

Municipal Contradictions: How to Provide an Equitable Municipal Court Experience

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Introduction

Municipal court cases account for the bulk of all legal filings and are often the only interaction that many people have with the judicial system, yet there is a significant lack of research on the impact of municipal courts on our daily lives. Scholarly discourse on the provision of municipal services tends to focus on municipal services which play a key role in our day to day lives such as education, waste management, or park maintenance. While the role of municipal courts in our daily lives may not be as visible as other municipal services, they serve a key judicial and municipal function. Municipal courts are the ambassadors of the judicial system and are often the only interaction that many people have with the judicial system. The municipal court experience is often the formative factor in developing an individual's perception of the judicial system.

Approximately seven million cases are filed each year in New Jersey; six million of these cases are filed in municipal court while one million are filed in superior court.¹ In 2014, municipal court filings accounted for 86% of all court filings throughout each of New Jersey's judicial systems. On average, \$500 million dollars annually pass through the municipal court

¹ *State of New Jersey Comprehensive Financial Report Fiscal Year Ended June 30, 2014*, New

JERSEY DEPARTMENT OF TREASURY,

<http://www.state.nj.us/treasury/omb/publications/14cafr/pdf/intro.pdf>.

system.² Undoubtedly, municipal courts play an essential and often overlooked role in society. This paper seeks to change the discourse around municipal courts as well as address the unsound and contradictory nature in which municipal courts are funded in New Jersey.

The unrest in Ferguson over the past year illustrates the debilitating impact a municipal court can have on an entire community. The Ferguson Municipal Court's use of harsh municipal ordinances and arbitrary sentencing practices resulted in a form of judicial social control. The abusive revenue driven municipal court practices preyed on Ferguson's predominately low-income minority residents to offset the costs of a depreciating tax base. The actions of the Ferguson municipal court delegitimized the authority of the court and law enforcement officials and were the catalyst lead to the civil unrest that arose after Michael Brown's death. The residents of Ferguson were forced to deal with an oppressive municipal court simply by virtue of where they lived.³

While there is no New Jersey municipality that relies as heavily on municipal court fines to augment their municipal revenue as much as Ferguson does, failure to pay a municipal fine has drastic impact on the lives of indigent defendants. Failure to pay a municipal court fine can result in incarceration. Outstanding warrants places a pause button on the lives of those who are unable to pay their court fines and can result in suspended licenses, an inability to qualify

² Minutes of the December 9, 2008 Meeting, NEW JERSEY DEPARTMENT ON COMMUNITY AFFAIRS, <http://www.state.nj.us/dca/affiliates/luarcc/meetings/2008/12-22-2008minutes.pdf>.

³ Julia Craven, Ryan J. Reilly, Mariah Stewart, *The Ferguson Protests Worked*, HUFFPOST POLITICS, (Aug. 5, 2015), http://www.huffingtonpost.com/entry/ferguson-protests-municipal-court-reform_55a90e4be4b0c5f0322d0cf1.

for certain jobs, and can prevent people from obtaining guardianship of their grandchildren who are in the custody of the Division of Child Protective Services.⁴ An unpaid municipal court fine can have a devastating impact on the life of an individual; this is why it is so important that all New Jersey residents have access to a municipal court which is responsive to their needs. Quite often, our poorest residents have to shoulder the burden of frequenting the most ineffective and busiest municipal courts in the state.

Part I of the paper provides an introduction to the municipal court system in New Jersey and the role that they play in regulating the daily lives of New Jersey residents. Part II is an examination of two neighboring municipal courts. Part III consists of an analysis of how the judiciary defines the role of municipal courts in society. Part IV is an evaluation of current judicial reforms and whether these reforms are tailored to address the problems which plague municipal courts. This paper will conclude with recommendations for municipal court reform.

Part I

In a state renown for its strong adherence to the concept of home rule, it is unsurprising to learn that there are 530 different municipal courts in New Jersey. Despite the oversight of the municipal courts by the Administrative Office of the Courts, each court operates in a manner that reflects the nature of the community in which they are located.

