



# New Jersey Libertarian Party

Preempted Ordinance Repeal Project

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August 6, 2011

Hon. Christopher "Kip" Bateman  
Senator, Legislative District Sixteen  
36 East Main St  
Somerville, NJ 08876

Dear Senator Bateman:

You may remember me from your days with the Somerset County Board of Chosen Freeholders. I would frequently raise issues during the Board's public comment sessions.

I write today to make a specific request: That you ask the Office of Legislative Services to create a statutory offense to which municipal prosecutors, under certain circumstances, could downgrade statutory disorderly and petty disorderly persons offenses.

As you are undoubtedly aware, municipal prosecutors across New Jersey are presently downgrading statutory offenses to violations of preempted municipal code provisions despite a 1998 Attorney General Directive specifically prohibiting that practice. Attached, for example, is a copy of the Somerset County Prosecutor's August 5, 2011 letter admonishing Manville Municipal Prosecutor Matthew C. Dorsi (who is an associate in your law firm) for improperly downgrading a variety of statutory offenses to Manville's 1971-era code provision regarding "vice, immorality, drunkenness and disorderly conduct."

While I applaud the County Prosecutor's office for aggressively pursuing this important issue, I also understand the problems that face municipal prosecutors and court personnel who need to expeditiously resolve large calendars of pending cases. My thought is that the Legislature could enact a statutory offense that is specifically designed to be a receptacle for DP and PDP downgrades, similar to the way N.J.S.A. 39:4-97-2 (operating a motor vehicle in an unsafe manner) was intended to be a downgrade receptacle for other motor vehicle violations. While the details obviously need to be worked out, the new Criminal Code offense could contain an incentive to attract downgrades--perhaps automatic self-expungement after five

offense-free years--similar to N.J.S.A. 39:4-97.2's incentive of not causing points to be assessed against a defendant's driver license.

I thank you for your attention to and consideration of this matter and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "John Paff", with a large, stylized flourish above the name.

John Paff

cc. First Assistant Prosecutor Thomas J. Chirichella, Jr. (w/o enclosure)