municipal politics, and for the disproportionate impact that some municipal court practices have on indigent defendants and people of color. After more than a year of research and meetings, the Committee—which included a representative of my Department's Division of Criminal Justice—has delivered a comprehensive report that identifies sound guiding principles for reform and offers many specific recommendations worthy of close consideration. I applaud the Committee's work.

With bail reform and other initiatives underway, New Jersey already serves as a model for evidence-based criminal justice reform in other States. Improving the quality of justice in our municipal courts—including by addressing the impact of municipal fines and fees on defendants who cannot afford to pay them—is an important next step towards a system of Equal Justice Under Law for all our State's residents—rich and poor, powerful and powerless. The Committee's report includes recommendations that, if adopted, would help foster a criminal justice system that delivers more justice and less crime.

The Department of Justice investigation into practices in Ferguson, Missouri, called public attention to the fact that some municipalities operate their courts with the primary goal of maximizing municipal revenue. In the courts in these municipalities, administering justice and protecting the rights of the accused are afterthoughts. This approach to municipal court operations can undermine police legitimacy and community trust and—as the Department of Justice found in Ferguson—exacerbate racial bias in the justice system.



Reforms of the kind proposed in the Committee's report, on the other hand, may help strengthen the bonds between law enforcement officers and the populations they serve. And, ultimately, better police-community relations will lead to safer communities.

On the whole, the Committee's report fairly reviews the strengths and weaknesses of New Jersey's municipal court system and offers many sound recommendations for improvements. Some of the Committee's recommendations cannot be implemented without action by the Legislature. Other recommendations could be implemented successfully through collaboration between the courts and law enforcement. To that end, I have instructed my Department's Division of Criminal Justice to prepare reports on steps that prosecutors can take to make the system fairer for everyone who appears in municipal court.

In the interim, I want to address the Committee's support for the creation and expansion of diversionary programs that would allow participating defendants to have matters against them dismissed if they perform volunteer services or complete appropriate treatment services.

A well-designed, well-funded drug court program in the municipal courts would dramatically improve how our justice system treats individuals whose criminal conduct is driven by addiction. Individuals suffering from addiction are frequently charged with minor offenses—disorderly persons offenses, petty disorderly persons offenses, ordinance violations—that are prosecuted in municipal court. Today in New Jersey, however, drug court programs generally are not available to defendants until they appear in Superior Court, charged with an indictable offense.

This is unfortunate. If drug court programs were broadly available to defendants in municipal court, our criminal justice system could help more individuals change course before their criminal conduct escalates to more serious offenses and before their lives are destroyed by addiction. We could reduce crime and save lives.

As things stand now, many municipal courts are too small and lack the infrastructure necessary to support a formal drug court program. Recommendations from the Committee on municipal court consolidation and shared services could address these obstacles, however, and facilitate the creation and expansion of diversionary programs for municipal court defendants.

Until formal drug court programs are available in municipal court, judges, prosecutors, and defense counsel can identify other ways to connect low-level offenders with addiction issues to treatment and recovery support services. These professional participants in the criminal justice system can, for example, maintain contact information for nearby recovery coaches and healthcare providers so that defendants showing signs of addiction can be referred to these resources. This is a simple strategy, but it can make a difference.

I look forward to working with the Judiciary as it evaluates how best to act on the Committee's report, and invite further collaboration between my Department and the Judiciary as we collectively work to establish municipal court practices and procedures that better reflect New Jersey's interests in promoting justice and protecting public safety.

Sincerely,



GURBIR S. GREWAL
Attorney General