Prior to 1949 the justice of the peace was responsible for disposing of offenses involving disorderly persons. As the 20th century advanced, police judges began to replace the justice of

⁴ Audie Cornish, *Court Fees Drive Many Poor Defendants Underground*, NPR SPECIAL SERIES GUILTY AND CHARGED (May 21, 2014),

<http://www.npr.org/templates/transcript/transcript.php?storyId=314607003>

the peace throughout the rapidly urbanizing landscape of New Jersey⁵. The 1947 Constitutional Revision eliminated the patchwork compilation of local problem resolution entities and replaced them with a system of local courts with uniform jurisdiction and required that all newly appointed judges be attorneys.

All of the municipal courts were governed by a complete set of rules created by the Supreme Court and were under the supervision of the Administrative Office of the Courts. One of the distinctions that distinguishes municipal courts from courts in the Superior Court system is the fact that municipal courts are funded by the municipality while the county Superior Courts are funded by the state. The current funding scheme for municipal courts shifts the focus from dispensing justice to the generation of revenue crucial to the continued operation of the municipal court⁶.

While the 1947 reorganization of the municipal courts under the supervision of Judge Vanderbilt standardized some aspect of the municipal court experience, the implementation of directives issued by the Administrative Office of the Courts occurred in a manner which reflected the the unique characteristics of each municipality. A problem faced by the earlier municipal courts which persists to this day is a shortage of competent clerical personnel. Many of our largest municipal courts are understaffed due to a lack of resources, which causes excessive delays in the busiest courts. It is counter-intuitive that our largest, most cash

⁵ Arthur T. Vanderbilt, The Municipal Court – The Most Important Court in New Jersey: Its Remarkable Progress and Its Unsolved Problems, 10 Rutgers L. Rev. 647 1955-1956.

⁶ Minutes of the December 22, 2008 Meeting, NEW JERSEY DEPARTMENT ON COMMUNITY AFFAIRS, <http://www.state.nj.us/dca/affiliates/luarcc/meetings/2008/12-22-2008minutes.pdf>

strapped municipalities with the largest municipal court case loads are expected to pay the cost of running the municipal court themselves.

Chief Justice Vanderbilt recognized that municipal courts are where nascent impressions of the entire judicial system are formed. He saw the work of the municipal court as fundamental to the “preservation of the social order” because 86% of all court filings are filed in a municipal court. A negative municipal court experience will only serve to delegitimize the judicial system in the eyes of New Jersey residents. Since the 1947 reorganization of the New Jersey judicial system, there has been a consistent recognition that the municipal court experience must be a pleasant one so that the authority of the court is not diminished.

In 1970, thirty years after the creation of the New Jersey municipal court system, 11,623 people were committed to jail in lieu of payment of fines to the municipal court system. To this day, indigent defendants are sentenced to serve jail sentences in lieu of payment.

Case law concerning the role of the municipal court in the judicial system focuses on the conduct of the judge but fails to take into account the role of court administrators in shaping public perceptions of the municipal court system. The localized fragmented nature of New Jersey politics has resulted in a municipal court system in which all of the courts are guided by the same rules and regulations, yet each court remains free to interpret the court rules in a manner which suits that particular municipality. A prime example of the disjointed municipal court systems is a comparison of the Montclair and Newark municipal courts

Part II

The next section of the paper consists of a comparison of the Montclair and Newark municipal courts. Montclair is a well-to-do outer suburb of Essex County, which is a twenty-

minute drive on 280, the main transportation artery that connects the Essex County suburbs to downtown Newark. Montclair has a population of 37,669 people⁷, which is 14% of Newark's population of 277, 140.⁸ The Montclair municipal court had 57,000 filings from July 2014 through June 2015, in comparison, Newark had 478,735 filings in that same time span⁹. The realized revenue from the Montclair municipal court was \$1,441,208. In Newark, a city that has twelve times the population of Montclair, the municipal court revenue was \$13,565,144¹⁰.

