



Staff Memorandum

HOUSE OF DELEGATES Agenda Item #5

REQUESTED ACTION: Approval of the report and recommendations of the Criminal Justice Section.

Attached is a report from the Criminal Justice Section on criminal justice issues in town and village courts. The report addresses counsel at first appearance; education and training of justice court staff; and centralization (court consolidation, specialty courts, and centralized arraignment). The report then makes recommendations for improvements that could be made.

With respect to counsel at first appearance, the report reviews the process that takes place at arraignment as well as the constitutional, statutory and regulatory framework governing assigned counsel and existing town and village justice courts. It also reviews the effect that provision of counsel at first appearance and centralized arraignment have had on indigent defense.

Part II of the report addresses training and education of justice court staff, including current statutes and regulations that govern training and previous reports' recommendations. The section concludes that although there are many resources available, some justice courts do not provide constitutionally mandated due process.

Part III of the report addresses centralization, and covers the ability of town courts in the same county to combine, the use of district courts, and specialty courts.

The report makes the following recommendations:

- All counties should adopt a counsel at first appearance plan that fulfills the vision and goals of *Hurrell-Harring*.
- All arraignments should include defense counsel and district attorneys.
- All arraigning judges shall use the Language Line for foreign-speaking defendants.
- All justice courts shall have access to the proper paperwork relating to all forms of bail and be better trained in all forms of bail.

- All counties shall adopt a centralized arraignment plan.
- All justice court judges and clerks should be trained in diversity and inclusion.
- Each judge's written and/or recorded work should be audited randomly for compliance with training.
- Records should be kept of justice court judges' and court clerks' attendance at trainings, as well as training materials.
- A public access database should be created to track judges' disciplinary records.
- "Misdemeanor Courts" should be established as a specialty court for jurisdiction over criminal matters where the highest crime charged is a misdemeanor.

The report was submitted in January 2018 and posted in the Reports Community. No comments have been received to date.

The report will be presented at the January 26 meeting by Leah Rene Nowotarski, co-chair of the section's Town and Village Justice Courts Committee.



Town & Village Justice Courts Report

**Update Regarding Counsel at
First Appearance, Training & Education,
and Centralization**

**REPORT AND RECOMMENDATIONS OF
THE CRIMINAL JUSTICE SECTION**

2018

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| 1. All counties shall adopt a counsel at first appearance plan that fulfills the vision and goals of <i>Hurrell-Harring</i> . | |

2. All arraignments should include defense counsel and district attorneys.
3. All arraigning judges shall use the Language Line (or a similar service) for foreign-speaking defendants.
4. All justice courts shall have access to the proper paperwork relating to all forms of bail and be better trained in all forms of bail.
5. All counties should adopt a centralized arraignment plan.
6. All justice court judges and clerks should be trained in diversity and inclusion.
7. Each judge's written and/or recorded work should be audited randomly for compliance with training.
8. Records should be kept of justice court judges' and court clerks' attendance at trainings, as well as training materials (agendas, written materials, recorded materials, etc.).
9. A public access database should be created to track judges' disciplinary records.
10. "Misdemeanor Courts" should be established as a specialty court for jurisdiction over criminal matters where the highest crime charged is a misdemeanor.

Introduction

In June 2015, the Criminal Justice Section created the Town & Village Justice Courts Committee to study and report on hot topics in the justice courts, to educate the legal community about those topics, and to make recommendations regarding them. The committee has been studying Counsel at First Appearance, Training and Education in the Courts, and Centralization. It will inform the New York State Bar Association's Members about those topics' previous studies and recommendations, as well as their current state of affairs, finally recommending how the justice court system should be modified to promote the effective and efficient administration of criminal justice.

Part I of the report reviews counsel at first appearance ("CAFA" – attorneys at arraignment). It discusses the arraignment process; previous reports' comments and recommendations about arraignments; *Hurrell-Harring*; existing justice courts; requests for proposals ("RFP"), & CAFA programs currently implemented; effects of counsel at first appearance; centralized arraignments; and professional associations' opinions.¹

Part II reviews training and education of justice court staff (judges, court clerks, and the office of justice court support). It discusses statutes and regulations governing training; previous

¹ The Office of Indigent Legal Services is conducting its own intensive study of counsel at first appearance (CAFA). The study is not complete, but it is expected to include an extensive analytical study of the effectiveness of CAFA, recommendations for statewide implementation of CAFA, along with a complete statistical report of five counties with the program.

reports' comments and recommendations about training; specific training courses; and educational resources.

Part III reviews centralization. It discusses previous reports' comments and recommendations about centralization; court consolidation; specialty courts; and centralized arraignments. Each section also lists proposed and approved legislation relevant to its topic.

Part IV is a conclusion and a summary of the findings.

Part V provides recommendations as to how to change the justice court system to promote a more efficient administration of criminal justice.

I. COUNSEL AT FIRST APPEARANCE

A. What happens at arraignment

New York State has more than 1,200 local justice courts. The experiences of the parties can be as varied as the number of courts. However, there are some common experiences shared by many defendants across the length of our state. The following descriptions of what one could encounter at an arraignment is a meshing of the experiences of the parties from all over the state and is an amalgam of an arraignment in some, but by no means all, justice courts.

At arraignment, the arresting officer brings the defendant into the courtroom. Defense counsel must consult with the defendant and gather relevant information for a bail argument (employment, living situation, criminal history, probation/parole status, pending cases,

community ties, amount available for bail, and other factors listed in Criminal Procedure Law § 510.30 [2] [b]). Cognizant of the attorney-client privilege, counsel prefers to consult with her client privately in a closed, conference room; however, that convenience may be unavailable because many courtrooms do not have conference rooms. Furthermore, many arresting officers do not allow the defendant out of their sight. All too frequently, counsel must settle for the back of the courtroom and speak quietly or as far out of earshot from the arresting officer as possible.²

The judge, defendant, counsel, and arresting officer are present. Rarely does the district attorney (“DA”) appear (perhaps she will appear in a high publicity case). The judge will ask the defendant for his pedigree information (name, address, telephone number, employment, marital status, prior convictions). The judge is required to inform the defendant of the charges and of his right to be represented by an attorney.³ If counsel is present, then the judge may read the charges unless counsel waives a reading of them. Then, the judge may ask for entry of a plea. Counsel also reviews the accusatory instrument for accuracy and argues to dismiss it for facial insufficiency, when applicable.

This process lasts 30 minutes or more, and the defendant becomes more nervous as time passes, wanting to explain what happened to say anything to get out of the courtroom and back home. If counsel is not present, a defendant unfamiliar with the process may explain the situation resulting in his arrest or request to pay simply a fine to resolve the matter. Alternatively, wanting

² The issues of attorney-client communication are further complicated when the defendant does not speak English.

³ CPL §170.10(2) & CPL §170.10(3).

to resolve the matter quickly without having to return to court, he may ask what happens if he pleads guilty, learns something about a portion of the penalty (but nothing else), and pleads guilty immediately without consulting counsel or knowing anything about the collateral consequences or legal process.⁴ He also may consult the judge for advice and stand dumbfounded when the judge explains he cannot advise him. The defendant may not understand the gravity of the situation and the necessity for an attorney.

Then the judge asks for a bail recommendation. The arresting officer may state “the DA’s recommendation.”⁵ Counsel then advocates on the defendant’s behalf, emphasizing the purpose of bail: to ensure the defendant’s appearance at court based on flight risk - not to punish him for his criminal history or current arrest. Relying on an available NYSID (rap sheet), as well as the factors discussed with the defendant, counsel also explains reasons why the defendant is not a flight risk.

Finally, the judge either sets bail or releases the defendant on recognizance. If bail is set, then it must be set in, at least, two forms.⁶ There are nine types of bail:

⁴ Town and Village Justices have been trained to discourage guilty pleas at arraignment.

⁵ The bail statute, CPL Article 500, requires the principal(s) in a proceeding be accorded the opportunity to be heard regarding the nature and type of order of recognizance or bail. {See CPL §510.20(2)}. Often, when an Assistant District Attorney will not appear at the arraignment in person, the arresting officer will inform the Court of the prosecutor’s recommendation regarding the amount and form of bail.

⁶CPL 520.10 (2) (b).

- a. cash;
- b. insurance company bail bond;
- c. secured surety bond;
- d. secured appearance bond;
- e. partially secured surety bond;
- f. partially secured appearance bond;
- g. unsecured surety bond;
- h. unsecured appearance bond; and
- i. credit card.⁷

Although nine different types of bail are available, counsel ask usually either for release on recognizance, release under supervision (including electronic monitoring, where available), or the lowest amount of cash bail. Judges often set bail in either cash or bond (occasionally credit card in lieu of bond). Counsel often knows the particular proclivities of some judges in setting bail for certain types of offenses regardless of the defendant's flight risk. Often neither counsel nor judges are aware of less common forms of bail (forms d through h) and these forms of bail remain unused or underutilized.

With foreign-speaking defendants, judges may call Language Line 24 hours a day, 7 days a week. They may call that hotline to have an interpreter interpret the judge's and counsel's words to the defendant in his language (if an interpreter of his language is available). Some

⁷CPL 520.10 (1).

judges are unaware of that hotline or do not have the telephone number for it;⁸ whereas other judges are under the impression that they cannot call that interpretation service because it is unknown who is on the other end of the line or what information they give to defendants. As a result, they allow defendants to call an English-speaking relative to translate as best as possible. In some jurisdictions, there are judges who believe that certain groups of defendants (such as Spanish-speaking migrant workers or defendants who speak broken English) fake misunderstanding English and really understand English, so they proceed with the arraignment in English, requiring the defendants to read, understand, and respond to charges in a language that they actually do not understand.

When a defendant is arraigned on a felony complaint, the judge may schedule a felony hearing under CPL Article 180. Some judges do not schedule those hearings without the DA's consent. Some judges never schedule those hearings unless counsel requests them.

There have been instances where a defendant languishes in jail. When counsel is not present for the arraignment, a defendant may remain incarcerated for days or weeks before he is ordered produced back to court, an attorney is assigned to represent him, or an attorney first communicates with him.

B. Constitutional, Statutory, and Regulatory Background

The State of New York has a Constitutional obligation to provide effective representation to individuals who have been charged with a crime or threatened with the loss of their children

⁸ At least one justice court dials 1-800-523-1786 to access Language Line.

and who cannot afford to pay for counsel to represent them.⁹ This obligation begins at the critical stages of criminal proceedings against a defendant—at arraignment. A defendant has the right to the aid of counsel at arraignment and at every subsequent stage in the proceedings.¹⁰ When counsel is not present, the arraignment may be adjourned for counsel, and the court may appoint counsel for indigent defendants.¹¹

In addition to those constitutional and statutory rights, in 2005, then Chief Administrative Judge Jonathan Lippman¹² promulgated a court rule regarding arraignments.¹³ It directed that, following an arrest, when an unrepresented defendant is brought before a justice court for arraignment, the arraigning judge shall make an initial determination as to the defendant's eligibility for assigned counsel. If the judge determines that the defendant is unable to obtain counsel financially, then the judge shall assign counsel before issuing a securing order. If counsel is not present in court to receive the assignment, then the judge may issue a securing order in counsel's absence; however, the judge shall notify by telephone or fax the appropriate public defense organization, for immediate assignment of counsel, and pretrial service agency within

⁹see *Gideon v Wainwright*, 372 U.S. 335 [1963]; *People v Witek*, 15 NY 2d 392 [1965]; and *In re Ella B.*, 30 NY 2d 352 [1972].

