

NOTICE TO THE BAR

SUPREME COURT ADMINISTRATIVE DETERMINATIONS ON THE REPORT AND RECOMMENDATIONS OF THE COMMITTEE ON MUNICIPAL COURT OPERATIONS, FINES, AND FEES

Published with this notice are the administrative determinations by the Supreme Court on the report and recommendations of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees. The Committee's June 2018 report, which contained 49 recommendations, was published for comment by notice dated July 17, 2018. The Court has reviewed and acted on each of those 49 recommendations, as set forth in the attached administrative determinations document.

As noted in the document, when the Court received the report in 2018, it immediately acted on the Committee's recommendation to create an inter-branch working group (Recommendation 49) to further review a number of the Committee's recommendations, including those that would require or benefit from inter-branch collaboration and coordination and those that would require legislative changes. That working group's separate report is expected to be issued within the next few weeks.

Questions regarding this notice or the administrative determinations on the report and recommendations of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees may be directed to Steven Somogyi, Assistant Director for Municipal Court Services, at Steven.Somogyi@njcourts.gov or 609-815-2900 ext. 54850.


Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: July 8, 2019

**Administrative Determinations by the Supreme Court
On the Recommendations of the Supreme Court Committee on
Municipal Court Operations, Fines, and Fees
(Issued July 8, 2019)**

This sets forth the Supreme Court's actions regarding the work of the Committee on Municipal Court Operations, Fines, and Fees (Committee). Chief Justice Stuart Rabner established the Committee in March 2017 and charged it with conducting a reform-minded review of Municipal Court practices, particularly those that can have a detrimental effect on individuals of lesser economic means. The Committee was led by Assignment Judge Julio Mendez and Assignment Judge Lisa Thornton who served as chair and vice-chair, respectively. It included stakeholders from the three branches of government, at the state, county and municipal levels, and members of the private bar who practice in the municipal court area.

In June 2018, the Committee issued a report consisting of 49 recommendations designed to further support and enhance equal access to the courts and fair justice for all. The report and recommendations were published for public review and comment. The Supreme Court reviewed each of the 49 recommendations and the comments submitted in response to those recommendations and now makes the determinations set forth in this document.

When the Court received the report, it immediately acted on Recommendation 49 by creating a working group, chaired by Acting Administrative Director of the Courts Glenn A. Grant, J.A.D., and composed of all three branches of government and key stakeholders. The Working Group on Municipal Court Practices has been reviewing many of the 49 recommendations included in the Committee's report, including those that require inter-branch collaboration and coordination and those that would require legislative changes. The Court's administrative determinations as to the Committee's recommendations thus include a number of references to matters under consideration by the working group, which will be issuing its final report shortly. As set forth below, some of the Committee's other recommendations already have been implemented or are in process as of the issuance of this document.

FAIR SENTENCING AND THE USE OF SENTENCING ALTERNATIVES

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.

Determination: Approved. The Judiciary has implemented a process to monitor the imposition of contempt of court financial assessments through its computer system as well as through mentoring and oversight by the Municipal Court Presiding Judges.

Recommendation 2.

Develop a Judiciary policy establishing guidelines that Municipal Court judges are to follow when the corresponding statute or ordinance provides for a range of possible financial penalties, and requiring a Municipal Court judge to state on the record his or her reasons for ordering that amount.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

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.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

Recommendation 4.

Develop policy and tools that would assist the Municipal Courts in establishing payment plans, determining defendant eligibility for other post-disposition sentencing alternatives, and making ability-to-pay determinations.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

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.

Determination: Approved. The existing training provided by the Judiciary in these areas will be further enhanced.

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.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 7.

Develop a vicinage-wide, community-led program similar to the model used in Atlantic/Cape May Vicinage that would seek to encourage the voluntary appearance and safe surrender of defendants with outstanding bench warrants.

Determination: Approved. Vicinages should explore the feasibility of such local programs.

Recommendation 8.

Develop procedures consistent with N.J.S.A. 2B:12-26 and N.J.S.A. 39:8-73a to automate the collection of significant Municipal Court debt in the Superior Court.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

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).

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 10.

The enactment of legislative alternatives to license suspension, such as the denial of renewal of a driver's license or vehicle registration, or the creation of a restricted use driver's license.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 11.