The Montclair municipal court violations bureau is open Monday through Friday from 8:30 to 4:30 while the traffic court is in session on Tuesday's starting at 2:30 and the criminal court is in session starting at Thursday at 9:30¹¹. In contrast, the Newark Municipal Court's Violation Bureau Payment Window is open Monday through Friday from 8:30 am to 6:30 pm

⁷ *Montclair, New Jersey*, WIKIPEDIA THE FREE ENCYCLOPEDIA,

https://en.wikipedia.org/wiki/Montclair,_New_Jersey

⁸ *Newark, New Jersey*, WIKIPEDIA THE FREE ENCYCLOPEDIA,

https://en.wikipedia.org/wiki/Newark,_New_Jersey

⁹ Administrative Office of the Courts Quantitative Research Unit, *Municipal Court Statistics July 2014 – June 2015*, NJ COURTS, *16 <https://www.judiciary.state.nj.us/quant/munm1506.pdf>

¹⁰ City of Newark, *2014 Municipal Data Sheet*, NEW JERSEY DEPARTMENT ON COMMUNITY AFFAIRS, http://www.state.nj.us/dca/divisions/dlgs/resources/muni_st_docs/2014_data/2014_tran_aid/CY2014%20Newark%20Intro%20Budget.pdf

¹¹ *Municipal Court Home*, CITY OF MONTCLAIR,

http://www.montclairnjusa.org/index.php?option=com_content&task=blogcategory&id=195&Itemid=427

and court is held twice a week Monday through Friday with a morning and afternoon session. While the Newark court has more hours and offers more court sessions than the Montclair Court it is more difficult to get a hold of customer service representative in Newark. The court itself is understaffed and unable to handle the volume of cases being processed through its system. Quite tellingly, the city of Newark estimated that they had lost \$2 million dollars in revenue from the municipal court due to the number of cases that the municipal court dismissed because of failure to properly notify the defendant¹².

While the underlying structure of the municipal court is the same throughout the state, each municipal court operates in a way that reflects the nature of their community. What does it mean when one community, that already has more resources than another has an effective community municipal court which is responsive to the needs of its community while the other municipal court, although meaning well is under resourced and lacks the staff to serve the public in an effective and productive manner?

Let us compare the experiences of two residents of Montclair and Newark in their municipal court. The average Newark resident is a 32-year-old African-American female resident with a high school diploma¹³, who is a renter living in a family household comprised of

¹² *Newark Application for Transitional Aid*, CITY OF NEWARK,

http://www.nj.gov/dca/divisions/dlgs/resources/muni_st_docs/2014_data/2014_tran_aid/CY2014%20Newark%20Application.pdf

¹³ *Selected Economic Characteristics 2009 – 2015 American Community Survey 5-Year Estimates for Newark*, UNITED STATES CENSUS BUREAU,

<http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

herself and her children with a median household income is \$33,960. Our average resident most likely commutes by driving her car to a service or sales position within the educational services, health care and social assistance industry. 54% of all Newark female-headed households with children under the age of 5 have incomes below the poverty level¹⁴. On her way to work our average Newark resident is pulled over for having a broken taillight, she is issued a ticket by the arresting police officer and told to appear in court on the date scheduled by the court. The ticket is \$47 but she knows that her taillight was working. She has to be at work on time and cannot call the municipal court on her 30 minute commute to work¹⁵, so she must wait until her lunch break¹⁶. Once, she is on her lunch break she calls the number listed on the municipal court website only to find that it rings out with anyone answering the phone. At this point she has two choices, she can log onto the online portal and pay the ticket or she can go to municipal court on her court date to contest the ticket. If she pays the ticket she will have to pay \$47, however the costs are much higher for her to contest her ticket if she is innocent.

¹⁴ *Id.*

¹⁵ *Newark City Quick Facts*, UNITED STATES CENSUS BUREAU,
<http://quickfacts.census.gov/qfd/states/34/3451000.html>

¹⁶ In fact, Newark residents have the lucky distinction of residing in a city with third highest average commute time, and 5.2% of all Newarkers have an extreme commute of more than 90 minute. This is more than double the national percentage of just 2% of Americans who have an extreme commute. *See Americans Spend More Than 100 Hours Commuting to Work Each Year*, UNITED STATES CENSUS BUREAU, <http://www.infozine.com/news/stories/op/storiesView/sid/6784/>