¹⁰Criminal Procedure Law §§ 170.10 (3); 180.10 (3).

¹¹*Id.*

¹²*The State of the Judiciary 2005*, <https://www.nycourts.gov/admin/stateofjudiciary/soj2005.pdf> (accessed Apr. 2, 2017).

¹³22 NYCRR § 200.26 (c).

the next 24-48 hours. The judge shall note the defendant's name, the names of any co-defendants, the charge or charges contained in the accusatory instrument, the docket or case number, if available, the adjourn date and time, the terms of the securing order and such other information as the court deems appropriate, as well as attach copies of the accusatory instrument.¹⁴

Historical studies of our criminal justice system reported that despite the Constitution, statute, and subsequent court rule, counsel continued to be absent at some arraignments. It was found that in some justice courts, judges would not arraign or set bail on a defendant until an attorney was present, thus remanding the defendant into the custody of the arresting officer; as a result of counsel's absence, some defendants negotiated directly with prosecutors. In other cases, some judges simply were unaware of or misconstrued a defendant's right to counsel; they did not know under which cases counsel was supposed to be appointed. In courts with large dockets, judges did not have the time to explain to each defendant the right to counsel; instead, they explained briefly to all persons sitting in the courtroom at once, and under those circumstances, defendants either did not hear of their rights, or their rights were misstated. Some judges refused to appoint counsel even when the law required it: one judge believed that "defendants are 'savvy' about negotiating their own cases and do not need counsel." Judges refused to appoint

¹⁴*Id.*

counsel for misdemeanors or for college students because their parents could pay for counsel. Some judges were unaware of 22 NYCRR § 200.26 (c).¹⁵

It also was found that some judges were not timely assigning counsel for indigent defendants (for example, some defendants were arraigned off-hours without an attorney and remanded without bail until they were “discovered” by a public defender). Prosecutors, defense lawyers, and judges expressed that it would not be feasible to require that counsel be present for off-hours arraignments in justice courts; however, neither was it in the defendants’ best interests to sit in custody until they could appear for arraignment with an attorney. Prompt arraignment (and the prospect of immediate release) was best. It was recommended that the new court rule be studied carefully to ensure that all incarcerated defendants who need assigned counsel in a justice court obtain it promptly after arraignment.¹⁶

Action plans were developed to address the issues identified by these 2006 reports. Education of the judges was paramount. Local judges needed information as to when the right to counsel attached, what that right entailed, and when and how to conduct indigency determinations. The judges had limited training in those areas, and without staff attorneys, full-

¹⁵All of the information in this paragraph was found in The Spangenberg Group, *Status of Indigent Defense in New York: A Study for Chief Judge Kaye’s Commission on the Future of Indigent Defense Services* (June 2006).

¹⁶All of the information in this paragraph was found in Commission on the Future of Indigent Defense Services, *Final Report to the Chief Judge of the State of New York* (June 2006).

time administrative staff, integrated case management systems, and other resources that full time judges relied on, it was a daunting task.¹⁷

Despite recommendations, the problems persisted. A year later, it was found that some local judges often did not understand the law on the right to counsel, or they ignored it.

According to questionnaire responses, neither the prosecutor nor defense counsel was present for off-hours arraignments; however, the prosecutor often was called for a bail recommendation, and bail often was set. Even if arraigned without counsel, judges would set a return date for the next court session, felony hearing, or next “DA night.” Even prosecutors agreed that a serious problem existed when defendants remained in jail after arraignment without counsel; no counsel was provided either because the sheriff failed to give the required notice to the public defender, and 22 NYCRR § 200.26 (c) was not implemented. Although detained defendants received an application to request assignment of counsel, they were unable to complete that form without assistance.¹⁸

Although several other reports have addressed local courts, neither the 1975 Court Reform in New York State; 2007 NYSBA Town and Village Task Force on Town and Village

¹⁷All of the information in this paragraph was found in Justice Courts Advisory Group, *Action Plan for the Justice Courts* (Nov. 2006).

¹⁸All of the information in this paragraph was found in New York City Bar Task Force on Town and Village Courts, *Recommendations Relating to Structure and Organization* (Oct. 2007).

Justice Courts; 2007 Special Commission Report on the Future of New York State Courts; nor 2007 New York City Task Force on Town and Village Courts (Memorandum on Justice Court Technology) addressed counsel at arraignments.

C. Hurrell-Harring v State of New York

The Constitutional and statutory right to counsel at arraignment remained unrealized in most justice courts in our State. A class action lawsuit was initiated against New York State and five counties by the NYCLU on behalf of 20 clients in 2007 for the State of New York's failure to create and support a public defense system that ensured indigent criminal defendants would receive meaningful and effective assistance of counsel .¹⁹

Hurrell-Harring v State of New York,²⁰ questioned whether the state met its constitutional obligation to provide counsel.²¹ In *Hurrell-Harring*, 10 of 20 defendants stood unrepresented at their arraignments.²² Eight of those defendants had bail set on them in amounts that they could

¹⁹ Hurrell-Harring et al. V. State of New York (Challenging New York State's Failure to Provide Adequate Public Defense Services, <https://www.nyclu.org/en/cases/hurrell-harring-et-al-v-state-new-york-challenging-new-york-states-failure-provide-adequate> (accessed Jan. 29, 2018).

²⁰15 NY 3d 8 (2010) (Pigott, J, dissenting).

²¹*Id.* at 23.

²²*Id.* at 19.

not afford.²³ One of those defendants remained unrepresented for five months.²⁴ Once counsel was appointed to represent the defendants, counsel barely conferred with them, ignored their inquires (even while incarcerated), and failed to consult with them before making decisions or waiving legal rights.²⁵ Sometimes counsel missed court appearances or appeared unprepared.²⁶ The small sample of complainants represented more widespread practices.²⁷ Judge Lippman explained that the State shifted the “process” of its constitutional obligation to provide counsel to defendants to the counties. The state, however, did not fund the counties for its obligation; therefore, providing counsel to defendants became an “unfunded and politically unpopular mandate upon local government.”²⁸ The Court reasoned that “a criminal defendant, regardless of wherewithal, is entitled to “the guiding hand of counsel at every step in the proceedings against him[.]’ ”²⁹ and “[t]hat right attaches at arraignment and entails the presence of counsel at each

²³*Id.*

²⁴*Id.*

²⁵*Id.*

²⁶*Id.* at 19-20.

²⁷*Id.* at 22.

²⁸*Id.* at 15.

²⁹*Id.* at 20, quoting *Gideon v Wainwright*, 372 US 335, 345 (1963).

subsequent “critical” stage of the proceedings.”³⁰ Arraignment is a critical stage of the proceedings.³¹ The Court reinstated the formerly-dismissed complaint and remitted it to the court below.³²

D. Existing Town & Village Justice Courts

Hurrell-Harring sampled 5 of New York’s counties. New York has 62 counties containing over 1,200 Town & Village Justice Courts located in over 925 towns and 325 villages. Those courts include:

1. Albany County. Albany County has 13-14 justice courts and 3 city courts.³³ The justice courts include Altamont Village Court; Berne Town Court; Bethlehem Town Court; Coeymans Town Court; Colonie Town Court; Green Island Town Court; Guilderland Town Court; Knox Town Court; Menands Village Court; New Scotland Town Court; Ravena Village Court;

³⁰15 NY 3d at 20, quoting *Rothgery v Gillespie County*, 554 US 191 (2008); *Montejo v Louisiana*, 556 US — (2009).

³¹15 NY 3d at 20-21.

³²*Id.* at 27.

³³NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/Albany_county_courts.htm (accessed Apr. 19, 2017); Court Reference: Albany County New York Court Directory, <http://www.courtreference.com/Albany-County-New-York-Courts.htm> (accessed Apr. 19, 2017).

Rensselaerville Town Court; Voorheesville Village Court; and Westerlo Town Court.³⁴ The city courts include Albany, Cohoes, and Watervliet City Courts.³⁵ The county covers 533 square miles and has a population of about 305,455.³⁶

2. Allegany County. Allegany County has 35-36 justice courts.³⁷ The justice courts include Alfred Town Court; Alfred Village Court; Allen Town Court; Alma Town Court; Almond Town Court; Amity Town Court; Andover Town Court; Andover Village Court; Angelica Town Court; Angelica Village Court; Belfast Town Court; Belmont Village Court; Birdsall Town Court; Bolivar Town Court; Bolivar Village Court; Burns Town Court; Caneadea Town Court; Centerville Town Court; Clarksville Town Court; Cuba Town Court; Friendship Town Court; Genesee Town Court; Granger Town Court; Grove Town Court; Hume Town Court; Independence Town Court; New Hudson Town Court; Richburg Village Court; Rushford Town

³⁴*Id.*

³⁵*Id.*

³⁶New York State: Capital-Saratoga Albany, <http://www.ny.gov/counties/albany> (accessed Apr. 20, 2017).

³⁷NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/allegany_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Allegany County New York Court Directory, <http://www.courtreference.com/Allegany-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

Court; Scio Town Court; Ward Town Court; Wellsville Town Court; Wellsville Village Court; West Almond Town Court; Willing Town Court; and Wirt Town Court.³⁸ The county covers 1,034 square miles and has a population of about 48,357.³⁹

3. Bronx County. Bronx County has 1 city court.⁴⁰ The city court is New York City Criminal Court.⁴¹ The county covers 57 square miles and has a population of about 1,418,733.⁴²

4. Broome County. Broome County has 19 justice courts and 1 city court.⁴³ The justice courts include Barker Town Court; Binghamton Town Court; Chenango Town Court; Colesville Town

³⁸*Id.*

³⁹New York State: Chautauqua-Allegany Alleghany, <http://www.ny.gov/counties/allegany> (accessed Sept. 28, 2017).

⁴⁰Court Reference: Bronx County New York Court Directory, <http://www.courtreference.com/Bronx-County-New-York-Courts.htm> (accessed Sept. 28, 2017).

⁴¹*Id.*

⁴²New York State: New York City Bronx, <http://www.ny.gov/counties/bronx> (accessed Sept. 28, 2017).

Court; Conklin Town Court; Deposit Village Court; Dickinson Town Court; Endicott Village Court; Fenton Town Court; Johnson City Village Court; Kirkwood Town Court; Lisle Town Court; Maine Town Court; Nanticoke Town Court; Sanford Town Court; Triangle Town Court; Union Town Court; Vestal Town Court; and Windsor Town Court.⁴⁴ The city court is Binghamton City Court.⁴⁵ The county covers 715 square miles and has a population of about 200,600.⁴⁶

5. Cattaraugus County. Cattaraugus County has 36-37 justice courts and 2 city courts.⁴⁷ The justice courts include Allegany Town Court; Allegany Village Court; Ashford Town Court;

⁴³NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/broome_county_courts.htm (accessed Mar. 21, 2017); ⁴³Court Reference: Broome County New York Court Directory, <http://www.courtreference.com/Broome-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁴⁴*Id.*

⁴⁵*Id.*

⁴⁶New York State: Central New York Broome, <http://www.ny.gov/counties/broome> (accessed Apr. 20, 2017).