Legislatively establish and update an incarceration conversion rate to reflect the actual costs of incarceration.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 12.

No bench warrant or license suspension shall be issued against a defendant who becomes delinquent on time payments unless an ability-to-pay hearing is scheduled on proper notice to the defendant.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

Recommendation 13.

Bench warrants should only be authorized for defendants who fail to appear for an ability-to-pay hearing where the outstanding fines and fees owed by that defendant equal or exceed \$250.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

Recommendation 14.

Develop a policy limiting the issuance of failure to appear bench warrants to certain, serious offenses, taking into account the following: the seriousness of the offense charged; the age of the case; and other relevant factors.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

Recommendation 15.

Develop a policy formalizing the process for the recalling of existing bench warrants for failure to pay for complaints that have been disposed, taking into account the following: the age of the bench warrant, the seriousness of the conviction, the amount owed, and any other relevant factors.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

Recommendation 16.

Develop a policy formalizing the process for dismissal of old complaints that have not been disposed, taking into account the following: the seriousness of the offense charged; the age of the case; and other relevant factors.

Determination: Approved. This recommendation is referred to the Municipal Court Practice Committee to develop proposed court rules and procedures.

Recommendation 17.

The AOC should develop additional tools and procedures for Municipal Court judges and staff to determine whether a defendant who has failed to appear or pay is incarcerated before a bench warrant or license suspension is issued.

Determination: Approved. The Administrative Office of the Courts is reviewing technical options for implementation of this recommendation.

Recommendation 18.

Municipal Courts should recall bench warrants or rescind driver's license and vehicle registration suspensions when a defendant makes a subsequent good faith effort to report to court or to satisfy a legal financial obligation.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

**VOLUNTARY COMPLIANCE WITH COURT-ORDERED APPEARANCES AND
LEGAL FINANCIAL OBLIGATIONS**

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.

Determination: Approved. This recommendation is in process.

Recommendation 20.

Modify court notices to advise defendants in plain language that: 1) inability to pay will not result in incarceration; 2) defendants can contact the court to seek alternative ways to meet their financial obligations; and 3) the failure to appear or respond to notices may result in additional monetary penalties, license suspension, and/or issuance of a warrant for arrest that may lead to incarceration.

Determination: Approved. This recommendation is in process.

Recommendation 21.

Centralize and modernize Municipal Court notice generation and printing to improve the quality and functionality of notice processing and to take advantage of high volume printing and postage discounts for courts across the state.

Determination: **Approved. The Administrative Office of the Courts is reviewing technical options for implementation of this recommendation.**

Recommendation 22.

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

Determination: **Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.**

Recommendation 23.

The AOC should explore the establishment of a uniform online adjournment request process.

Determination: **Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.**

INDEPENDENCE OF THE MUNICIPAL COURTS

Voluntary Qualification Process for the Appointment and Reappointment of Municipal Court Judges

Recommendation 24.

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

Determination: **This recommendation is currently being considered by the Working Group on the Municipal Courts.**

Recommendation 25.

All appointing authorities and municipalities shall be encouraged to participate in an appointment and reappointment qualifications process. Participating municipalities retain the authority to appoint Municipal Court judges.

Determination: **This recommendation is currently being considered by the Working Group on the Municipal Courts.**

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.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

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.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 28.

All participating municipalities shall submit their candidates for appointment or reappointment as a Municipal Court judge to the Qualifications Committee for evaluation. After carefully reviewing the background and qualifications of the Municipal Court judicial candidate, the Qualifications Committee shall promptly issue a report to the Assignment Judge. It is further recommended that a sitting Municipal Court judge who is up for reappointment may, with the permission of the Assignment Judge, submit his or her name to the Qualifications Committee for review. All materials created by the Qualifications Committee during the course of their review of a candidate are confidential.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 29.

When a Municipal Court judge candidate is deemed not qualified by the Qualifications Committee, the Assignment Judge will first notify the candidate and then the town solicitor. If appropriate, the Assignment Judge will request that another candidate be submitted for consideration by the Qualifications Committee.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 30.

When a Municipal Court judge candidate is deemed qualified, the Assignment Judge will notify the governing body, town solicitor, and the President of the County Bar Association. The notice will trigger the municipal governing body to vote or promptly take action on the candidate.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Legislative Proposals

Recommendation 31.