Let us explore the costs associated with contesting a ticket. She will have to take the morning off from her service industry job, which most likely does not have paid time off. The earliest court session starts at 8:30, she can try and make that but even if everything runs smoothly she will be at least an hour late if she has a thirty-minute commute. Taking into account the vagrancies of the Newark municipal court, with an average wait time of 2 hours for your case to be called; she will be out of work for at least the morning. This will cost her at least 4 hours of pay, which will equal at least \$68. Once her case is called the officer who issued the ticket may not be in court that day which will cause her case to be adjourned for another day. If this is the case she will have to appear in court another day, which will cost her another \$68.00 and only serves to further delegitimize the eyes of the court in her eyes. If she fails to pay the fine or fails to appear in court because she has been unable to get time off she will have a warrant for her arrest.

Let's compare our average Newark resident with our average Montclair resident. The average Montclair resident is a 41-year-old white female homeowner with a graduate degree living in a husband-wife household with a child under the age of 18¹⁷ with a household income of \$153,000 and an average commute time of 35 minutes who is employed in management¹⁸. Our Montclair resident is also pulled over by a police officer and issued a ticket for a broken taillight. Our Montclair resident quickly does the cost benefit analysis in her head and realizes

¹⁷ *Selected Economic Characteristics 2009 – 2015 American Community Survey 5-Year Estimates for Montclair*, UNITED STATES CENSUS BUREAU,

http://factfinder.census.gov/bkmk/table/1.0/en/ACS/13_5YR/DP03/0100000US.

¹⁸ *Id.*

that she is better off paying the \$47.00 ticket through the online payment portal than by attempting to contest the ticket in the Montclair Municipal court which does not offer evening hours and only meets once a week. She knows the despite the fact that Montclair Municipal Court's caseload has increased over the past few years, the court was able to use the increased revenue to hire a full time employee to handle the increased caseload¹⁹. The Montclair resident was able to pay her ticket online and avoid the repercussions of having an unpaid traffic ticket due to the fact that she could afford the unforeseen expense of a \$47 traffic ticket.

A report on the Camden municipal court by the Philadelphia Inquirer found that some of the people in the courtroom were there because they hadn't realized that they could pay their ticket online or that it would take so long to appear before the judge. A Camden social worker was ticketed for not using her right-turn signal, she had to come to court four times to fight her ticket before it was finally dismissed. In order to do this, she was required to use nine hours of work time²⁰. An Ogdensburg man without a license drove to the Riverdale Police department to post bail for failure to make a court appearance on a unlicensed driving charge and was

¹⁹ *Montclair Uses New Framework to Manage Municipal Budget*, MONTCLAIR PATCH,

<http://patch.com/new-jersey/montclair/montclair-uses-new-framework-to-manage-municipal-budget>

²⁰ Michael Boren, *In Camden, police crackdown clogs court*, PHILLY.COM,

http://articles.philly.com/2014-12-08/news/56807015_1_police-crackdown-north-philadelphia-tinted-car-windows

issued another ticket on his way home from paying his ticket²¹. He was issued a summons for unlicensed driver and obstructed view and his car was impounded, this would cost him \$176 for being an unlicensed driver, \$47 for the obstructed view and \$200 to retrieve his car from the impound lot for a total of \$423²². A Pennsylvania man was arrested in Jersey City for stealing a Citi bike so that he could get to work; he was unable to drive due to having a suspended license. A Montclair man was arrested in Verona for giving a false name because he knew he had a warrant for unpaid traffic ticket, which would cause him to go jail²³.

The cost of an unpaid traffic ticket can balloon and have untold consequences, an Iraqi war veteran returned home and couldn't find work and had to resort to living out of his car. He couldn't afford the fee to renew his license and began to receive tickets for driving without a license and found that the tickets were piling up ultimately totaling \$10,000 before he was able to have the fine reduced to \$199 in a program offered by the New Jersey attorney general's office entitled fugitive safe surrender which allows those with warrant's for non-violent and

²¹ Kimberly Redmond, Man Drove Without License in unlicensed driving case, cops say, NJ

ADVANCE MEDIA FOR NJ.COM,

http://www.nj.com/morris/index.ssf/2015/08/unlicensed_driver_tried_to_drive_to_court_appearance.html

²² Samuel L. Sachs, *Traffic Ticket and Traffic Related Fines in New Jersey by Statute*, NJ TRAFFIC TICKETS DEFENSE, <http://www.nj-traffic-ticket.com/fines.htm>.