⁴⁷NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/cattaraugus_county_courts.htm (accessed Apr. 17, 2017); Court Reference: Cattaraugus County New York Court Directory,

Carrollton Town Court; Coldspring Town Court; Conewango Town Court; Dayton Town Court; East Otto Town Court; Ellicottville Town Court; Ellicottville Village Court; Farmersville Town Court; Franklinville Town Court; Freedom Town Court; Great Valley Town Court; Hinsdale Town Court; Humphrey Town Court; Ischua Town Court; Leon Town Court; Limestone Village Court; Little Valley Town Court; Lyndon Town Court; Machias Town Court; Mansfield Town Court; Napoli Town Court; New Albion Town Court; Olean Town Court; Otto Town Court; Perrysburg Town Court; Persia Town Court; Portville Town Court; Portville Village Court; Randolph Town Court; Red House Town Court; Salamanca Town Court; South Dayton Village Court; South Valley Town Court; and Yorkshire Town Court.⁴⁸ The city courts include Olean and Salamanca City Courts.⁴⁹ The county covers 1,310 square miles and has a population of about 80,317.⁵⁰

<http://www.courtreference.com/Cattaraugus-County-New-York-Courts.htm> (accessed Apr. 17, 2017).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ New York State: Chautauqua-Allegany Cattaraugus, <http://www.ny.gov/counties/cattaraugus> (accessed Apr. 20, 2017).

6. Cayuga County. Cayuga County has 27 justice courts and 1 city court.⁵¹ The justice courts include Aurelius Town Court; Brutus Town Court; Cato Town Court; Conquest Town Court; Fleming Town Court; Genoa Town Court; Ira Town Court; Ledyard Town Court; Locke Town Court; Mentz Town Court; Meridian Village Court; Montezuma Town Court; Moravia Town Court; Moravia Village Court; Niles Town Court; Owasco Town Court; Port Byron Village Court; Scipio Town Court; Sempronius Town Court; Sennett Town Court; Springport Town Court; Sterling Town Court; Summerhill Town Court; Throop Town Court; Venice Town Court; Victory Town Court; and Weedsport Village Court.⁵² The city court is Auburn City Court.⁵³ The county covers 864 square miles and has a population of about 80,026.⁵⁴

⁵¹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/cayuga_county_courts.htm (accessed Mar. 23, 2017); Court Reference: Cayuga County New York Court Directory, <http://www.courtreference.com/Cayuga-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁵²*Id.*

⁵³*Id.*

⁵⁴New York State: Finger Lakes Cayuga, <http://www.ny.gov/counties/cayuga> (accessed Apr. 20, 2017).

7. Chautauqua County. Chautauqua County has 31 justice courts and 2 city courts.⁵⁵ The justice courts include Arkwright Town Court; Brocton Village Court; Busti Town Court; Carroll Town Court; Charlotte Town Court; Chautauqua Town Court; Cherry Creek Town Court; Clymer Town Court; Dunkirk Town Court; Ellery Town Court; Ellicott Town Court; Ellington Town Court; Fredonia Village Court; French Creek Town Court; Gerry Town Court; Hanover Town Court; Harmony Town Court; Kiantone Town Court; Mina Town Court; North Harmony Town Court; Poland Town Court; Pomfret Town Court; Portland Town Court; Ripley Town Court; Sheridan Town Court; Sherman Town Court; Silver Creek Village Court; Stockton Town Court; Villenova Town Court; Westfield Town Court; and Westfield Village Court.⁵⁶ The city courts include Dunkirk and Jamestown City Courts.⁵⁷ The county covers 1,500 square miles and has a population of about 134,905.⁵⁸

⁵⁵NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/chautauqua_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Chautauqua County New York Court Directory, <http://www.courtreference.com/Chautauqua-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁵⁶*Id.*

⁵⁷*Id.*

⁵⁸New York State: Chautauqua-Allegany Chautauqua, <http://www.ny.gov/counties/chautauqua> (accessed Sept. 28, 2017).

8. Chemung County. Chemung County has 13-14 justice courts and 1 city court.⁵⁹ The justice courts include Ashland Town Court; Baldwin Town Court; Big Flats Town Court; Catlin Town Court; Chemung Town Court; Elmira Heights Village Court; Erin Town Court; Horseheads Town Court; Horseheads Village Court; Southport Town Court; Van Etten Town Court; Veteran Town Court; and Wellsburg Village Court.⁶⁰ The city court is Elmira City Court.⁶¹ The county covers 411 square miles and has a population of about 88,830.⁶²

⁵⁹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/chemung_county_courts.htm (accessed Mar. 22, 2017); Court Reference: Chemung County New York Court Directory, <http://www.courtreference.com/Chemung-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁶⁰*Id.*

⁶¹*Id.*

⁶²New York State: Finger Lakes Chemung, <http://www.ny.gov/counties/chemung> (accessed Apr. 20, 2017).

9. Chenango County. Chenango County has 25 justice courts and 1 city court.⁶³ The justice courts include Afton Town Court; Bainbridge Town Court; Columbus Town Court; Coventry Town Court; Earlville Village Court; German Town Court; Greene Town Court; Greene Village Court; Guilford Town Court; Lincklaen Town Court; McDonough Town Court; New Berlin Town Court; North Norwich Town Court; Norwich Town Court; Otselic Town Court; Oxford Town Court; Oxford Village Court; Pharsalia Town Court; Pitcher Town Court; Plymouth Town Court; Preston Town Court; Sherburne Town Court; Sherburne Village Court; Smithville Town Court; and Smyrna Town Court.⁶⁴ The city court is Norwich City Court.⁶⁵ The county covers 899 square miles and has a population of about 50,477.⁶⁶

⁶³Court Reference: Chenango County New York Court Directory, <http://www.courtreference.com/Chenango-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

⁶⁴*Id.*

⁶⁵*Id.*

⁶⁶New York State: Central New York Chenango, <http://www.ny.gov/counties/chenango> (accessed Oct. 24, 2017).

10. Clinton County. Clinton County has 15-18 justice courts and 1 city court.⁶⁷ The justice courts include Altona Town Court; Ausable Town Court; Beekmantown Town Court; Black Brook Town Court; Champlain Town Court; Champlain Village Court; Chazy Town Court; Clinton Town Justice [sic] Court; Dannemora Town Court; Dannemora Village Court; Ellenburg Town Court; Keeseville Village Court; Mooers Town Court; Peru Town Court; Plattsburgh Town Court; Rouses Point Village Court; Saranac Town Court; and Schuyler Falls Town Court.⁶⁸ The city court is Plattsburgh City Court.⁶⁹ The county covers 1,118 square miles and has a population of about 81,654.⁷⁰

⁶⁷NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/clinton_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Clinton County New York Court Directory, <http://www.courtreference.com/Clinton-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁶⁸*Id.*

⁶⁹*Id.*

⁷⁰New York State: Adirondacks Clinton, <http://www.ny.gov/counties/clinton> (accessed Sept. 28, 2017).

11. Columbia County. Columbia County has 21-22 justice courts and 1 city court.⁷¹ The justice courts include Ancram Town Court; Austerlitz Town Court; Canaan Town Court; Chatham Town Court; Chatham Village Court; Claverack Town Court; Clermont Town Court; Copake Town Court; Gallatin Town Court; Germantown Town Court; Ghent Town Court; Greenport Town Court; Hillsdale Town Court; Kinderhook Town Court; Kinderhook Village Court; Livingston Town Court; New Lebanon Town Court; Philmont Village Court; Stockport Town Court; Stuyvesant Town Court; Taghkanic Town Court; and Valatie Town Court.⁷² The city court includes Hudson City Court.⁷³ The county cover 648 square miles and has a population of about 62,499.⁷⁴

⁷¹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/columbia_county_courts.htm (accessed Sept. 21, 2017); Court Reference: Columbia County New York Court Directory, <http://www.courtreference.com/Columbia-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁷²*Id.*

⁷³*Id.*

⁷⁴New York State: Hudson Valley Columbia, <http://www.ny.gov/counties/columbia> (accessed Sept. 21, 2017).

12. Cortland County. Cortland County has 15-17 justice courts and 1 city court.⁷⁵ The justice courts include Cincinnatus Town Court; Cortlandville Town Court; Cuyler Town Court; Freetown Town Court; Harford Town Court; Homer Town Court; Homer Village Court; Lapeer Town Court; Marathon Town Court; McGraw Village Court; Preble Town Court; Scott Town Court; Solon Town Court; Taylor Town Court; Truxton Town Court; Virgil Town Court; and Willet Town Court.⁷⁶ The city court is Cortland City Court.⁷⁷ The county covers 502 square miles and has a population of about 49,474.⁷⁸

⁷⁵NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/cortland_county_courts.htm (accessed Sept 28, 2017); Court Reference: Cortland County New York Court Directory, <http://www.courtreference.com/Cortland-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁷⁶*Id.*

⁷⁷*Id.*

⁷⁸New York State: Finger Lakes Cortland, <http://www.ny.gov/counties/cortland> (accessed Sept. 28, 2017).

13. Delaware County. Delaware County has 23 justice courts.⁷⁹ The justice courts include Andes Town Court; Bovina Town Court; Colchester Town Court; Davenport Town Court; Delhi Town Court; Deposit Town Court; Franklin Town Court; Hamden Town Court; Hancock Town Court; Hancock Village Court; Harpersfield Town Court; Kortright Town Court; Masonville Town Court; Meredith Town Court; Middletown Town Court; Roxbury Town Court; Sidney Town Court; Sidney Village Court; Stamford Town Court; Stamford Village Court; Tompkins Town Court; Walton Town Court; and Walton Village Court.⁸⁰ The county covers 1,468 square miles and has a population of about 47,276.⁸¹

⁷⁹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/delaware_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Delaware County New York Court Directory, <http://www.courtreference.com/Delaware-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁸⁰*Id.*

⁸¹New York State: Catskills Delaware, <http://www.ny.gov/counties/delaware> (accessed Sept. 28, 2017).

14. Dutchess County. Dutchess County has 26 justice courts and 2 city courts.⁸² The justice courts include Amenia Town Court; Beekman Town Court; Clinton Justice Court; Dover Justice Court; East Fishkill Justice Court; Fishkill Town Justice Court; Fishkill Village Justice Court; Hyde Park Justice Court; LaGrange Justice Court; Milan Town Justice Court; North East Town Court; Pawling Town Justice Court; Pawling Village Court; Pine Plains Justice Court; Pleasant Valley Justice Court; Poughkeepsie Town Justice Court; Red Hook Town Justice Court; Red Hook Village Court; Rhinebeck Town Justice Court; Rhinebeck Village Justice Court; Stanford Town Court; Tivoli Village Justice Court; Union Vale Town Court; Wappinger Justice Court; Wappingers Falls Justice Court; and Washington Justice Court.⁸³ The city courts include Beacon and Poughkeepsie City Courts.⁸⁴ The county covers 825 square miles and has a population of about 297,322.⁸⁵

⁸²Court Reference: Dutchess County New York Court Directory, <http://www.courtreference.com/Dutchess-County-New-York-Courts.htm> (accessed Mar. 21, 2017).

⁸³*Id.*

⁸⁴*Id.*

⁸⁵New York State: Hudson Valley Dutchess, <http://www.ny.gov/counties/dutchess> (accessed Apr. 20, 2017).