The legislature should consider modifying the current legislative scheme to mandate municipalities to participate in the proposed qualifications process for appointment and reappointment of Municipal Court judges.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 32.

The legislature should modify the current legislative scheme to increase the term of service for Municipal Court judges from three to five years.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

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.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Evaluation Process for Sitting Municipal Court Judges

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.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

Recommendation 35.

Any confidential evaluation report produced pursuant to Recommendation 34 shall be shared with the evaluated judge, the Assignment Judge, the Presiding Municipal Court Judge, and the county Municipal Judge Qualifications Committee as part of the qualifications process for appointment and reappointments.

Determination: This recommendation is currently being considered by the Working Group on the Municipal Courts.

IMPROVE ACCESS TO THE MUNICIPAL COURTS THROUGH TECHNOLOGY

Recommendation 36.

Expand the opportunity for defendants to resolve Municipal Court matters remotely without court appearance via NJMCdirect.com or through plea by mail by:

- 1) Expanding the scope of “payable offenses” that can be resolved on NJMCdirect.com;
- 2) Expanding NJMCdirect.com to accept payments on all matters where a court appearance is not required, all time payments, and bail where permitted;
- 3) Allowing for the online submission of an application for plea by mail, pursuant to R. 7:6-3 and R. 7:12-3; and
- 4) Removing the requirement of hardship for plea by mail.

Determination: Approved. The Judiciary is working on implementing subsections 1) and 2). Subsection 3) is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation. Subsection 4) is referred to the Municipal Court Practice Committee to develop proposed court rules and procedures.

Recommendation 37.

All Municipal Courts shall offer defendants the ability to pay fines with a credit card or debit card using NJMCdirect.com at the payment window.

Determination: Not approved. This recommendation would subject the Judiciary to expanded Payment Card Industry Data Security Standard compliance requirements, resulting in substantial additional costs.

Recommendation 38.

Defendants shall be permitted to make partial payments on “payable offenses” without a court appearance.

Determination: Approved. This is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers and to the Municipal Court Practice Committee.

Recommendation 39.

Enhancing customer service by allowing defendants to: 1) reschedule an initial court date, pursuant to policy promulgated by the AOC; and 2) apply online for a public defender.

Determination: Approved. The Court approved this in concept; the Administrative Office of the Courts is exploring technological options and timeframes for implementation.

Recommendation 40.

Enhance the ability of all court users to easily access their outstanding Municipal Court obligations and pending matters across the state, and give Municipal Court judges and staff the ability to consolidate payments within the municipality through automation.

Determination: Approved. The Court approved this recommendation in concept and the Administrative Office of the Courts is exploring technological options and timeframes for implementation.

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.

Determination: The Court approved the expansion of eCourts technology to include case-related documents and court filings. The Court did not approve the portion of the recommendation that would provide for discovery material in eCourts.

Recommendation 42.

To continue current efforts to modernize and integrate MACS and PromisGavel to improve case management coordination between the municipal and criminal courts.

Determination: Approved. The Court approved continuing these efforts.

Recommendation 43.

The AOC shall continue to encourage the expansion of the eTicketing model to New Jersey municipalities. The AOC shall also develop eSummons technology to enable quick entry of Special Form of Complaint/Summons cases.

Determination: Approved. The Administrative Office of the Courts is implementing the eSummons technology for Special Form of Complaint/Summons cases and will continue to encourage expansion of the eTicket model.

Recommendation 44.

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

Determination: Approved. This recommendation is in process.

Recommendation 45.

Establish minimum uniform requirements for all Municipal Court websites.

Determination: Approved. This recommendation is in process.

Recommendation 46.

Program ATS/ACS to technologically require compliance with R. 1:2-4.

Determination: Approved. This recommendation is completed.

Recommendation 47.

Program ATS/ACS to allow court costs to be assessed only in statutorily-authorized instances.

Determination: Approved. This recommendation is in process.

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.

Determination: Approved. This recommendation is referred to the Conferences of Municipal Presiding Judges and Municipal Division Managers for implementation.

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.

Determination: Approved. The Working Group on the Municipal Courts has been established and conducted meetings; its report will be issued shortly.

The Court extends its appreciation to all of the members of the Committee. The report and recommendations reflect the exceptional collaborative work by everyone involved.