²³ *Verona, Cedar Grove police blotters from July 10 to July 20*, VERONA-CEDAR GROVE TIMES, <http://www.northjersey.com/news/crime-and-courts/police-blotters/verona-cedar-grove-police-blotter-from-july-10-to-20-1.1378343?page=all>

municipal court offenses to turn themselves in and work with prosecutors and judges to reduce the amount of money they are required to pay²⁴.

The last Fugitive Safe Surrender program, held in November 2013, allowed 4, 587 individuals with open warrants to turn themselves in and resolved 10,000 open non-violent warrants and brought in \$40,000 in municipal and superior court income. 63% of the participants had traffic warrants. Each individual who surrendered was estimated to have saved local governments \$500 in police and jail costs totaling \$2.2 million dollars²⁵.

The Fugitive Safe Surrender programs is a showcase for how the state can effectively use it's resources to ease the burden on those with outstanding warrants while simultaneously increasing the legitimacy of the judicial system by exhibiting compassion and an acknowledgement of the collateral impacts of issuing tickets and fines which people can not afford to pay. Municipal Courtz are not indifferent to the plights of those walking through their halls, they are simply under-resourced and overburdened which not only takes a financial toll on the institute of municipal court, it also reduces the legitimacy of the judicial system.

The city of Newark found that it had lost \$2 million dollars in municipal court revenue due to their failure to notify people of their court dates in a timely manner. The city of

²⁴ *Court Fees Drive Many Poor Defendants Underground*, ALL THINGS CONSIDERED, NPR,

<http://www.npr.org/templates/transcript/transcript.php?storyId=314607003>

²⁵ Jonathan Lin, *State Officials: Fugitive surrender program in Jersey City sets new record*, JERSEY JOURNAL,

http://www.nj.com/hudson/index.ssf/2013/11/fugitive_surrender_program_in_jersey_city_sets_new_record_says_state_officials.html.

Montclair lost \$20,000 in uncollected parking violation fees because they were understaffed²⁶.

Residents who are patrons of understaffed municipal courts are forced to deal with long wait times to speak with a representatives, long wait times to appear before the judge, and multiple adjournments before their case is finally resolved.

If those who have the resources and take the initiative to pay their traffic ticket are unable to speak with a customer representative, what does this mean for those who are unable to pay their traffic tickets?

A 2000 study of the Ewing municipal court found that out of total of \$1,623,881 in outstanding fines and costs, \$1,572, 774 or 97% of that amount was delinquent. When a municipal court defendant is unable to pay the court ordered fine, the judge can order them to comply with a time payment plan which allows them to pay their fine in installments. Out of 3,943 time payments²⁷ on record at the time in 2000, 3,839 or 97.4% of them were in delinquent status. 73% of the delinquent traffic tickets and 88% of the delinquent criminal accounts never had a payment made on them²⁸. A 1998 study of the Hillside municipal court

²⁶ <http://patch.com/new-jersey/montclair/montclair-uses-new-framework-to-manage-municipal-budget>

²⁷ See *State v. DeBonis*, 58 N.J. 182 (1970) (holding that if a defendant is unable to pay a fine at once, he shall, upon a showing of that inability, be afforded an opportunity to pay the fine in reasonable installments consistent with the objective of achieving the punishment the fine is intended to inflict).

²⁸ *Local Budget Review: Ewing Township*, NEW JERSEY DEPARTMENT OF THE TREASURY, <http://www.state.nj.us/treasury/lgbr/munpdf/ewing.pdf>

found that 50% of those on time payment plans failed to make their payments on time²⁹. In Paterson in 1997, 77% of all of the municipal court cases were under suspension due to noncompliance with a court mandated time payment plan³⁰. Even when the courts attempt to accommodate the financial needs of indigent defendants through a payment plan, many indigent defendants are unable to fully comply with their payment plans. Noncompliance with a payment plan results in another open warrant for a contempt of court charge.