15. Erie County. Erie County has 35-37 justice courts and 3 city courts.⁸⁶ The justice courts include Akron Village Court; Alden Town Court; Alden Village Court; Amherst Town Court; Angola Village Court; Aurora Town Court; Blasdell Village Court; Boston Town Court; Brant Town Court; Cheektowaga Town Court; Clarence Town Court; Colden Town Court; Collins Town Court; Concord Town Court; Depew Village Court; Eden Town Court; Elma Town Court, Evans Town Court; Farnham Village Court; Grand Island Town Court; Hamburg Town Court, Hamburg Village Court; Holland Town Court; Kenmore Village Court; Lancaster Town Court; Lancaster Village Court; Marilla Town Court; Newstead Town Court; North Collins Town Court; Orchard Park Town Court; Orchard Park Village Court; Sardinia Town Court; Springville Village Court; Tonawanda Town Court; Wales Town Court; West Seneca Town Court; and Williamsville Village Court.⁸⁷ The city courts include Buffalo, Lackawanna, and Tonawanda City Courts.⁸⁸ The county covers 1,227 square miles and has a population of about 919,086.⁸⁹

⁸⁶NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/erie_county_courts.htm (accessed Mar. 21, 2017); Court Reference: Erie County New York Court Directory, <http://www.courtreference.com/Erie-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

⁸⁷*Id.*

⁸⁸*Id.*

⁸⁹New York State: Greater Niagara Erie, <http://www.ny.gov/counties/erie> (accessed Apr. 20, 2017).

16. Essex County. Essex County has 19 justice courts.⁹⁰ The justice courts include Chesterfield Town Court; Crown Point Town Court; Elizabethtown Town Court; Essex Town Court; Jay Town Court; Keene Town Court; Lake Placid Village Court; Lewis Town Court; Minerva Town Court; Moriah Town Court; Newcomb Town Court; North Elba Town Court; North Hudson Town Court; Schroon Town Court; St. Armand Town Court; Ticonderoga Town Court; Westport Town Court; Willsboro Town Court; and Wilmington Town Court.⁹¹ The county covers 1,916 square miles and has a population of about 38,961.⁹²

17. Franklin County. Franklin County has 20 justice courts.⁹³ The justice courts include Bangor Town Court; Bellmont Town Court; Bombay Town Court; Brandon Town Court; Brighton Town

⁹⁰Court Reference: Essex County New York Court Directory, <http://www.courtreference.com/Essex-County-New-York-Courts.htm> (accessed Oct 24, 2017).

⁹¹*Id.*

⁹²New York State: Adirondacks Essex, <http://www.ny.gov/counties/essex> (accessed Oct. 24, 2017).

⁹³Court Reference: Franklin County New York Court Directory, <http://www.courtreference.com/Franklin-County-New-York-Courts.htm> (accessed Oct 24, 2017).

Court; Burke Town Court; Chateaugay Town Court; Constable Town Court; Dickinson Town Court; Duane Justice Court; Fort Covington Town Court; Franklin Town Court; Harriestown Town Court; Malone Town Court; Moira Town Court; Santa Clara Town Court; Tupper Lake Town Court; Tupper Lake Village Court; Waverly Town Court; Westville Town Court.⁹⁴ The county covers 1,697 square miles and has a population of about 51,795.⁹⁵

18. Fulton County. Fulton County has 11 justice courts and 2 city courts.⁹⁶ The justice courts include Bleecker Town Court; Broadalbin Town Court; Broadalbin Village Court; Caroga Town Court; Ephratah Town Court; Johnstown Town Court; Mayfield Town Court; Northampton Town Court; Oppenheim Town Court; Perth Town Court; and Stratford Town Court.⁹⁷ The city

⁹⁴*Id.*

⁹⁵New York State: Adirondacks Franklin, <http://www.ny.gov/counties/franklin> (accessed Oct. 24, 2017).

⁹⁶NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/fulton_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Franklin County New York Court Directory, <http://www.courtreference.com/Fulton-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

⁹⁷*Id.*

courts include Gloversville and Johnstown City Courts.⁹⁸ The county covers 533 square miles and has a population of about 54,925.⁹⁹

19. Genesee County. Genesee County has 14-16 justice courts and 1 city court.¹⁰⁰ The justice courts include Alabama Town Court; Alexander Town Court; Alexander Village Court; Batavia Town Court; Bergen Town Court; Bethany Town Court; Byron Town Court; Corfu Village Court; Darien Town Court; Elba Town Court; Leroy Town Court; Leroy Village Court; Oakfield Town Court; Pavilion Town Court; Pembroke Town Court; and Stafford Town Court.¹⁰¹ The city court is Batavia City Court.¹⁰² The county covers 495 square miles and has a population of about 59,977.¹⁰³

⁹⁸*Id.*

⁹⁹New York State: Capital-Saratoga Fulton, <http://www.ny.gov/counties/fulton> (accessed Sept. 28, 2017).

¹⁰⁰NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/genesee_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Genesee County New York Court Directory, <http://www.courtreference.com/Genesee-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁰¹*Id.*

¹⁰²*Id.*

20. Greene County. Greene County has 16-18 justice courts.¹⁰⁴ The justice courts include Ashland Town Court; Athens Town Court (two of them); Athens Village Court; Cairo Town Court; Catskill Town Court; Catskill Village Court; Coxsackie Town Court; Durham Town Court; Greenville Town Court; Hunter Town Court; Hunter Village Court; Jewett Town Court; Lexington Town Court; New Baltimore Town Court; Prattsville Town Court; Tannersville Village Court; and Windham Town Court.¹⁰⁵ The county covers 658 square miles and has a population of about 48,673.¹⁰⁶

¹⁰³New York State: Greater Niagara Genesee, <http://www.ny.gov/counties/genesee> (accessed Sept. 28, 2017).

¹⁰⁴NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/greene_county_courts.htm (accessed Sept. 18, 2017); Court Reference: Greene County New York Court Directory, <http://www.courtreference.com/Greene-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁰⁵*Id.*

¹⁰⁶New York State: Catskills Greene, <http://www.ny.gov/counties/greene> (accessed Sept. 28, 2017).

21. Hamilton County. Hamilton County has 9-10 justice courts.¹⁰⁷ The justice courts include Arietta Town Court; Benson Town Court; Hope Town Court; Indian Lake Town Court; Inlet Town Court; Lake Pleasant Town Court; Long Lake Town Court; Morehouse Town Court; Speculator Village Court; and Wells Town Court.¹⁰⁸ The county covers 1,808 square miles and has a population of about 4,778.¹⁰⁹

22. Herkimer County. Herkimer County has 22-27 justice courts and 1 city court.¹¹⁰ The justice courts include Cold Brook Village Court; Columbia Town Court; Danube Town Court; Fairfield

¹⁰⁷NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/hamilton_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Hamilton County New York Court Directory, <http://www.courtreference.com/Hamilton-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁰⁸*Id.*

¹⁰⁹New York State: Adirondacks Hamilton, <http://www.ny.gov/counties/hamilton> (accessed Sept. 28, 2017).

¹¹⁰NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/herkimer_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Herkimer County New York Court Directory, <http://www.courtreference.com/Herkimer-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

Town Court; Frankfort Town Court; Frankfort Village Court; German Flatts Town Court; Herkimer Town Court; Herkimer Village Court; Ilion Village Court; Litchfield Town Court; Little Falls Town Court; Manheim Town Court; Middleville Village Court; Mohawk Village Court; Newport Town Court; Newport Village Court; Norway Town Court; Ohio Town Court; Poland Village Court; Russia Town Court; Salisbury Town Court; Schuyler Town Court; Stark Town Court; Warren Town Court; Webb Town Court; and Winfield Town Court.¹¹¹ The city court is Little Falls City Court.¹¹² The county covers 1,458 square miles and has a population of about 64,508.¹¹³

23. Jefferson County. Jefferson County has 30-34 justice courts and 1 city court.¹¹⁴ The justice courts include Adams Town Court; Adams Village Court; Alexandria Bay Village Court;

¹¹¹*Id.*

¹¹²*Id.*

¹¹³New York State: Central New York Herkimer, <http://www.ny.gov/counties/herkimer> (accessed Sept. 28, 2017).

¹¹⁴NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/jefferson_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Jefferson County New York Court Directory, <http://www.courtreference.com/Jefferson-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

Alexandria Town Court; Antwerp Town Court; Brownville Town Court; Brownville Village Court; Cape Vincent Town Court; Carthage Village Court; Champion Town Court; Chaumont Village Court; Clayton Town Court; Clayton Village Court; Dexter Village Court; Ellisburg Town Court; Evan Mills Village Court; Glen Park Village Court; Henderson Town Court; Hounsfield Town Court; Le Ray Town Court; Lorraine Town Court; Lyme Town Court; Orleans Town Court; Pamela Town Court; Philadelphia Town Court; Philadelphia Village Court; Rodman Town Court; Rutland Town Court; Theresa Town Court; Theresa Village Court; Watertown Town Court; West Carthage Village Court; Wilna Town Court; and Worth Town Court.¹¹⁵ The city court is Watertown City Court.¹¹⁶ The county covers 1,857 square miles and has a population of about 120,262.¹¹⁷

¹¹⁵*Id.*

¹¹⁶*Id.*

¹¹⁷New York State: Thousand Islands Seaway Jefferson, <http://www.ny.gov/counties/jefferson> (accessed Sept. 28, 2017).

24. Kings County. Kings County has 2 city courts.¹¹⁸ The city courts include New York City Criminal Court and New York City Criminal Court - Red Hook Community Justice Center.¹¹⁹ The county covers 96.9 square miles and has a population of about 2,592,149.¹²⁰

25. Lewis County. Lewis County has 19-20 justice courts.¹²¹ The justice courts include Copenhagen Village Court; Croghan Town Court; Denmark Town Court; Diana Town Court; Greig Town Court; Harrisburg Town Court; Lewis Town Court; Leyden Town Court; Lowville Town Court; Lowville Village Court; Lyonsdale Town Court; Martinsburg Town Court; Montague Town Court; New Bremen Town Court; Osceola Town Court; Pinckney Town Court;

¹¹⁸Court Reference: Kings County New York Court Directory, <http://www.courtreference.com/Kings-County-New-York-Courts.htm> (accessed Oct 24, 2017).

¹¹⁹*Id.*

¹²⁰New York State: New York City Kings, <http://www.ny.gov/counties/kings> (accessed Oct. 24, 2017).

¹²¹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/lewis_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Lewis County New York Court Directory, <http://www.courtreference.com/Lewis-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

Port Leyden Village Court; Turin Town Court; Watson Town Court; and West Turin Town Court.¹²² The county covers 1,290 square miles and has a population of about 27,224.¹²³

26. Livingston County. Livingston County has 23 justice courts.¹²⁴ The justice courts include Avon Town Court; Avon Village Court; Caledonia Town Court; Caledonia Village Court; Conesus Town Court; Dansville Village Court; Geneseo Town Court; Geneseo Village Court; Groveland Town Court; Leicester Justice Court; Lima Town Court; Livonia Town Court; Mount Morris Town Court; Mount Morris Village Court; North Dansville Town Court; Nunda Town Court; Nunda Village Court; Ossian Town Court; Portage Town Court; Sparta Town Court;

¹²²*Id.*

¹²³New York State: Adirondacks Lewis, <http://www.ny.gov/counties/lewis> (accessed Sept. 28, 2017).

¹²⁴Court Reference: Livingston County New York Court Directory, <http://www.courtreference.com/Livingston-County-New-York-Courts.htm> (accessed Oct 24, 2017).

Springwater Town Court; West Sparta Town Court; and York Town Court.¹²⁵ The county covers 640 square miles and has a population of about 64,810.¹²⁶

27. Madison County. Madison County has 20-21 justice courts and 1 city court.¹²⁷ The justice courts include Brookfield Town Court; Canastota Village Court; Cazenovia Town Court; Cazenovia Village Court; Chittenango Village Court; De Ruyter Town Court; Eaton Town Court; Fenner Town Court; Georgetown Town Court; Hamilton Town Court; Hamilton Village Court; Lebanon Town Court; Lenox Town Court; Lincoln Town Court; Madison Town Court; Madison Village Court; Morrisville Village Court; Nelson Town Court; Smithfield Town Court; Stockbridge Town Court; and Sullivan Town Court.¹²⁸ The city court is Oneida City Court.¹²⁹ The county covers 662 square miles and has a population of about 72,382.¹³⁰

¹²⁵*Id.*

¹²⁶New York State: Finger Lakes Livingston, <http://www.ny.gov/counties/livingston> (accessed Oct. 24, 2017).

