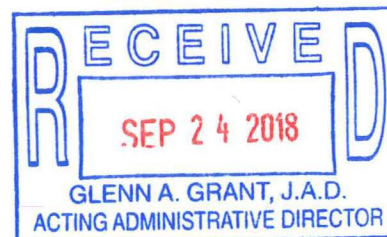


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September 24, 2018

The Honorable Glenn A. Grant, J.A.D.
Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037



RE: Acting Administrative Director of the Courts Comments on Municipal Court Operations, Fines, and Fees Report

To the Honorable Judge Grant:

I write to you on behalf of the New Jersey Coalition to End Domestic Violence (NJCEDV), and our membership of 30 domestic violence programs across the state, in response to the recent *Report of the Supreme Court Committee on Municipal Court Operations, Fines and Fees*.

NJCEDV appreciates the broad range of cases that Municipal Courts are charged with adjudicating and the need to create policies and procedures that enforce an equitable and accessible system of justice for all parties involved. NJCEDV also appreciates and understands that an effective response to domestic violence does not solely rest on the Judiciary, but requires a coordinated response that includes the Municipal Courts working in conjunction with Superior Court, law enforcement, Municipal and County Prosecutors, and advocates.

In its 2016 Report, The Supreme Court Ad Hoc Committee on Domestic Violence reported that Municipal Courts adjudicated 31,725 domestic violence matters in 2014. This number includes complaints that fell within the initial jurisdiction of the Municipal Courts as well as complaints linked to indictable offenses that were downgraded to Municipal Court. Of this, approximately 1/5 defendants were found guilty in Municipal Court, and 79.6% of domestic violence cases were dismissed. This is particularly startling when compared to the dismissal rate, 46%, for other non-indictable offenses heard in Municipal Courts.

After careful consideration of this data, and a thorough review by the committee, a series of recommendations were made by the committee to improve the Municipal Courts ability to effectively respond to domestic violence cases. Therefore, where relevant, we feel it is important to highlight those recommendations in the context of the *Report of the Supreme Court Committee on Municipal Court Operations, Fines and Fees* to ensure that the unique needs of domestic violence cases continue to be considered by the AOC as you amend and develop new policies and practices for Municipal Courts.

Recommendation 1: Develop a Judiciary policy to monitor the imposition of contempt of court financial assessments by Municipal Court judges to avoid the inappropriate use of contempt of court, to require compliance with court rules, and to require justification on the record and a separate court order.

NJCEDV supports this recommendation, however, does request that the AOC recognize that holding offenders of domestic violence in contempt of certain court orders is an important piece of holding domestic violence offenders accountable. Without accountability, domestic violence offenders- particularly those that pose the most danger- will continue to escalate their control and violence over their victim believing they will suffer no consequences.

Recommendation 3: Develop a Judiciary policy providing Municipal Court judges guidelines for consideration of all available sentencing alternatives both at time of sentencing and as part of post-sentencing enforcement.

Recommendation 5: Municipal Court judges and staff should regularly be provided ongoing training in the following areas:

- 1) The serious ramification of license suspensions and bench warrants;**
- 2) The scope of their discretion in the issuance of bench warrants and license suspensions;**
- 3) The full range of sentencing alternatives available, including the vacating of financial obligations; and**
- 4) That with just cause, and within the operational needs of the court, courts should be relatively liberal in granting adjournments.**

NJCEDV support the Committee's Recommendations 3 & 5, and further recommends that guidelines and training provided by the AOC to Municipal Court Judges and staff include specific sentencing options and services available to defendants in domestic violence cases including Batterers Intervention Programming, and the role the courts should play in the enforcement of such orders.

In addition, NJCEDV also requests that the AOC carefully consider the impact that case adjournment may have on domestic violence cases. In one situation, adjourning a case could significantly impact a victim's ability to participate if they need to take time off from work, arrange for child care and/or transportation to attend. However, adjournments can allow courts, and parties, to gather the information needed for an appropriate and informed court hearing. In addition, adjournments can also serve to provide the court the time needed to appropriately monitor a defendant's compliance with court orders.

Recommendation 6: Encourage the creation and expansion of diversionary programs wherein participating defendants who perform volunteer services or complete appropriate treatment services have matters against them dismissed.

While not explicitly stated in the Committee's recommendation, expansion of diversionary programs should not include defendants in domestic violence matters. As stated above, not only is accountability by the court an important component to our coordinated community response to domestic violence, but dismissing matters against a domestic violence offender limits the ability of law enforcement and the courts to appropriately assess and identify a defendant's criminal and domestic violence history, i.e. potential risk, if a domestic violence offense is perpetrated again in the future.

Recommendation 9: Allow defendants to receive credit towards a legal financial obligation for hours spent in clinical treatment, including participation in recovery Drug Court, N.J.S.A. 2C:35-14, that is related to the underlying offense(s).

NJCEDV recommends that the AOC consider, the potential of allowing defendants to receive credit for hours spent in Batterers Intervention Programming for lower level "non-violent" offenses as recommended by the Committee. This could encourage domestic violence offenders to obtain BIP treatment, and potentially prevent their behavior from escalating into a more dangerous offense later.

Recommendation 19: Establish a system for automated text, email, and/or telephonic reminders to defendants of upcoming or missed court dates and upcoming or missed legal financial obligation due dates.

While this recommendation is made to increase communication to defendants regarding Municipal Court matters, NJCEDV requests that similar procedures be considered to inform victims of related matters. The Supreme Court Ad Hoc Committee on Domestic Violence recommended that police should acquire additional and complete contact information on the confidential Victim Notification form, since non-appearance by a victim in Municipal Court is often due to communication difficulties, especially where the victim has relocated to avoid further acts of domestic violence.

