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DIRECTIVE #26-19

To: Assignment Judges
Municipal Court Presiding Judges
Trial Court Administrators
Municipal Division Managers

From: Glenn A. Grant, J.A.D., 
Acting Administrative Director

Subj: Procedures for the Initial Handling of Private Citizen Complaints in the
Municipal Courts – Implementation of Part III and Part VII Rule Changes

Date: December 20, 2019

On January 1, 2020, amendments to the Part III and Part VII court rules take effect that will alter the procedures for the initial handling of private citizen complaints in the Municipal Courts. This directive provides an overview of the changes and sets forth the procedures for handling these matters.¹

Most private citizen complaints are initiated at the court office, with staff providing the private citizen with instructions on how to file the complaint. Other private citizen complaints, however, are initiated at the local police department, with an officer providing the same general assistance to the complainant. This second option is generally more advantageous for private citizens, as law enforcement is able to provide guidance to the private citizen regarding what charge(s) to file, something court staff is precluded from doing. Importantly, the new rules and the procedures discussed below apply to all private citizen complaints – those initiated at a Municipal Court and those initiated at a police department.

The most significant changes to the rules involve the County Prosecutor's review of certain private citizen complaints prior to a judicial officer's probable cause determination. Specifically, under the new rules, County Prosecutors are to be sent for review all private

¹ The amendments to the Rules of Court originated from the December 7, 2017 Report of the Supreme Court Working Group on Private Citizen Complaints in the Municipal Courts. On August 2, 2019, the Supreme Court issued its Administrative Determinations on the Working Group's eight recommendations modifying the private citizen complaint process to be implemented through court rule amendments.

citizen complaints charging an indictable offense. Similarly, County Prosecutors are to review all private citizen complaints charging a disorderly persons offense when the complaint is being made against a candidate or nominee for elected public office or against someone holding elected public office.

Additional details on the rule changes and the corresponding procedures being implemented are provided below. Further, significant changes have been made to the Judiciary's computer systems, most notably the eCDR system, to support these changes. While some of these technical changes are referenced in this Directive, court staff and law enforcement should review the system Release Notes, which are being promulgated under separate cover, for more detailed instructions.

Private Citizen Complaints Charging an Indictable Offense

On and after January 1, 2020, private citizen complaints initiated by a citizen at the court or at the police department charging any indictable offense against any individual shall be reviewed by the County Prosecutor prior to a finding of probable cause and the issuance of a CDR-1 (Complaint-Summons) or CDR-2 (Complaint-Warrant). To facilitate this prosecutorial review, following generation of a private citizen complaint in the eCDR system, all private citizen complaints containing an indictable offense will be electronically forwarded to the County Prosecutor for review, prior to being sent to the court for a probable cause determination.

County Prosecutors will have 45 calendar days following receipt of the electronically forwarded private citizen complaint to conduct their review and either approve or deny the complaint. As part of their approval authority, the County Prosecutor may modify the charge(s). The Prosecutor's office may also apply to the court for extensions of time to review the complaint of up to ten calendar days each, which extension applications shall be granted by the court on a showing of good cause. Each of these actions will be done through the computer system changes noted previously.

If the prosecutor approves the private citizen complaint, the complaint will be automatically routed to the court through eCDR for a probable cause determination. Under the new rules, only a judge is authorized to determine probable cause on a private citizen complaint charging an indictable offense. As such, these complaints will only be sent to judges. Effective January 1, 2020, municipal court administrators and deputy municipal court administrators (hereinafter collectively referred to as court administrators), will no longer be permitted to determine probable cause on private citizen complaints charging an indictable offense.

Importantly, this change in quasi-judicial responsibility does not affect the authority of court administrators to determine probable cause and issue complaints for other matters. Thus, pursuant to N.J.S.A. 2B:12-21(a), authorized court administrators may still determine probable cause and issue process on all complaints filed by law enforcement (including

complaints containing an indictable charge), as well as complaints filed by private citizens that do not include an indictable offense. Moreover, these rule changes retain the requirement that if an authorized court administrator finds that no probable cause exists to issue a complaint, that finding must be reviewed by a judge.

If the County Prosecutor denies the citizen complaint, the complaint does not move forward to the court for a probable cause determination. The complaint is at that point effectively terminated. When this occurs, the Prosecutor is required to report the denial to the Assignment Judge on the record or in writing, as well as notify both the citizen complainant and the defendant as to that outcome. If the prosecutor does not take action on the complaint (either to approve or to deny) within the 45 day timeframe and no extension of time has been requested, such absence of action shall be deemed as the prosecutor not objecting to the complaint. In such instance the complaint will automatically be routed to the judge electronically for a probable cause determination. Electronic processes are being developed in eCDR to support each of the above requirements.