¹²⁷NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/madison_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Madison County New York Court Directory, <http://www.courtreference.com/Madison-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹²⁸*Id.*

28. Monroe County. Monroe County has 22-23 justice courts and 1 city court.¹³¹ The justice courts include Brighton Town Court; Brockport Village Court; Chili Town Court; Clarkson Town Court; East Rochester Town Court; Fairport Village Court; Gates Town Court; Greece Town Court; Hamlin Town Court; Henrietta Town Court; Honeoye Falls Village Court; Irondequoit Town Court; Mendon Town Court; Ogden Town Court; Parma Town Court; Penfield Town Court; Perinton Town Court; Pittsford Town Court; Riga Town Court; Rush Town Court; Sweden Town Court; Webster Town Court; and Wheatland Town Court.¹³² The city court is Rochester City Court.¹³³ The county covers 1,366 square miles and has a population of about 747,813.¹³⁴

¹²⁹*Id.*

¹³⁰New York State: Central New York Madison, <http://www.ny.gov/counties/madison> (accessed Sept. 28, 2017).

¹³¹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/monroe_county_courts.htm (accessed Mar. 21, 2017); Court Reference: Monroe County New York Court Directory, <http://www.courtreference.com/Monroe-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

¹³²NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/monroe_county_courts.htm (accessed Mar. 21, 2017).

¹³³*Id.*

29. Montgomery County. Montgomery County has 12 justice courts and 1 city court.¹³⁵ The justice courts include Amsterdam Justice Court; Canajoharie Town Court; Canajoharie Village Court; Charleston Town Court; Florida Town Court; Glen Town Court; Minden Town Court; Mohawk Town Court; Palatine Town Court; Root Town Court; St. Johnsville Town Court; and St. Johnsville Village Court.¹³⁶ The city court is Amsterdam City Court.¹³⁷ The county covers 410 square miles and has a population of about 49,941.¹³⁸

¹³⁴New York State: Finger Lakes Monroe, <http://www.ny.gov/counties/monroe> (accessed Apr. 20, 2017).

¹³⁵Court Reference: Montgomery County New York Court Directory, <http://www.courtreference.com/Montgomery-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

¹³⁶*Id.*

¹³⁷*Id.*

¹³⁸New York State: Central New York Montgomery, <http://www.ny.gov/counties/montgomery> (accessed Oct. 24, 2017).

30. Nassau County. Nassau County has 61 justice courts, 2 city courts, and 1 district court.¹³⁹

The justice courts include Atlantic Beach Village Court; Baxter Estates Village Court; Bayville Village Court; Bellerose Village Court; Brookville Village Court; Cedarhurst Village Court; Centre Island Village Court; Cove Neck Village Court; East Hills Village Court; East Rockaway Village Court; East Williston Village Court; Farmingdale Justice Court; Floral Park Village Court; Flower Hill Village Court; Freeport Village Court; Garden City Justice Court; Great Neck Estates Village Court; Great Neck Plaza Village Court; Great Neck Village Court; Hempstead Village Court; Hewlett Bay Park Village Court; Island Park Village Court; Kensington Village Court; Kings Point Village Court; Lake Success Village Court; Lattingtown Village Court; Laurel Hollow Village Court; Lawrence Village Court; Lynbrook Village Court; Malverne Village Court; Manorhaven Village Court; Massapequa Park Village Court; Matinecock Village Court; Mill Neck Village Court; Mineola Justice Court; Munsey Park Village Court; Muttontown Village Court; New Hyde Park Village Court; North Hills Village Court; Old Brookville Village Court; Old Westbury Village Court; Oyster Bay Cove Village Court; Plandome Heights Village Court; Plandome Manor Village Court; Plandome Village Court; Port Washington North Village Court; Rockville Centre Village Court; Roslyn Estates Village Court; Roslyn Harbor Village Court; Roslyn Village Court; Russell Gardens Village Court; Saddle Rock Village Court; Sands Point Village Court; Sea Cliff Village Court; South Floral Park Village Court; Stewart Manor Justice Court; Upper Brookville Village Court; Valley Stream Village Court; Westbury Village

¹³⁹Court Reference: Nassau County New York Court Directory, <http://www.courtreference.com/Nassau-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

Court; Williston Park Village Court; and Woodsburgh Village Court.¹⁴⁰ The city courts include Glen Cove City Court and Long Beach City Court.¹⁴¹ The district court is Nassau County District Court.¹⁴² The county covers 453 square miles and has a population of about 1.349 million.¹⁴³

31. New York County. New York County has 3 city courts.¹⁴⁴ The city courts include New York City Criminal Court (in two locations) and New York City Criminal Court - Midtown Community Court.¹⁴⁵ The county covers 33.77 square miles and has a population of about 1,626,159.¹⁴⁶

¹⁴⁰*Id.*

¹⁴¹*Id.*

¹⁴²*Id.*

¹⁴³New York State: Long Island Nassau, <http://www.ny.gov/counties/nassau> (accessed Oct. 24, 2017).

¹⁴⁴Court Reference: New York County New York Court Directory, <http://www.courtreference.com/New-York-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

¹⁴⁵*Id.*

¹⁴⁶New York State: New York City New York, <http://www.ny.gov/counties/new-york> (accessed Oct. 24, 2017).

32. Niagara County. Niagara County has 12 justice courts and 3 city courts.¹⁴⁷ The justice courts include Cambria Justice Court; Hartland Town Court; Lewiston Justice Court; Lockport Justice Court; Newfane Justice Court; Niagara Town Court; Pendleton Justice Court; Porter Justice Court; Royalton Town Court; Somerset Justice Court; Wheatfield Town Court; and Wilson Justice Court.¹⁴⁸ The city courts include Lockport City Court; Niagara Falls City Court; and North Tonawanda City Court.¹⁴⁹ The county covers 1,140 square miles and has a population of about 215,124.¹⁵⁰

¹⁴⁷Court Reference: Niagara County New York Court Directory, <http://www.courtreference.com/Niagara-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

¹⁴⁸*Id.*

¹⁴⁹*Id.*

¹⁵⁰New York State: Greater Niagara, <http://www.ny.gov/counties/niagara> (accessed Oct. 24, 2017).

33. Oneida County. Oneida County has 35 justice courts and 3 city courts.¹⁵¹ The justice courts include Annsville Town Court; Augusta Town Court; Ava Town Court; Boonville Town Court; Boonville Village Court; Bridgewater Town Court; Camden Town Court; Deerfield Town Court; Florence Town Court; Floyd Town Court; Forestport Town Court; Kirkland Town Court; Lee Town Court; Marcy Town Court; Marshall Town Court; New Hartford Town Court; New Hartford Village Court; New York Mills Village Court; Oriskany Village Court; Paris Town Court; Remsen Town Court; Sangerfield Town Court; Steuben Town Court; Sylvan Beach Village Court; Trenton Town Court; Vernon Town Court; Vernon Village Court; Verona Town Court; Vienna Town Court; Waterville Village Court; Western Town Court; Westmoreland Court; Whitesboro Village Court; Whitestown Town Court; and Yorkville Village Court.¹⁵² The city courts include Rome, Sherrill, and Utica City Courts.¹⁵³ The county covers 1,257 square miles and has a population of about 324,878.¹⁵⁴

¹⁵¹Court Reference: Oneida County New York Court Directory, <http://www.courtreference.com/Oneida-County-New-York-Courts.htm> (accessed Apr. 1, 2017).

¹⁵²*Id.*

¹⁵³*Id.*

¹⁵⁴New York State: Central New York Oneida, <http://www.ny.gov/counties/oneida> (accessed Apr. 20, 2017).

34. Onondaga County. Onondaga County has 28 justice courts and 1 city court.¹⁵⁵ The justice courts include Baldwinsville Village Court; Camillus Town Court; Cicero Justice Court; Clay Town Court; DeWitt Town Court; East Syracuse Village Court; Elbridge Town Court; Fabius Town Court; Fayetteville Village Court; Geddes Town Court; Jordan Village Court; LaFayette Town Court; Liverpool Justice Court; Lysander Town Court; Manlius Town Court; Manlius Village Court; Marcellus Town Court; Minoa Village Court; North Syracuse Village Court; Onondaga Justice Court; Otisco Town Court; Pompey Town Court; Salina Town Court; Skaneateles Justice Court; Solvay Village Court; Spafford Justice Court; Tully Town Justice Court; and Van Buren Town Court.¹⁵⁶ The city court is Syracuse City Court.¹⁵⁷ The county covers 806 square miles and has a population of about 467,026.¹⁵⁸

¹⁵⁵Court Reference: Onondaga County New York Court Directory, <http://www.courtreference.com/Onondaga-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

¹⁵⁶*Id.*

¹⁵⁷*Id.*

¹⁵⁸New York State: Finger Lakes Onondaga, <http://www.ny.gov/counties/onondaga> (accessed Apr. 20, 2017).

35. Ontario County. Ontario County has 17 justice courts and 2 city courts.¹⁵⁹ The justice courts include Bristol Town Court; Canadice Town Court; Canandaigua Town Court; Clifton Springs Village Court; East Bloomfield Town Court; Farmington Town Court; Geneva Town Court; Gorham Town Court; Hopewell Town Court; Manchester Town Court; Naples Town Court; Phelps Town Court; Richmond Town Court; Seneca Town Court; South Bristol Town Court; Victor Town Court; and West Bloomfield Town Court.¹⁶⁰ The city courts include Canandaigua and Geneva City Courts.¹⁶¹ The county covers 662 square miles and has a population of about 108,519.¹⁶²

36. Orange County. Orange County has 33-34 justice courts and 3 city courts.¹⁶³ The justice courts include Blooming Grove Town Court; Chester Town Court; Chester Village Court;

¹⁵⁹Court Reference: Ontario County New York Court Directory, <http://www.courtreference.com/Ontario-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

¹⁶⁰*Id.*

¹⁶¹*Id.*

¹⁶²New York State: Finger Lakes Ontario, <http://www.ny.gov/counties/ontario> (accessed Apr. 20, 2017).

¹⁶³NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/orange_county_courts.htm (accessed Sept. 28, 2017); Court Reference:

Cornwall Town Court; Crawford Town Court; Deerpark Town Court; Florida Village Court; Goshen Town Court; Goshen Village Court; Greenville Town Court; Greenwood Lake Village Court; Hamptonburgh Town Court; Harriman Village Court; Highlands Town Court; Maybrook Village Court; Minisink Town Court; Monroe Town Court; Monroe Village Court; Montgomery Town Court; Montgomery Village Court; Mount Hope Town Court; New Windsor Town Court; Newburgh Town Court; Otisville Village Court; Tuxedo Park Village Court; Tuxedo Town Court; Unionville Village Court; Walden Village Court; Wallkill Town Court; Warwick Town Court; Warwick Village Court; Washingtonville Village Court; Wawayanda Town Court; and Woodbury Town Court.¹⁶⁴ The city courts include Middletown, Newburgh, and Port Jervis City Courts.¹⁶⁵ The county covers 839 square miles and has a population of 372,813.¹⁶⁶

Orange County New York Court Directory, <http://www.courtreference.com/Orange-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁶⁴*Id.*

¹⁶⁵*Id.*

¹⁶⁶New York State: Hudson Valley, Orange, <http://www.ny.gov/counties/orange> (accessed Sept. 28, 2017).