NJCEDV would appreciate opportunities to discuss how the Municipal Courts may be better able to coordinate with law enforcement to ensure that victims are notified of court dates and appropriate locations of hearings. Clarifying this information is important, particularly for victims who may be a party to both criminal and civil actions stemming from the same incident.

Recommendation 22: The AOC shall develop policies expanding the use of video and telephonic appearances in appropriate instances in Municipal Courts.

While this recommendation is made to increase access to the courts for defendants, we ask the AOC to consider similar accommodations for victims in domestic violence cases to help increase safety and their ability to participate.

Recommendation 24: Establish a statewide uniform and transparent process to assess the qualifications for the appointments and reappointments of all Municipal Court judges.

NJCEDV supports this recommendation to ensure more consistency in each Municipal Court. We further recommend that any statewide process include an assessment of individuals' knowledge and practice in domestic violence cases when considering appointments and reappointments.

Recommendation 26: Utilizing guidelines of the Administrative Office of the Courts, establish a Municipal Judge Qualifications Committee (Qualifications Committee) to evaluate and assess the qualifications of attorneys being considered for appointment or reappointment to Municipal Court judgeships.

NJCEDV supports this recommendation and further recommends that the Qualifications Committee evaluate and assess attorneys' knowledge and practice in domestic violence cases when being considered for an appointment or reappointment.

Recommendation 27: The composition of the Qualifications Committee shall include: 1) the Presiding Judge of the Municipal Courts of the Vicinage wherein the municipality sits, or a designee selected by the Assignment Judge, who will serve as chair of the committee; 2) a member of the appointing municipality or municipalities, or their designee; 3) two members of the county bar association who have extensive municipal court practice, one with defense and one with prosecuting, as appointed by the Assignment Judge of the Vicinage; and 4) a non-attorney citizen from the county.

NJCEDV requests that the Qualifications Committee include representation from NJCEDV, or a designated domestic violence provider.

Recommendation 33: The legislature should mandate the consolidation of small courts, taking into account factors such as total annual filings, frequency of court sessions, and geography.

NJCEDV understands the need for consolidating resources, however, we ask that consideration be made for additional burdens that may be placed on individuals, i.e. victims and defendants, in their ability to access Municipal Courts particularly if consolidation may require traveling over a greater distance or in jurisdictions with limited transportation. As such, we request the AOC consider accommodations that may be needed to ensure accessibility for all individuals while meeting the court's goal to consolidate resources.

Recommendation 34: Establish a Municipal Court Judge evaluation process, similar to the evaluation process utilized for Superior Court judges. The Judicial Education and Performance Unit of the Administrative Office of the Courts will administer the aforementioned evaluation process.

NJCEDV supports this recommendation and further requests that the Judicial Education and Performance Unit of the AOC include an evaluation and assessment related to the Superior and Municipal Court Judges' role in domestic violence cases.

Recommendation 41: Expand eCourts technology in the Municipal Courts to include all case-related documents and court filings, such as motions and orders, and to explore the availability of discovery through electronic means.

NJCEDV supports this recommendation. Specifically, as recommended by the Supreme Court Ad Hoc Committee on Domestic Violence (Recommendation 25) that Municipal Court administrators should be given access to the Domestic Violence Central Registry (DVCR).

Recommendation 44: Implement the WebFOCUS Reporting Software Upgrade for Municipal Courts for improved reporting and analytics.

NJCEDV supports this recommendation and specifically recommends that WebFOCUS include data points that will allow ongoing analysis of domestic violence cases.

Recommendation 45: Establish minimum uniform requirements for all Municipal Court websites.

NJCEDV supports this recommendation and requests that such requirements include information to the public about domestic violence, what to expect when appearing in Municipal Court, and resources available for victims.

Recommendation 48: Reaffirm the Judiciary's commitment to encouraging diversity in the judges and staff of the Municipal Courts and in the development of court policy and procedures to address the changing needs of the diverse population of New Jersey's court users.

NJCEDV supports this recommendation and appreciates any steps taken to increase access to the justice system for all victims and defendants including representation of diverse communities at all levels of the Judiciary.

Recommendation 49: Establish a working group comprised of all three branches of government and key stakeholders to implement needed reform and statutory changes to the structure of the Municipal Courts and to create a forum for the discussion of additional relevant issues.

NJCEDV supports this recommendation and requests that NJCEDV, or their designee, be represented on this working group to ensure that any changes and developments include and consider the specialized needs of domestic violence cases.

Finally, NJCEDV continues to encourage the AOC to adopt an evidence-based risk assessment tool that can be used to help inform the Municipal and Superior Courts in their adjudication of all civil and criminal domestic violence matters. As recommended by the Supreme Court Ad Hoc Committee on Domestic Violence (Recommendation 20), implementation of a domestic violence risk assessment will allow the judiciary to make better informed decisions about offender accountability, and as a result, victim safety. Without such a tool, high risk offenders are overlooked leading to a high rate of dismissals as reported earlier, inappropriate sentencing, and a lack of monitoring of certain offenders. NJCEDV certainly does not believe in a blanket approach to all domestic violence cases and defendants, however, NJCEDV does believe that a consistent process that institutes a risk assessment tool in every case will better inform courts, will result in more appropriate conditions and orders on defendants, and will lead to increased safety for victims and our community.

NJCEDV welcomes the opportunity to work with Administrative Office of the Courts, as well as other stakeholders, to consider the specialized nature of domestic violence cases and the needs of victims engaged with Municipal Courts.

Sincerely,

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