

NOTICE TO THE BAR

REPORT OF THE SUPREME COURT WORKING GROUP ON PRIVATE CITIZEN COMPLAINTS IN THE MUNICIPAL COURTS – PUBLICATION FOR COMMENT

The Supreme Court invites written comments on the December 2017 Report of the Working Group on Private Citizen Complaints in the Municipal Courts. The report is published with this notice. The full report, including its several appendices, is available on the Judiciary's internet web site at <http://www.njcourts.gov/courts/supreme/reports.html>.

Please send any comments on the report in writing **by April 2, 2018** to:

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Comments on the report may also be submitted by e-mail to the following address:
Comments.Mailbox@njcourts.gov.

The Supreme Court created the Working Group to make recommendations on the following questions: (1) Should private citizen complaints continue to be accepted by the Municipal Courts?; (2) Should limitations be placed on the types of matters for which a private citizen complaint can be filed and/or against whom?; (3) Should some form of screening, either by law enforcement or some other form, be required prior to a judicial officer making a probable cause determination?

The Working Group focused on R. 7:2-1(b) ("Acceptance of Complaint"), which provides that "[t]he municipal court administrator or deputy court administrator shall accept for filing every complaint made by any person." There has not been an examination of the requirement to accept all citizen complaints since 1988. The Working Group's discussions centered "on the acceptance of the complaint by the Municipal Court and the process that occurs before the Complaint-Warrant or summons is issued." The Working Group's recommendations, set forth in more detail in the report, are as follows:

Recommendation 1 (Substantive Rule Amendment): Every complaint made by any person should continue to be accepted for filing, however R. 7:2-1(b) and R. 3:2-1(a) should be amended to clarify that mere acceptance of the complaint for filing does not mean that a finding of probable cause has been made or that the Complaint-Warrant (CDR-2) or summons has been issued.

Recommendation 2 (Clarifying/Housekeeping Rule Amendments): R. 7:2-2(a)(1) should be amended to remove the reference to dismissing a complaint where a judge finds no probable cause or where the statutory time limitation

to issue a Complaint-Warrant (CDR-2) or summons has expired. Instead, the judge should be directed to not issue the Complaint-Warrant (CDR-2) or summons. Where a no probable cause finding is made and a Complaint-Warrant or summons does not issue, the complaint should not be kept in a held status. In addition, duplicative rule language should be removed and an incorrect cross-reference should be corrected.

Recommendation 3 (Substantive Rule Amendment): New subparagraphs should be created at the beginning of R. 7:2-2 that clearly define probable cause. For purposes of clarity, the rule should be restructured so that probable cause is no longer buried in R. 7:2-2(a)(1). In addition, a cross-reference to the current exceptions to finding probable cause (i.e., law enforcement summons on complaint and code enforcement officer summons on a complaint) should be added.

Recommendation 4 (Substantive Rule Amendment): R. 7:2-2(a)(1) should be amended to provide that a judge or authorized municipal court administrator or deputy court administrator (judicial officer) may issue a Complaint-Warrant (CDR-2) or a summons charging a disorderly persons offense, petty disorderly persons offense or any other non-disorderly persons offense within the jurisdiction of the Municipal Court made by a private citizen. In addition, the rule should add a provision that a judge only may issue a CDR-2 or summons charging any indictable offense made by a private citizen.

Recommendation 5 (Substantive Rule Amendment): R. 7:2-2 should be amended to provide that prior to issuance, the Complaint-Warrant or summons must be reviewed by a county prosecutor on private citizen complaints charging disorderly persons offenses against a: (i) party official or public servant as defined in N.J.S.A. 2C:27-1(e) and (g); (ii) a candidate or nominee for public office as defined in N.J.S.A. 19:1-1; or (iii) a judicial nominee. The county prosecutor can either approve (decide to move forward with the matter), disapprove (decide to not pursue charges/prosecute matter), or modify the charge.

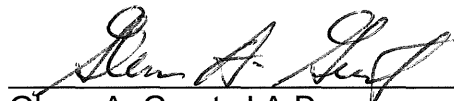
Recommendation 6 (Substantive Rule Amendment): R. 7:2-2 should be amended to provide that prior to issuance, the Complaint-Warrant or summons must be reviewed by a county prosecutor on private citizen complaints charging any indictable offense against any individual. The county prosecutor can either approve (decide to move forward with the matter), disapprove (decide to not pursue charges/prosecute matter), or modify the charge. Part III rules should mirror the Part VII proposed rule amendments on indictables.

Recommendation 7 (Clarifying Amendment): R. 7:2-2 should be amended to clarify that a CDR-2 or summons charging any offense made by a private citizen may be issued if it appears from the complaint, affidavit, certification, citizen complaint information form, or testimony that there is probable cause. The finding of probable cause shall be noted on the face of the CDR-2 or

summons and confirmed by the judicial officer's signature.

Recommendation 8 (Clarifying Amendment): R. 7:3-1(c)(1) should be amended to correct a cross reference to R. 7:2-2. R. 7:3-1(c)(2) should also be amended to align with the proposed amendment to R. 7:2-2(a)(1) (Recommendation 2) that removes the reference to dismissing the summons or Complaint-Warrant where there is no probable cause. Instead, the summons or Complaint-Warrant (CDR-2) shall not be issued.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by e-mail should include their name and e-mail address). Comments are subject to public disclosure upon receipt.



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Dated: February 20, 2018