37. Orleans County. Orleans County has 10 justice courts.¹⁶⁷ The justice courts include Albion Town Court; Barre Town Court; Carlton Town Court; Clarendon Justice Court; Gaines Justice Court; Kendall Town Court; Murray Justice Court; Ridgeway Town Court; Shelby Town Court; and Yates Town Court.¹⁶⁸ The county covers 817 square miles and has a population of 42,883.¹⁶⁹

38. Oswego County. Oswego County has 23 justice courts and 2 city courts.¹⁷⁰ The justice courts include Albion Town Court; Amboy Town Court; Boylston Town Court; Central Square Village Court; Constantia Town Court; Granby Justice Court; Hannibal Town Court; Hastings Town Court; Mexico Town Court; Minetto Town Court; New Haven Justice Court; Orwell Town Court; Oswego Town Court; Palermo Town Court; Parish Town Court; Redfield Town Court; Richland Town Court; Sandy Creek Town Court; Schroepel Justice Court; Scriba Town Court;

¹⁶⁷Court Reference: Orleans County New York Court Directory, <http://www.courtreference.com/Orleans-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

¹⁶⁸*Id.*

¹⁶⁹New York State: Greater Niagara Orleans, <http://www.ny.gov/counties/orleans> (accessed Oct. 24, 2017).

¹⁷⁰Court Reference: Oswego County New York Court Directory, <http://www.courtreference.com/Oswego-County-New-York-Courts.htm> (accessed Oct. 24, 2017).

Volney Town Court; West Monroe Town Court; and Williamstown Town Court.¹⁷¹ The city courts include Fulton City Court and Oswego City Court.¹⁷² The county covers 1,312 square miles and has a population of about 122,109.¹⁷³

39. Otsego County. Otsego County has 25 justice courts and 1 city court.¹⁷⁴ The justice courts include Burlington Town Court; Butternuts Town Court; Cherry Valley Town Court; Decatur Town Court; Edmeston Town Court; Exeter Town Court; Hartwick Town Court; Laurens Town Court; Maryland Town Court; Middlefield Town Court; Milford Town Court; Morris Town Court; New Lisbon Town Court; Oneonta Town Court; Otego Town Court; Otsego Town Court; Pittsfield Town Court; Plainfield Town Court; Richfield Springs Village Court; Richfield Town Court; Roseboom Town Court; Springfield Town Court; Unadilla Town Court; Westford Town

¹⁷¹*Id.*

¹⁷²*Id.*

¹⁷³New York State: Thousand Islands Seaway Oswego, <http://www.ny.gov/counties/oswego> (accessed Oct. 25, 2017).

¹⁷⁴Court Reference: Otsego County New York Court Directory, <http://www.courtreference.com/Otsego-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

Court; and Worcester Town Court.¹⁷⁵ The city court is Oneonta City Court.¹⁷⁶ The county covers 1,015 square miles and has a population of about 62,259.¹⁷⁷

40. Putnam County. Putnam County has nine justice courts.¹⁷⁸ The justice courts include Brewster Village Court; Carmel Town Court; Cold Spring Village Court; Kent Town Court; Nelsonville Village Court; Patterson Town Court; Philipstown Town Court; Putnam Valley Town Court; and Southeast Town Court.¹⁷⁹ The county covers 246 square miles and has a population of about 99,710.¹⁸⁰

¹⁷⁵*Id.*

¹⁷⁶*Id.*

¹⁷⁷New York State: Central New York Otsego, <http://www.ny.gov/counties/otsego> (accessed Oct. 25, 2017).

¹⁷⁸NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/putnam_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Putnam County New York Court Directory, <http://www.courtreference.com/Putnam-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁷⁹*Id.*

¹⁸⁰New York State: Hudson Valley, Putnam, <http://www.ny.gov/counties/putnam> (accessed Sept. 28, 2017).

41. Queens County. Queens County has one city court.¹⁸¹ The city court is New York City Criminal Court.¹⁸² The county covers 178 square miles and has a population of about 2,296,175.¹⁸³

42. Rensselaer County. Rensselaer County has 16-17 justice courts and 2 city courts.¹⁸⁴ The justice courts include Berlin Town Court; Brunswick Town Court; Castleton-on-Hudson Village Court; East Greenbush Town Court; Grafton Town Court; Hoosick Falls Village Court; Hoosick

¹⁸¹Court Reference: Queens County New York Court Directory, <http://www.courtreference.com/Queens-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

¹⁸²*Id.*

¹⁸³New York State: New York City Queens, <http://www.ny.gov/counties/queens> (accessed Oct. 25, 2017).

¹⁸⁴NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/rensselaer_county_courts.htm (accessed Mar. 29, 2017); Court Reference: Rensselaer County New York Court Directory, <http://www.courtreference.com/Rensselaer-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

Town Court; Nassau Town Court; Nassau Village Court; North Greenbush Town Court; Petersburg Town Court; Pittstown Town Court; Poestenkill Town Court; Sand Lake Town Court; Schaghticoke Town Court; Scodack Town Court; and Stephentown Town Court.¹⁸⁵ The city courts include Rensselaer and Troy City Courts.¹⁸⁶ The county covers 665 square miles and has a population of about 159,429.¹⁸⁷

43. Richmond County. Richmond County has one city court.¹⁸⁸ The city court is New York City Criminal Court.¹⁸⁹ The county covers 59 square miles and has a population of about 472,621.¹⁹⁰

¹⁸⁵*Id.*

¹⁸⁶*Id.*

¹⁸⁷New York State: Capital-Saratoga Rensselaer, <http://www.ny.gov/counties/rensselaer> (accessed Apr. 20, 2017).

¹⁸⁸Court Reference: Richmond County New York Court Directory, <http://www.courtreference.com/Richmond-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

¹⁸⁹*Id.*

¹⁹⁰New York State: New York City Richmond, <http://www.ny.gov/counties/richmond> (accessed Oct. 25, 2017).

44. Rockland County. Rockland County has 20-22 justice courts.¹⁹¹ The justice courts include Airmont Village Court; Chestnut Ridge Village Court; Clarkstown Town Court; Grand View-on-Hudson Village Court; Haverstraw Town Court; Haverstraw Village Court; Hillburn Village Court; Montebello Village Court; New Hempstead Justice Court; New Square Village Court; Nyack Village Court; Orangetown Town Court; Piermont Village Court; Ramapo Town Court; Sloatsburg Village Court; South Nyack Village Court; Spring Valley Village Court; Stony Point Town Court; Suffern Village Court; Upper Nyack Village Court; Wesley Hills Village Court; and West Haverstraw Village Court.¹⁹² The county covers 199 square miles and has a population of about 311,687.¹⁹³

¹⁹¹NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/rockland_county_courts.htm (accessed Apr. 12, 2017); Court Reference: Rockland County New York Court Directory, <http://www.courtreference.com/Rockland-County-New-York-Courts.htm> (accessed Apr. 12, 2017).

¹⁹²*Id.*

¹⁹³New York State: Hudson Valley Rockland, <http://www.ny.gov/counties/rockland> (accessed Oct. 25, 2017).

45. Saratoga County. Saratoga County has 21-22 justice courts and 2 city courts.¹⁹⁴ The justice courts include Ballston Spa Village Court; Ballston Town Court; Charlton Town Court; Clifton Park Town Court; Corinth Town Court; Day Town Court; Edinburg Town Court; Galway Town Court; Galway Village Court; Greenfield Town Court; Hadley Town Court; Halfmoon Town Court; Malta Town Court; Milton Town Court; Moreau Town Court; Northumberland Town Court; Providence Town Court; Saratoga Town Court; Schuylerville Village Court; Stillwater Town Court; Waterford Town Court; Wilton Town Court.¹⁹⁵ The city courts are Mechanicville and Saratoga Springs City Courts.¹⁹⁶ The county covers 822 square miles and has a population of about 222,133.¹⁹⁷

¹⁹⁴NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/saratoga_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Saratoga County New York Court Directory, <http://www.courtreference.com/Saratoga-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁹⁵*Id.*

¹⁹⁶*Id.*

¹⁹⁷New York State: Capital-Saratoga Saratoga, <http://www.ny.gov/counties/saratoga> (accessed Sept. 28, 2017).

46. Schenectady County. Schenectady County has six justice courts and one city court.¹⁹⁸ The justice courts include Duanesburg Town Court; Glenville Town Court; Niskayuna Town Court; Princetown Town Court; Rotterdam Town Court; and Scotia Village Court.¹⁹⁹ The city court is Schenectady City Court.²⁰⁰ The county covers 210 square miles and has a population of about 154,727.²⁰¹

47. Schoharie County. Schoharie County has 18 justice courts.²⁰² The justice courts include Blenheim Town Court; Broome Town Court; Carlisle Town Court; Cobleskill Town Court;

¹⁹⁸NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/schenectady_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Schenectady County New York Court Directory, <http://www.courtreference.com/Schenectady-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

¹⁹⁹*Id.*

²⁰⁰*Id.*

²⁰¹New York State: Capital-Saratoga Schenectady, <http://www.ny.gov/counties/schenectady> (accessed Sept. 28, 2017).

²⁰²Court Reference: Schoharie County New York Court Directory, <http://www.courtreference.com/Schoharie-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

Conesville Town Court; Esperance Town Court; Fulton Town Court; Gilboa Town Court; Jefferson Town Court; Middleburgh Town Court; Middleburgh Village Court; Richmondville Town Court; Schoharie Town Court; Schoharie Village Court; Seward Town Court; Sharon Town Court; Summit Town Court; and Wright Town Court.²⁰³ The county covers 626 square miles and has a population of about 32,749.²⁰⁴

48. Schuyler County. Schuyler County has 11 justice courts.²⁰⁵ The justice courts include Catharine Town Court; Cayuta Town Court; Dix Town Court; Hector Town Court; Montour Town Court; Montour Falls Village Court; Odessa Village Court; Orange Town Court; Reading

²⁰³*Id.*

²⁰⁴New York State: Central New York Schoharie, <http://www.ny.gov/counties/schoharie> (accessed Oct. 25, 2017).

²⁰⁵Schuyler County New York: Local Court, <http://www.schuylercounty.us/789/Local-Courts> (accessed Mar. 22, 2017).

Town Court; Tyrone Town Court; and Watkins Glen Village Court.²⁰⁶ The county covers 342 square miles and has a population of about 18,343.²⁰⁷

49. Seneca County. Seneca County has 11 justice courts.²⁰⁸ The justice courts include Covert Town Court; Fayette Town Court; Junius Town Court; Lodi Town Court; Ovid Town Court; Romulus Town Court; Seneca Falls Town Court; Tyre Town Court; Varick Town Court; Waterloo Town Court; and Waterloo Village Court.²⁰⁹ The county covers 391 square miles and has a population of about 35,251.²¹⁰

²⁰⁶*Id.*

²⁰⁷New York State: Finger Lakes Schuyler, <http://www.ny.gov/counties/schuyler> (accessed Apr. 20, 2017).

²⁰⁸Court Reference: Seneca County New York Court Directory, <http://www.courtreference.com/Seneca-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

²⁰⁹*Id.*

²¹⁰New York State: Finger Lakes Seneca, <http://www.ny.gov/counties/seneca> (accessed Oct. 25, 2017).