The plight of a homeless New Brunswick man arrested for soliciting charitable donations from New Brunswick commuters illustrates the vicious cycle that many indigent defendants often find themselves in. Once the arresting officer looked at his criminal history they found that the homeless man had a ten year old open warrant for failure to comply with a time payment plant. The New Brunswick man was then taken to the Middlesex County jail and held until the Watchung Municipal Court judge was able to hear his case. The Watchung Municipal Court failed to realize that the man was homeless and disabled and refused let the jail release him until he paid his fines totaling \$3,000 or had served enough time to cancel out the amount he owed the municipality. He was only released after the American Civil Liberties of New Jersey contacted the Watchung municipal court inform them that he was indigent and would be

²⁹ *Local Budget Review: Hillside*, NEW JERSEY DEPARTMENT OF THE TREASURY,

<http://www.state.nj.us/treasury/lgbr/munpdf/hillside.pdf>

³⁰ *Local Budget Review: Paterson*, NEW JERSEY DEPARTMENT OF THE TREASURY,

<http://www.state.nj.us/treasury/lgbr/munpdf/paterson.pdf>

unable to post bail. His case was ultimately dismissed³¹. Throughout New Jersey the municipal court system fails to inspire confidence in the judicial system. A survey of Newark residents by the Center for Court Innovation found that 48% of Newark residents were indifferent in regards to their municipal court, with 23% of Newark residents saying that the court was ineffective³².

Part 3

Since the 1947 establishment of a statewide system of Municipal Courts, the judiciary has established that the municipal court is the gateway to the judicial system for New Jersey residents. As such, municipal court judges were held to a standard of performance that has been established through several court cases regarding the conduct of municipal court judges. While it is important to hold municipal court judges to a certain standard the courts fail to realize that the negative impression many New Jersey residents form of municipal courts is not due to a negative interaction with the judge but to dealing with an overburdened and under-resourced municipal court system, which places a heavier burden on residents of large urban cities such as Newark, Paterson and Camden.

In re Mattera³³ defines the role of the municipal court as the most important court in the judicial system due to the volume of cases. Municipal courts are considered to be the only

³¹ *ACLU-NJ Wins Injunction in New Brunswick Ban on Begging*, ACLU-NJ, <https://www.aclu-nj.org/news/2014/12/22/aclu-nj-wins-injunction-new-brunswick-ban-begging>.

³² Josephine Wonsun Hahn, *Community Perceptions of Newark: Neighborhood Quality of Life, Safety, and the Justice System*, CENTER FOR COURT INNOVATION, <http://www.courtinnovation.org/NewarkCommunitySurvey.pdf>

³³ In re Mattera, 34 N.J. 259 (1961).

exposure that most New Jersey citizens have to the judicial process and the respect that they have for the judiciary hinges upon that experience. Therefore, the municipal court judge bears the responsibility for creating the popular image of the entire judicial system.

This notion was reinforced by the decision of *In re Yengo*,³⁴ in which the Supreme Court reiterated the idea that “[t]he members of the present Court are equally convinced that the municipal courts, from the standpoint of contact, observation and acceptance by the public, are in a preeminent position for the sustaining of universal respect for the administration of justice.” The court further postulated that nowhere is the community more sensitive to the regularities and irregularities of judicial administration than at the local level.

The New Jersey Supreme Court Advisory Letter No. 3-11³⁵ defined the standard to which municipal court judges are held. That standard requires municipal court judges to uphold the integrity and independence of the judiciary and to adhere to high standards of conduct. Additionally, municipal court judges are required to avoid impropriety and the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Finally, municipal court judges are required to conduct any extrajudicial activities in a manner to avoid casting reasonable doubt on the judge's capacity to act impartially as a judge, demeaning the judicial office or interfering with the proper performance of judicial duties.

³⁴ *In re Yengo*, 417 A.2d 533 (1980).

³⁵ *In re Advisory Letter No. 3-11 of the Supreme Court Advisory Committee on Extrajudicial Activity*, 215 NJ 495 (2013).

