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## **URGENT ALERT**

### **NJ Supreme Court Report on Municipal Courts**

On Tuesday, the New Jersey Supreme Court issued a report, entitled [Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees](#), prepared by the Supreme Court's Committee on Municipal Court Operations. League Associate Counsel Samuel 'Skip' Reale represented us on the Committee, which "was charged with conducting a reform-minded review of Municipal Court practices." While the League appreciates the efforts of the committee, agrees with the principles, and supports many of the Committee's recommendations, Mr. Reale voted 'No,' because the premise on which many of the recommendations were based is not grounded in reality.

There is always room for improvement in the administration of justice, but there is also certainly room for improvement in the Committee's report. Unfortunately, the report draws many of its conclusions based on anecdotal accounts, including those from other states, and the recommendations do not address the impact of state-imposed mandates and requirements.

Municipal courts are often a person's first and only interaction with the judiciary and rarely, if ever, does anyone go to court because of something positive. As a result there is a negative public perception of municipal court. Anybody seriously concerned about negative public perceptions of the courts needs to be careful with how they characterize those courts in public.

The Committee's report has a number of obvious shortcomings. For instance, members of the Committee began their consideration assuming "the widespread misuse of contempt of court procedures." This assumption, however, is never quantified or qualified.

The Committee's report "strongly" recommends changes that would limit local influence on municipal courts, such as the appointment of local judges.

It is disappointing that the report fails to offer any such changes regarding state influence, such as state-mandated surcharges.

## Major Areas Covered by the Report

### I. Fees/Fines—Municipal County and State

The report expresses the Committee's concern "...with the excessive imposition of financial obligations on certain defendants, and what can be the never-ending imposition of mandatory financial obligations upon defendants that extend beyond the fine that is associated with the violation. While many of these fees and surcharges, and the funds that they support, are well intended, they ultimately have little to do with the fair administration of justice. They can be financially overwhelming to defendants, have a disproportionately negative impact on the poor, and often become the starting point for an ongoing cycle of court involvement for defendants with limited resources."

#### League Comments

Municipal Court operations are often complicated by legislative mandates – including the collection of myriad fees and surcharges that are sent to the State to fund State-level programs and responsibilities. For instance, the report notes that just over half of the \$400 million collected in 2017 was "turned over" to municipalities. In fact, this statistic demonstrates that nearly half these funds were "turned over" to the counties and State. The vast majority of those funds are a direct result of State surcharges to fund State priorities. **While the report itself notes the negative impact of these State-mandated charges on indigent defendants, not one of the Committee's 49 recommendations aim to address this burden.**

It is also unclear if this figure accounts for the operational costs associated with acting as the State's collection agent for these surcharges. These additional operational costs are absorbed directly by municipal courts budgets without reimbursement from the State. And, when these costs are considered the true amount "turned over" to municipalities could be far less than what the Report highlights.

The committee notes that the vicinage Assignment Judge must approve the proposed court budget, with no consideration given to the impact of that decision on other aspects of the municipal budget. That alone helps to protect the independence of the Municipal Courts.

### II. Selection of Municipal Court Judges by Local Officials

The report states that Municipal Court Judges need to be selected in an "objective and transparent manner using methods that are consistent with an independent Judiciary."

#### League Response

The logical conclusion is that the Committee does not trust local elected officials to make this decision, but they would trust "others." Local elected officials – who must find the funds to pay the salaries of court professionals and to provide facilities and security for the courts - have won the trust and earned the votes of their fellow citizens, and are more accessible and held more directly accountable for their decisions than any elected or appointed official at the state or county level. They answer to those citizens, who ought to be able to expect respect for the laws and ordinances that were designed to ensure order and protect their rights.

To follow the logic of the Committee, it is unclear to whom the new selectors will answer. Appointment of municipal judges by the State would eliminate the local perspective from an entire branch of government.

### **III. Fair Administration of Justice**

The Committee states that fines and penalties should "...only be based on the fair administration of justice...."

#### **League Response**

We agree. But the Committee did not apparently contemplate that in some cases and in some places, the municipal court judge might need to be tougher on violators, in order to ensure effective deterrence and protect others' just rights to the peaceful enjoyment of public spaces.

### **IV. Municipal Courts are Serving the Local Community While Being Supervised by the Judicial Branch**

The Committee "strongly" recommends the mandatory consolidation of courts. The report offers few specifics as to how this would be implemented.

#### **League Response**

Obviously, the League objects strongly to a state-imposed, mandatory consolidation of Courts since it would likely not take into account local concerns and the will of the voters. Further, the Committee's recommendation for consolidations seems to rely on arbitrary assumptions about the presumed inefficiency of 'small courts.' The League would welcome the Committee making recommendations as to what administrative hurdles may be removed so facilitate the voluntary consolidation of courts.

We hope all who consider municipal court operations appreciate the dedicated public service of our municipal court professionals. Municipal judges, prosecutors, public defenders, and court administrators take their offices seriously and exercise their duties ethically and responsibly. All undergo training before taking office. All work under the jurisdiction and are audited by of the Administrative Office of the Courts. And, in the case of the court administrators, they are certified and compliant with continuing education requirements.

In fact, the Judicial Branch already has authority over and supervises Municipal Courts.

Further, we hope all recognize the value local elected officials place on the efficient and effective administration of justice at the local level and the support – financial and otherwise – provided to the State Judiciary.

Notwithstanding the League's position with respect to certain recommendations included in the Committee's Report, we commend the Members for those recommendations that will help to address the need for greater local flexibility in dealing with what can be the disparate impact of sanctions on those of limited means. The League is willing to engage in a dialogue that addresses the concerns of the Supreme Court, as well as those of our municipal members. The League has communicated this willingness to the Supreme Court in the hope of moving the conversation forward.

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