50. St. Lawrence County. St. Lawrence County has 33 justice courts and 1 city court.²¹¹ The justice courts include Brasher Town Court; Canton Town Court; Clare Town Court; Clifton Town Court; Colton Town Court; De Kalb Town Court; De Peyster Town Court; Edwards Town Court; Fine Town Court; Fowler Justice Court; Gouverneur Town Court; Hammond Town Court; Hermon Town Court; Hopkinton Town Court; Lawrence Town Court; Lisbon Town Court; Louisville Town Court; Macomb Town Court; Madrid Town Court; Massena Town Court; Massena Village Court; Morristown Town Court; Norfolk Town Court; Oswegathchie Court; Parishville Town Court; Piercefield Town Court; Pierrepont Town Court; Pitcairn Town Court; Potsdam Town Court; Rossie Town Court; Russell Town Court; Stockholm Town Court; and Waddington Town Court.²¹² The city court includes Ogdensburg City Court.²¹³ The county covers 2,821 square miles and has a population of about 111,944.²¹⁴

²¹¹Court Reference: St. Lawrence County New York Court Directory, <http://www.courtreference.com/St-Lawrence-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

²¹²*Id.*

²¹³*Id.*

²¹⁴New York State: Thousand Islands Seaway St. Lawrence, <http://www.ny.gov/counties/st-lawrence> (accessed Apr. 20, 2017).

51. Steuben County. Steuben County has 38 justice courts and 2 city courts.²¹⁵ The justice courts include Addison Town Court; Avoca Town Court; Bath Town Court; Bath Village Court; Bradford Town Court; Cameron Town Court; Campbell Town Court; Canisteo Town Court; Canisteo Village Court; Caton Town Court; Cohocton Town Court; Cohocton Village Court; Corning Justice Court; Dansville Town Court; Erwin Town Court; Fremont Town Court; Greenwood Town Court; Hartsville Town Court; Hornby Town Court; Hornellsville Town Court; Howard Town Court; Jasper Town Court; Lindley Town Court; Painted Post Village Court; Prattsburgh Town Court; Pulteney Town Court; Rathbone Town Court; Savona Village Court; Thurston Town Court; Troupsburg Town Court; Tuscarora Town Court; Urbana Town Court; Wayland Town Court; Wayland Village Court; Wayne Town Court; West Union Town Court; Wheeler Town Court; and Woodhull Town Court.²¹⁶ The city courts include Corning City Court and Hornell City Court.²¹⁷ The county covers 1,404 square miles and has a population of about 98,990.²¹⁸

²¹⁵Court Reference: Steuben County New York Court Directory, <http://www.courtreference.com/Steuben-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

²¹⁶*Id.*

²¹⁷*Id.*

²¹⁸New York State: Finger Lakes Steuben, <http://www.ny.gov/counties/steuben> (accessed Oct. 25, 2017).

52. Suffolk County. Suffolk County has a West End District Court, West End Village Court, and four East End Justice Courts.²¹⁹ There are 31 justice courts, and they include Amityville Village Court; Asharoken Village Court; Babylon Village Court; Belle Terre Village Court; Bellport Village Court; Brightwaters Village Court; East Hampton Town Court; Head of the Harbor Village Court; Huntington Bay Village Court; Islandia Village Court; Lake Grove Village Court; Lindenhurst Village Court; Lloyd Harbor Village Court; Mastic Beach Village Court; Nissequogue Village Court; Northport Village Court; Ocean Beach Village Court; Old Field Village Court; Patchogue Village Court; Poquott Village Court; Port Jefferson Village Court; Quogue Village Court; Riverhead Town Court; Saltaire Village Court; Shelter Island Town Court; Southampton Town Court; Southampton Village Court; Southold Town Court; Village of the Branch Justice Court; Westhampton Beach Village Court; and Westhampton Dunes Village Court.²²⁰ The county covers 2,373 square miles and has a population of about 1,493,350.²²¹

²¹⁹Telephone interview with Deborah Schneer, ILS *Hurrell-Harring* Coordinator (Feb. 22 and Mar. 3, 2017).

²²⁰Court Reference: Suffolk County New York Court Directory, <http://www.courtreference.com/Suffolk-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

²²¹New York State: Long Island Suffolk, <http://www.ny.gov/counties/suffolk> (accessed Apr. 20, 2017).

53. Sullivan County. Sullivan County has 18 justice courts.²²² The justice courts include Bethel Town Court; Bloomingburg Village Court; Callicoon Town Court; Cochection Town Court; Delaware Town Court; Fallsburg Town Court; Fremont Town Court; Highland Town Court; Liberty Town Court; Liberty Village Court; Lumberland Town Court; Mamakating Town Court; Monticello Village Court; Neversink Town Court; Rockland Town Court; Thompson Town Court; Tusten Town Court; and Woodridge Village Court.²²³ The county covers 997 square miles and has a population of about 77,547.²²⁴

²²²NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/sullivan_county_courts.htm (accessed Sept. 28, 2017); Court Reference: Sullivan County New York Court Directory, <http://www.courtreference.com/Sullivan-County-New-York-Courts.htm> (accessed Jan. 24, 2018).

²²³*Id.*

²²⁴New York State: Catskills Sullivan, <http://www.ny.gov/counties/sullivan> (accessed Sept. 28, 2017).

54. Tioga County. Tioga County has 12 justice courts.²²⁵ The justice courts include Barton Town Court; Berkshire Town Court; Candor Town Court; Candor Village Court; Newark Valley Town Court; Nichols Town Court; Owego Town Court; Owego Village Court; Richford Town Court; Spencer Town Court; Tioga Town Court; and Waverly Justice Court.²²⁶ The county covers 523 square miles and has a population of about 51,125.²²⁷

55. Tompkins County. Tompkins County has 11 justice courts and 1 city court.²²⁸ The justice courts include Caroline Town Court; Cayuga Heights Village Court; Danby Town Court; Dryden Town Court; Enfield Town Court; Freeville Village Court; Groton Town Court; Ithaca Town Court; Lansing Town Court; Newfield Town Court; and Ulysses Town Court.²²⁹ The city court is

²²⁵Court Reference: Tioga County New York Court Directory, <http://www.courtreference.com/Tioga-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

²²⁶*Id.*

²²⁷New York State: Finger Lakes Tioga, <http://www.ny.gov/counties/tioga> (accessed Oct. 25, 2017).

²²⁸Town of Ulysses, New York: City-Town-Village Courts of Tompkins County, <http://www.ulysses.ny.us/departments/departments-justice/justice-citytownsvillagecourtsoftompkinscounty> (accessed Mar. 22, 2017).

²²⁹*Id.*

Ithaca City Court.²³⁰ The county covers 492 square miles and has a population of about 101,564.²³¹

56. Ulster County. Ulster County has 21-22 justice courts and 1 city court.²³² The justice courts include Denning Town Court; Ellenville Village Court; Esopus Town Court; Gardiner Town Court; Hardenburgh Town Court; Hurley Town Court; Kingston Town Court; Lloyd Town Court; Marbletown Town Court; Marlborough Town Court; New Paltz Town Court; Olive Town Court; Plattekill Town Court; Rochester Town Court; Rosendale Town Court; Saugerties Town Court; Saugerties Village Court; Shandaken Town Court; Shawangunk Town Court; Ulster

²³⁰*Id.*

²³¹New York State: Finger Lakes Tompkins, <http://www.ny.gov/counties/st-lawrence> (accessed Apr. 20, 2017).

²³²NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/ulster_county_courts.htm (accessed Mar. 22, 2017); Court Reference: Ulster County New York Court Directory, <http://www.courtreference.com/Ulster-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

Town Court; Wawarsing Town Court; and Woodstock Town Court.²³³ The city court is Kingston City Court.²³⁴ The county covers 1,161 square miles and has a population of about 182,493.²³⁵

57. Warren County. Warren County has 11 justice courts and 1 city court.²³⁶ The justice courts include Bolton Justice Court; Chester Town Court; Hague Town Court; Horicon Town Court; Johnsbury Town Court; Lake George Town Court; Lake Luzerne Town Court; Queensbury Town Court; Stony Creek Town Court; Thurman Town Court; and Warrensburg Town Court.²³⁷

²³³*Id.*

²³⁴*Id.*

²³⁵New York State: Hudson Valley Ulster, <http://www.ny.gov/counties/ulster> (accessed Apr. 20, 2017).

²³⁶Court Reference: Warren County New York Court Directory, <http://www.courtreference.com/Warren-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

²³⁷*Id.*

The city court is Glens Falls City Court.²³⁸ The county covers 932 square miles and has a population of about 65,707.²³⁹

58. Washington County. Washington County has 22 justice courts.²⁴⁰ The justice courts include Argyle Town and Village Court; Cambridge Town Court; Cambridge Village Court; Dresden Town Court; Easton Town Court; Fort Ann Town Court; Fort Edward Town Court; Fort Edward Village Court; Granville Town Court; Granville Village Court; Greenwich Town Court; Greenwich Village Court; Hampton Town Court; Hartford Town Court; Hebron Town Court; Jackson Town Court; Kingsbury Town Court; Putnam Town Court; Salem Town Court; White

²³⁸*Id.*

²³⁹New York State: Adirondacks Warren, <http://www.ny.gov/counties/warren> (accessed Oct. 25, 2017).

²⁴⁰Court Reference: Washington County New York Court Directory, <http://www.courtreference.com/Washington-County-New-York-Courts.htm> (accessed Oct. 25, 2017).

Creek Town Court; Whitehall Town Court; and Whitehall Village Court.²⁴¹ The county covers 837 square miles and has a population of about 63,216.²⁴²

59. Wayne County. Wayne County has 18 justice courts.²⁴³ The justice courts include Arcadia Town Court; Butler Town Court; Galen Town Court; Huron Town Court; Lyons Town Court; Macedon Town Court; Marion Town Court; Newark Village Court; Ontario Town Court; Palmyra Town Court; Palmyra Village Court; Rose Town Court; Savannah Town Court; Sodus Town Court; Walworth Town Court; Williamson Town Court; Wolcott Town Court; and Wolcott Village Court.²⁴⁴ The county covers 1,384 square miles and has a population of about 93,772.²⁴⁵

²⁴¹*Id.*

²⁴²New York State: Capital-Saratoga Washington, <http://www.ny.gov/counties/washington> (accessed Oct. 25, 2017).

²⁴³Court Reference: Wayne County New York Court Directory, <http://www.courtreference.com/Wayne-County-New-York-Courts.htm> (accessed Sept. 18, 2017).

²⁴⁴*Id.*

²⁴⁵New York State: Finger Lakes Wayne, <http://www.ny.gov/counties/wayne> (accessed Sept. 18, 2017).

