

MUNICIPAL COURT ADMINISTRATORS ASSOCIATION OF NEW JERSEY



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September 12, 2018

Honorable Glenn A. Grant, J.A.D.
Administrative Office of the Courts
Hughes Justice Complex
25 Market Street
Trenton, NJ 08625

Re: MCAA Comments to Municipal Court Operations, Fines, and Fees Report

Dear Judge Grant:

The Municipal Court Administrators Association of New Jersey wishes to comment on some of the recommendations in the report created by the Supreme Court Committee on Municipal Court Operations, Fines, and Fees. After the introduction and summary, the report discusses 8 guiding principles for the municipal courts. Those principles stated in the report are nothing new to the Judiciary. They directly relate to our core values: Independence, Integrity, Fairness, and Quality Service. I would also say the motto of this organization also speaks to them: Dedicated to Professionalism. The Municipal Court Administrators Association of New Jersey fully agrees with and supports those principles.

We will not comment upon the section entitled "Independence of the Municipal Courts" as this mostly focuses on the appointment of municipal court judges and has political implications outside our purview. We do note that Recommendation 33 regarding the consolidation of so called small municipal courts should take into account these courts are not static creations. Many courts have an ebb and flow to their caseload that may change over a several year period which can drastically change their performance. This should be taken into consideration before any consolidations are proposed.

Under the section IV Recommendation, Fair Sentencing and the Use of Sentencing Alternatives the recommendations cover a vast array of topics. We wish to take special note of Recommendations 5, 8, 10. Recommendation 5 states that the courts should receive training in the following areas; the ramifications of suspensions and warrants, the discretion in those, sentencing alternatives, and adjournments. As professionals, the judges and court staff are fully

aware of the ramifications of the issuance of a warrant or license suspension. To suggest otherwise implies that we have no understanding of the work we do and are out of touch with the “real-life consequences”. This could not be further from the truth. No defendant is issued a warrant or license suspension without proper notice with language provided by the Administrative Office of the Courts whether it be in the form of a mailer/notice or on complaint summons. If the Judiciary has alternatives to either of those enforcement tools, the municipal courts will of course utilize them to ensure compliance.

Recommendation 8 discusses the collection of municipal court monetary penalties. Currently the most frequently used collection tools the municipal courts have are warrants and license suspensions. Another less common tool is the use of collection agencies although the strength of that method was reduced when judicial penalties ceased to be reported on credit reports. We strongly support the automation and waiver of assessments of fees for docketing with the Superior Court. It is agreed that this method of collection would be beneficial both to the municipal court and the municipality.

Recommendation 10 suggests in lieu of a driver's license suspension a denial of a driver's license or vehicle registration or the creation of a restricted use driver's license. As far as the former as a collection tool, we feel that it would not have the strength required to enforce a court's sentence. Utilizing that method could potentially take up to 4 years to have any effect if the defendant's license was recently renewed. Another defendant could be due to renew by the end of the month and require compliance immediately. That seems too random to be used as a collection method and we would advise against it. We have no position on the creation of a restricted use driver's license other than it has been mentioned the difficulty in enforcing such a provision.

Procedural Safeguards for Defendants Unable to Pay a Fine covers the procedures for collection of municipal court debt. Many of the recommendations are already being implemented under the recent Assignment Judge Orders issued throughout the state. Only recommendation 17 gives us pause. It is suggested that to put the burden on the courts to ensure a defendant is not incarcerated prior to any warrant or suspension. To put the onus on the court opens the judge and staff to a potential liability if the defendant is incarcerated and not properly identified within the system. Many defendants have aliases that the courts may be unaware of and would have no idea to search for. We would argue that it should not be the responsibility of the court to know the location of a defendant prior to issuance of a warrant or license suspension. If it is discovered that a defendant is incarcerated there are other remedies available to respond to the situation.

The section regarding Improving Access to the Municipal Courts through Technology again recommends many ideas that are currently being considered by the Judiciary for implementation. Recommendation 36 does bear mentioning though. It states that the requirement for hardship be removed for a plea by mail. It states that it will reduce “the need for a potentially costly and time-consuming court appearance...”. There is already a mechanism to

allow defendants to plead guilty to minor offenses through the Violations Bureau. If this were to be implemented Judges and staff would be reduced to simply reading forms in a back office with absolutely no contact with the public in open court. We must make sure the human factor of a municipal court is not lost with the onset of new technology.

Recommendation 39 proposes to allow more flexibility for defendants to reschedule initial court dates and apply for the public defender online. We do not believe this is necessary as the courts already allow for adjournments of hearings and do so while making sure cases do not fall into backlog. As for an online application for the assignment of a public defender this should stay under the auspices of an open court filing. Many times there are circumstances that a judge may consider when determining if someone qualifies that cannot be garnered without the opportunity to question a defendant.

Thank you for the opportunity to comment on the committee's report. While we appreciate the committee's effort in drafting the report, we could not help but notice the tone seems to vilify the municipal courts. It should be stated that the municipal courts act under the Rules of Court as promulgated by the New Jersey Supreme Court and legislation passed by the New Jersey Assembly and Senate. While this is mentioned in the report, it also gives the feel that the municipal courts work in a vacuum. This is simply not true. The municipal courts are the most diverse courts in the judiciary and are constantly evolving. Their judges and staff undergo many hours of training each year to help make the New Jersey judicial system the envy of the nation. We are proud of the work we do and look forward to continuing to serve the public.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Walter R. Mollineaux". The signature is stylized and fluid, with a long horizontal stroke extending to the right.

Walter R. Mollineaux, CMCA

President of the Municipal Court Administrators Association of New Jersey