Private Citizen Complaints Charging a Disorderly Persons Offense

Defendants Who Hold or are a Candidate/Nominee for Elected Public Office

On and after January 1, 2020, private citizen complaints charging a disorderly persons offense against a defendant who is a candidate or nominee for elected public office or a person holding elected public office, as defined in N.J.S.A. 19:1-1,² shall be reviewed by the County Prosecutor prior to a judicial officer's finding of probable cause and issuance of a CDR-1 (Complaint-Summons) or CDR-2 (Complaint-Warrant).

With one noted difference, as explained below, the protocols and procedures detailed under the previous section concerning private citizen complaints involving an indictable offense apply to these complaints. Specifically, the County Prosecutor has 45 calendar days to approve (with or without modification) or deny these complaints; the prosecutor may also request extensions of time of up to 10 calendar days each, which the court shall grant on a showing of good cause. If the County Prosecutor denies the complaint, the denial is to be reported to the Assignment Judge on the record or in writing, with written notice of the denial sent by the County Prosecutor to the citizen complainant and to the defendant. Further, if the County Prosecutor does not take action on the complaint (either to approve or to deny) within the 45-day timeframe and no extension of time has been requested, that shall be deemed as not objecting to the citizen complaint. Changes to the eCDR system will be available to support each of these processes.

²N.J.S.A. 19:1-1 (Elections, Definitions) defines "**public office**" as any office in the government of this State or any of its political subdivisions filled at elections by the electors of the State or political subdivision. N.J.S.A. 19:1-1 defines "**election**" as the procedure whereby the electors of this State or any political subdivision thereof elect persons to fill public office or pass on public questions.

As with private citizen complaints charging indictable offenses, once the Prosecutor has reviewed the complaint (or the Prosecutor has not acted on the complaint within 45 days), it is electronically returned to the Municipal Court for a probable cause finding. At that point, *either* a judge *or* an authorized municipal court administrator may find probable cause on a citizen complaint charging a disorderly persons offense against a candidate or nominee for elected public office or a person holding elected public office. This is the noted difference referenced above.

All Other Defendants

Private citizen complaints charging disorderly persons offenses against other persons (i.e., those who do not hold elected public office or are not candidates or nominees for elected public office) are **not** subject to County Prosecutor review prior to a probable cause determination. Upon filing, these complaints, when entered into the eCDR system, will electronically be sent to a judicial officer for a probable cause finding. The same holds true for all other private citizen complaints where the most serious charge is a petty disorderly persons offense, a traffic violation, a local ordinance, or any other lesser matter handled by the Municipal Courts, as these complaints are similarly not subject to County Prosecutor review.

Forms Utilized when Handling Private Citizen Complaints

Complaint Information Forms

The Citizen Complaint Information Forms (regular and the Domestic Violence version³), originally promulgated on December 13, 2010, have been revised to include a checkbox where the private citizen complainant can indicate whether the complainant believes that the defendant is a candidate or nominee for elected public office or a person holding elected public office. Copies of these two revised forms are attached. The forms also provide space for the private citizen complainant to also include information about the elected public office that the person holds or is a candidate or nominee for, as appropriate. These changes will facilitate the completion of the corresponding field in the eCDR system (see below).

As a reminder, these forms shall be provided by the court to all private citizens who come to Municipal Court to file a complaint. These forms supersede the previous versions and are to be used for private citizen complaints filed on or after January 1, 2020. Police departments that assist private citizens are strongly encouraged to utilize these same forms, in addition to the form entitled, *Certification in Support of Probable Cause*. Consistent with

³ Those versions include the Complaint Information Form and the Complaint Information Form-Domestic Violence Criminal Complaints. The first form is given to private citizen complainants filing non-domestic violence related charges, whereas the second form is given to private citizen complainants who wish to file domestic violence related charges.

the guidance I issued when originally promulgating these forms in December 2010, Municipal Courts are to make these forms available to their local police departments.

CDR-1 and CDR-2 Forms

As of January 1, 2020, only the eCDR system may be used to generate private citizen complaints requiring county prosecutorial review, as detailed above. This means that the Special Form of Complaint and Summons may no longer be used to generate private citizen complaints alleging a disorderly persons offense against someone who is a candidate or nominee for elected public office or a person holding elected public office. The Special Form of Complaint and Summons, however, may still be used, where appropriate, for those complaints alleging a disorderly persons offense (or other matter) that is not subject to review by the County Prosecutor.

