

**LETTER OPINION
2002-L-03**

January 4, 2002

Ms. Kristi Pettit
Assistant Grand Forks City Prosecutor
PO Box 5299
Grand Forks, ND 58206-5299

Dear Ms. Pettit:

Thank you for your letter requesting reconsideration of a letter opinion issued to you on December 30, 1999, concerning the authority of municipal judges to issue search warrants. See 1999 N.D. Op. Att'y Gen. L-132.

I have carefully considered the argument you raised in your letter and further researched the matter. It is my opinion that there have been no material changes in the relevant law since the previous opinion was issued, and that the analysis and conclusion of that opinion were correct.

I would like to reiterate that part of the opinion in footnote 3 of the 1999 opinion that notes that "Since a municipal judge already possesses the power of a committing magistrate with the authority to issue arrest warrants, hold preliminary hearings and set bail under N.D.C.C. § 29-01-15 it seems to make little sense to exclude the power to determine if probable cause exists to issue a search warrant. However, that would require a legislative change."

You may wish to consider asking the next Legislative Assembly to amend the statute to grant authority to issue search warrants to municipal judges. If I can assist you that regard, please let me know.

Sincerely,

Wayne Stenehjem
Attorney General

jjf/vkk