The most pertinent New Jersey Supreme Court ruling is Advisory Letter No. 7-11³⁶ in which the court stated that there must be a clear separation between municipal court judges and local law enforcement. Municipal courts must reinforce the notion that all who stand before the law are equal and justice will be administered fairly and impartially, no matter who you are.

If the public is to keep faith in the ideals represented by that symbol, then it must have complete confidence in the integrity of the judges who administer our system of justice. That confidence will come only when judges are above reproach and suspicion in the eyes of those who appear in their courtrooms. Appearances matter when justice is dispensed, and therefore public perception that a judge might be partial to one party over another -- whether true or not -- cannot be reconciled with the ideal of blind justice.³⁷

There is an explicit recognition in New Jersey legal history that the municipal court serves as the gatekeeper and is responsible for creating the perception that the public has of the judicial system. However, this notion is at odds with the funding structure of the municipal court system, which is funded by the municipality and relies on the fines and fees of municipal residents who appear in municipal court. Far too often, New Jersey residents are forced to pay a financial and non-financial fee to the municipal court. For some New Jersey residents, the burden is higher due to the city in which they reside. It is counterintuitive to create a judicial system, which solely relies on revenue brought in by fining its constituents.

³⁶ In re Advisory Letter No. 7-11 of the Supreme Court Advisory Committee on Extrajudicial Activity, 213 N.J. 63 (2013).

³⁷ In re Advisory Letter No. 7-11 of the Supreme Court Advisory Committee on Extrajudicial Activity, 213 N.J. 63 (2013).

Part 4

The notion of Procedural Justice has pervaded discourse around the role of law enforcement and the judicial system within the past decade. The concept of procedural justice postulates that peoples' perception of the court is not shaped by the outcome of their case but by their experience within the court. Additionally, when people feel as though they were treated fairly they are more willing to comply with the court's decision, even if it is not in their favor³⁸. People are also more likely to abide by a decision if that decision is made through a fair procedure.

A study of the California state courts found that the belief that court processes are fair is the strongest predictor of whether members of the public have confidence in the California Courts. In California, members of the public were particularly unsatisfied with traffic courts. The perceived lack of fairness which is often associated with municipal courts could be one of the reason why there tends to be less compliance with municipal court decisions.

The Newark Community Court has placed it self at the forefront of the procedural justice movement by incorporating the core concepts of procedural justice into its treatment of defendants.

There are four tenets of procedural justice. The first is voice; people want to have the opportunity to tell their side of the story in their own words before decisions are made about how to handle the dispute. Members of the public with outstanding municipal court tickets are often unable to do this due to the non-fiscal costs of disputing a municipal court ticket. The second concept is neutrality; people bring their disputes to the court because they view judges

³⁸ Tom Tyler, *Procedural Justice and the Courts*, AMERICAN JUDGES ASSOCIATION, <http://aja.ncsc.dni.us/courtrv/cr44-1/CR44-1-2Tyler.pdf>

as neutral, principled decision makers. New Jersey legal history has a longstanding tradition of preserving the impartiality and professionalism of municipal courts. The third concept is respect; legal authorities such as police officers, judges and court clerks represent the state and communicate important messages to people about their status in society. Respect for people and their rights affirm that they are viewed as important and valuable. Municipal court defendants often feel as though they are being shepherded through the municipal court system. The final tenet of procedural justice is trust. People evaluate legal authorities based on how genuine and impartial they feel the decision maker is. One fugitive safe surrender participant expressed distrust of the judicial system and stated that he believed that by turning himself he would be carted off to jail and that he was surprised to find that the judiciary worked with him to reduce the amount of money he owed in overdue motor vehicle fines³⁹.

Newark Community Solutions, the community court presided by the chief municipal judge, Victoria Pratt, has a 70% compliance rate. This means that 70% of the defendants who agree to plead guilty and go to the community court complete the alternative sentence given to them by the judge and avoid jail time. Community court sentences range from community service, drug treatment, or the writing of an essay. Participants of the Red Hook Community Court often singled out the judge as being compassionate, fair and displaying a willingness to

³⁹ Chris Megerian, *At least 2,500 N.J. fugitives expected in Somerset safe surrender program*, STATEHOUSE BUREAU, http://www.nj.com/news/index.ssf/2010/10/at_least_2500_fugitives_expect.html.

mitigate the unfair and disrespectful treatment that offenders perceive through each stage of the criminal justice system⁴⁰.