As stated previously, significant changes are being made to the eCDR system to support these new Rule requirements. Courts and law enforcement will be advised under separate cover about those system changes. As stated previously, the eCDR system will electronically identify all private citizen complaints requiring County Prosecutor review (i.e., those containing an indictable offense and those containing a disorderly persons offense where the defendant is an elected public official or a candidate or nominee for elected public office). Private citizen complaints requiring County Prosecutor review will automatically be routed to the County Prosecutor via the eCDR system. Private citizen complaints not subject to County Prosecutor review shall be automatically forwarded to the court (through eCDR) for a probable cause determination.

To determine whether a private citizen complaint charging a disorderly persons offense needs to go to the County Prosecutor for review, a new field is being added to eCDR to capture whether the defendant is a candidate or nominee for elected public office or holds elected public office. If this eCDR field is checked in the affirmative during the complaint generation stage and the complaint contains a disorderly persons offense (or an indictable), the computer system will automatically route the complaint to the County Prosecutor.

Finally, neither law enforcement nor Municipal Court staff is under any obligation to investigate whether a defendant being charged with a disorderly persons offense (or an indictable offense) is a candidate or nominee for elected public office or a person holding elected public office. The responsibility to disclose that information rests with the private citizen complainant.

However, if the private citizen complainant fails to disclose this information, but it is clearly apparent to the person preparing the complaint that the defendant is an elected public official or a candidate or nominee for elected public office (e.g., the defendant is the town Mayor), then the person preparing the complaint should make that known to the private citizen, to ensure that this information is properly reflected in eCDR. This will assist in better ensuring that disorderly persons offense complaints filed against elected public officials or

candidates or nominees for elected public office are handled consistent with the Rules of Court.

Any questions regarding this Directive or about the private citizen complaint process may be directed to Assistant Director Steven A. Somogyi (Municipal Court Services Division) via email at steven.somogyi@njcourts.gov or by telephone at 609-815-2900 ext. 54850 or Assistant Director Sue Callaghan (Criminal Practice Division) via email at sue.callaghan@njcourts.gov or by telephone at 609-815-2900 ext. 55300.

Attachments

c: Chief Justice Stuart Rabner
Attorney General Gurbir S. Grewal
Public Defender Joseph E. Krakora
Veronica Allende, Director, Division of Criminal Justice
Criminal Presiding Judges
Municipal Court Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Special Assistants to the Administrative Director
Criminal Division Managers and Assistants
Assistant Municipal Division Managers
Rhonda Crimi, Chief, Municipal Court Services
Julie A. Higgs, Chief, Municipal Court Services
Maria Pogue, Chief, Criminal Practice
Sandra Wright, Chief, ATCSU
Pearl Ann E. Hendrix, Municipal Court Services
Municipal Court Directors and Administrators



New Jersey Judiciary
Municipal Court of New Jersey
Complaint Information Form



Instructions: Please complete the following information to the best of your ability. This information will help in the preparation of the complaint.

Your Name (you are the complainant)

Street Address

City

State

Zip

Telephone Number

Email Address

Defendant's Name

Street Address

City

State

Zip

Telephone Number (if known)

Date of Birth (if known)

Driver's License (if known)

State

Is the person you are charging an elected public official or a candidate for elected public office? Yes No
If yes, provide any information regarding what elected office the person is a candidate for or currently holds.

If this is a motor vehicle complaint list:

License Plate # of Other Vehicle

State

Description of vehicle (if known)

Names and addresses of witnesses (use additional paper if necessary)

Name

Address

For Court Use Only

Court Administrator/Deputy Initials: _____

Date: _____

Corresponding Complaint Numbers: _____

(Every request **requires** the filing of a complaint.)



New Jersey Judiciary
Municipal Court of New Jersey



**Confidential Domestic Violence Complaint Information Form
(Not to be Disclosed)**

Instructions: Please complete the following information to the best of your ability. This information will help in the preparation of the complaint.

Your Name (you are the complainant)

Street Address

City

State

Zip

Telephone Number

Email Address

Defendant's Name

Street Address

City

State

Zip

Telephone Number (if known)

Date of Birth (if known)

What is your relationship to the defendant?

Is the person you are charging an elected public official or a candidate for elected public office? Yes No
If yes, provide any information regarding what elected office the person is a candidate for or currently holds

When did the offense occur?

Where did the offense occur?

Is there a domestic violence restraining order in effect? Yes No

In which county was the restraining order obtained?

What is the effective date of the restraining order?

Names and addresses of witnesses (use additional paper if necessary)

Name

Address

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For Court Use Only

Court Administrator/Deputy Initials: _____

Date: _____

Corresponding Complaint Numbers: _____

(Every request **requires** the filing of a complaint.)