Conclusion

In New Jersey, when a municipal court is successful in reducing their caseload, they find themselves in a Catch-22. As a result of falling caseloads due to police layoffs, municipal court revenue plummets and personnel must be let go in order to address the shortfall, despite whether or not the backlog still persists⁴¹. The funding mechanism used for municipal courts is inherently flawed, whether or not a court is able to be fully staffed and funded should not be determined by the number of tickets given by the police or city regulators, this only leads to an endless cycle in which poor residents are funneled through their municipal court systems and forced to pay both the fiscal and non-fiscal costs associated with municipal court. Is the solution to regionalize and create shared municipal courts?

New Jersey currently allows for joint or shared municipal courts. A joint court is when two municipal courts merge into one single court. A shared municipal court is when municipalities agree to share resources, yet each town retains through own identity⁴². There are currently 19 joint municipal courts, which cover 58 municipalities, and 56 shared municipal courts. Localism in New Jersey can be prevent the increase of shared or joint courts, which tend

⁴⁰ Tina Rosenberg, *The simple idea that could transform US criminal justice*, THE GUARDIAN, <http://www.theguardian.com/us-news/2015/jun/23/procedural-justice-transform-us-criminal-courts>

⁴¹ Richard Cowen, *Passaic City Council votes to reduce number of municipal court judges*, THE RECORD, <http://www.northjersey.com/news/passaic-city-council-votes-to-reduce-number-of-municipal-court-judges-1.731050>.

⁴² *Municipal Administrative of Justice Briefing Notes*, DEPARTMENT OF COMMUNITY AFFAIRS, http://www.state.nj.us/dca/affiliates/luarcc/meetings/2008/12-22-2008municipal_administration_of_justice_briefing_notes.pdf

to be more common in the rural and less populated parts of New Jersey. Police officers may be less inclined to write tickets that they feel may be dismissed by a judge who does not have a personal relationship with them, additionally some residents may have to drive a further distance to access the shared municipal court⁴³. The regionalization of municipal courts was found to be ineffective in Bergen County due to patronage issues, appointments to municipal courts were found to be a tool widely utilized by Bergen county municipal officials⁴⁴.

One promising example of a joint municipal court is the joint municipal court of Dover, which is the municipal court for Mine Hill, the Borough of Arlington, the Borough of Rockaway and the Borough of Wharton. By sharing resources, they were able to effectively allocate resources and increase their ability to process caseloads. The Dover joint municipal court is estimated to have saved residents \$2.65 million over the span of the 10 year shared services agreement⁴⁵. On the other side of the spectrum is the Camden Municipal Court.

In 2013, the Camden police force became regionalized and transformed from a municipal law enforcement agency to a county-wide entity. However, the municipal court remained a local entity. Due to the increase in manpower and focus on misdemeanor crimes, the municipal court became over-inundated with misdemeanor crimes and struggled to maintain the caseload. The shared police force caused the municipal court caseload to increase by 100,000 cases and has created an environment where the court is packed with individuals

⁴³ Linda K. Murphy, *Municipal Court Shared Services – LUARCC Testimony – November 16, 2009*, DEPARTMENT OF COMMUNITY AFFAIRS,

http://www.state.nj.us/dca/affiliates/luarcc/resources/pdf/Testimony_Linda_Murphy.pdf

⁴⁴ Municipal Administration of Justice, *supra* note 45.

⁴⁵ *A Shared Services Perspective*, MORRIS COUNTY SHARED SERVICES, <http://icma.org/Documents/Document/Document/301706>.

waiting to see the judge with lines out the door⁴⁶. Environments like the Camden municipal court are not conducive to procedural justice and diminish the legitimacy of the judicial system in the eyes of court participants and create little incentive for defendants to comply with the mandates of their respective municipal court. Moving forward, the state of New Jersey must establish a funding mechanism for municipal courts, which is not reliant on court

⁴⁶ Boren, *supra* note 24.