60. Westchester County. Westchester County has 35-38 justice courts and 6 city courts.²⁴⁶ The justice courts include Arsdley Village Court; Bedford Town Court; Briarcliff Manor Village Court; Bronxville Village Court; Buchanan Village Court; Cortlandt Town Court; Croton-on-Hudson Village Court; Dobbs Ferry Village Court; Eastchester Town Court; Elmsford Village Court; Greenburgh Town Court; Harrison Town Court; Hastings-on-Hudson Village Court; Irvington Village Court; Larchmont Village Court; Lewisboro Town Court; Mamaroneck Town Court; Mamaroneck Village Court; Mount Kisco Town Court; Mount Pleasant Town Court; New Castle Town Court; North Castle Town Court; North Salem Town Court; Ossining Town Court; Ossining Village Court; Pelham Manor Village Court; Pelham Town Court; Pleasantville Village Court; Port Chester Village Court; Pound Ridge Town Court; Rye Town Court; Scarsdale Town Court; Scarsdale Village Court; Sleepy Hollow Village Court; Somers Town Court; Tarrytown Village Court; Tuckahoe Village Court; and Yorktown Town Court.²⁴⁷ The city courts include

²⁴⁶NY JusticeCourts.org: Justice Courts Directory by County, http://nyjusticecourts.org/westchester_county_courts.htm (accessed Mar. 30, 2017); Court Reference: Westchester County New York Court Directory, <http://www.courtreference.com/Westchester-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

²⁴⁷*Id.*

Mount Vernon; New Rochelle; Peekskill; Rye; White Plains; and Yonkers City Courts.²⁴⁸ The county covers 450 square miles and has a population of about 968,802.²⁴⁹

61. Wyoming County. Wyoming County has 21 justice courts.²⁵⁰ The justice courts include Arcade Town Court; Arcade Village Court; Attica Town Court; Attica Village Court; Bennington Town Court; Castile Town Court; Covington Town Court; Eagle Town Court; Gainesville Town Court; Genesee Falls Town Court; Java Town Court; Middlebury Town Court; Orangeville Town Court; Perry Town Court; Perry Village Court; Pike Town Court; Sheldon Town Court; Silver Springs Village Court; Warsaw Town Court; Warsaw Village Court; and

²⁴⁸*Id.*

²⁴⁹New York State: Hudson Valley Westchester, <http://www.ny.gov/counties/westchester> (accessed Apr. 20, 2017).

²⁵⁰Court Reference: Wyoming County New York Court Directory, <http://www.courtreference.com/Wyoming-County-New-York-Courts.htm> (accessed Mar. 30, 2017).

Wethersfield Town Court.²⁵¹ The county covers 596 square miles and has a population of about 42,155.²⁵²

62. Yates County. Yates County has 11 justice courts.²⁵³ The justice courts include Barrington Town Court; Benton Town Court; Dundee Village Court; Italy Town Court; Jerusalem Town Court; Middlesex Town Court; Milo Town Court; Penn Yan Village Court; Potter Town Court; Starkey Town Court; and Torrey Town Court.²⁵⁴ The county covers 338 square miles and has a population of about 25,156.²⁵⁵

E. CAFA awards

²⁵¹*Id.*

²⁵²New York State: Greater Niagara Wyoming, <http://www.ny.gov/counties/wyoming> (accessed Apr. 20, 2017).

²⁵³Court Reference: Yates County New York Court Directory, <http://www.courtreference.com/Yates-County-New-York-Courts.htm> (accessed Apr. 5, 2017).

²⁵⁴*Id.*

²⁵⁵New York State: Finger Lakes Yates, <http://www.ny.gov/counties/yates> (accessed Apr. 20, 2017).

As a result of *Hurrell-Harring*'s groundbreaking decision, the New York State Office of Indigent Legal Services (“ILS”) issued a Request for Proposal (“RFP”) in 2012 to relieve the burdens preventing counsel from representing defendants at arraignment. The competitive RFP would disburse \$12 million over a 3-year period for CAFA. Twenty-five counties applied for those grants:

| | | | | |
|----------------|-------------|--------------|------------------|-----------------|
| 1. Albany | 6. Dutchess | 11. Niagara | 16. Rensselaer | 21. Tompkins |
| 2. Broome | 7. Erie | 12. Oneida | 17. Rockland | 22. Ulster |
| 3. Cattaraugus | 8. Herkimer | 13. Onondaga | 18. Schuyler | 23. Westchester |
| 4. Cayuga | 9. Monroe | 14. Ontario | 19. St. Lawrence | 24. Wyoming |
| 5. Chemung | 10. Nassau | 15. Oswego | 20. Suffolk | 25. Yates |

Those counties included four counties within the *Hurrell-Harring* settlement (Onondaga, Ontario, Schuyler, and Suffolk), as well as counties outside of the settlement.

ILS also established new eligibility guidelines for defendants applying for public defense and 18B representation. Under the new guidelines, “[a]n applicant shall be eligible for assignment of counsel when the applicant’s current available resources are insufficient to pay for a qualified attorney, release on bond, the expenses necessary for a competent defense, and the

reasonable living expenses of the applicant and any dependents. Applicants are presumptively eligible for assignment of counsel if their net income is at or below 250% of the Federal Poverty Guidelines.”²⁵⁶ As a result of the new guidelines, eligibility for “assigned counsel” has been raised from 125% to 250%, and it is expected that more defendants will qualify for and be represented by court-appointed attorneys and likely mandated representation caseloads will increase.

New RFPs for CAFA were released for competitive application in January 2017. The grants will last three years, again, and it is expected that \$2.25 million more will be available for disbursement. Knowing that those amounts of money may not be enough for the influx (and approval) of applicants, ILS has requested a budget increase of \$8 million for CAFA.²⁵⁷ Thirty-seven counties applied; however, only 30 were approved:²⁵⁸

| | | | | |
|-----------|-------------|-------------|------------|------------------|
| 1. Albany | 7. Columbia | 13. Madison | 19. Oswego | 25. St. Lawrence |
|-----------|-------------|-------------|------------|------------------|

²⁵⁶*Criteria and Procedures for Determining Assigned Counsel Eligibility*, NYS Office of Indigent Legal Services (Apr. 4, 2016).

²⁵⁷ ILS Budget Request for FY 2017-2018.

²⁵⁸Second Counsel at First Appearance Tentative Awardee’s, NYS Office of Indigent Legal Services, <https://www.ils.ny.gov/files/Hurrell-Harring/Counsel%20At%20Arrest/Second%20Counsel%20at%20First%20Appearance%20Counties.pdf> (accessed May 10, 2017).

| | | | | |
|----------------|-------------|----------------|-----------------|-----------------|
| 2. Allegany | 8. Dutchess | 14. Monroe | 20. Putnam | 26. Tompkins |
| 3. Broome | 9. Erie | 15. Montgomery | 21. Rensselaer | 27. Warren |
| 4. Cattaraugus | 10. Fulton | 16. Nassau | 22. Rockland | 28. Wayne |
| 5. Cayuga | 11. Genesee | 17. Niagara | 23. Saratoga | 29. Westchester |
| 6. Chemung | 12. Greene | 18. Oneida | 24. Schenectady | 30. Wyoming |

F. CAFA programs

In each grant application, the counties outlined their plans to implement CAFA. Several different plans currently exist:

1. Albany County. (1) The Public Defender Office administers the RFP. It groups 18 of its attorneys (down from 24-26 at the program’s inception) into teams of 3 attorneys each. Each team is on call for one week at a time. Each team covers arraignments 24 hours a day, 7 days per week.

(2) Court clerks and judges notify attorneys of arraignments by calling their personal cell phones. Court clerks notify during business hours, and judges notify after business hours. Each

Friday, the office distributes a list to all clerks and judges of the team of attorneys on call for the next week along with their contact information.

(3) The attorneys on call for the week receive a bonus added to their regular salaries, regardless of the number of arraignments they attend. They are not compensated additionally for mileage.²⁵⁹

2. Allegany County. (1) The Public Defender Office administers the RFP. It will hire an attorney whose sole responsibility will include covering after-business-hours and weekend arraignments. That attorney will not have a regular caseload until the office assures that the attorney is not overwhelmed or exhausted by after-business-hours calls. It has not begun covering those arraignments, yet, because it is accepting applications, but it has not received many.²⁶⁰

3. Broome County. (1) The Assigned Counsel Program implements the RFP. The Public Defender Office handles arraignments during regularly scheduled PD court dates or when assigned counsel is unavailable.

²⁵⁹All of the information about Albany County's CAFA program was provided via a telephone interview with Tina Sodhi, Assistant Public Defender, Albany County (Apr. 19, 2014).

²⁶⁰All of the information about Allegany County's CAFA program was provided via a telephone and email interview with Barbara Kelley, Public Defender, Allegany County (Oct. 3, 2017).

(2) Attorneys cover felony arraignments on a weekly, rotating basis from 5 p.m. to 7 a.m.

As a result, each attorney covers about 4 weeks per year.

(3) One attorney is assigned to city court for weekday arraignments. City court also dedicates Saturdays 8 a.m. -10 a.m. for weekend arraignments.

(4) Courts call either of two dedicated telephone numbers during regular business hours to notify attorneys of arraignments.

(5) Attorneys are paid for mileage; however, they receive no additional compensation to cover 24/7 arraignments. Attorneys are paid only up to 37½ hours per week.²⁶¹

3. Cattaraugus County. (1) The Public Defender Office administers the RFP. The office's seven attorneys participate in arraignments; however, the RFP was used to hire one attorney, one investigator, and part-time clerical assistance.

(2) Six of the seven attorneys are on a weekly on-call schedule, 24/7. The seventh attorney serves as back-up. The city courts have regular Saturday morning arraignment sessions for defendants who are arrested Friday evening, overnight, or Saturday morning.

²⁶¹All of the information about Broome County's CAFA program was provided via a telephone and email interview by Michelle Tarangelo with Jay L. Wilber, Public Defender, Broome County (Mar. 7, 2014).

(3) City police notify attorneys of arraignments in city courts, the Allegany Town Court Judge notifies them of arraignments in his court, and the Sheriff's Department notifies of arraignment in all other justice courts. During business hours, they call the Public Defender Office, but after business hours, they notify by dialing a designated telephone number, and those calls are forwarded to the on-call attorney's personal cell phone. The designated telephone number was distributed to each court and police agency, as well as printed into business cards.

(4) Business-hours and on-call arraignments are part of the attorneys' job descriptions; therefore, they do not receive additional compensation for it.²⁶²

4. Cayuga County. (1) The Assigned Counsel Program implements the RFP. Eight attorneys rotate on an on-call basis from 9 a.m. to 4 p.m. Monday through Friday to handle arraignments in Auburn City Court. Off-hours arraignments occur without counsel.

(2) The attorney-of-the-day appears in court each morning to handle any arraignments from arrests overnight. The Assigned Counsel Coordinator gives the court a monthly calendar of which attorney is assigned to which day, along with each attorney's personal cell phone number to contact that attorney, and the court will use that list to notify the on-call attorney of any arraignments that occur after the morning.

(3) Each attorney is paid \$200 per day.

²⁶²All of the information about Cattaraugus County's CAFA program was provided via an email interview with Mark S. Williams, Public Defender, Cattaraugus County (Apr. 13, 2017).

(4) In the next round of RFP applications, the county will apply for funding to include arraignment coverage 24/7 countywide.²⁶³

5. Chemung County. (1) The Conflict Defender implements the RFP. The Public or Conflict Defender Offices handle daytime arraignments. An “Arraignment Bureau” handles arraignments from 4:30 p.m. to 8:30 a.m. Monday through Friday, weekends, and holidays.

(2) Four part-time attorneys and one clerical assistant staff the bureau (former or current employees of the public or conflict defender offices). The attorneys rotate an on-call schedule.

(3) Courts contact the regular Public or Conflict Defender Office during regular business hours to notify of arraignments. Law enforcement or courts call a designated Google telephone number, and when called, it forwards directly to the attorney’s private telephone. The attorney responds to the court, interviews the defendant, and then, appears for arraignment.

(4) The four attorneys are paid a salary for their services based on their rotation hours. The attorney working every Monday and Tuesday night, as well as one weekend per month earns the most. The two attorneys who work every other Wednesday and Thursday night, as well as

²⁶³All of the information about Cayuga County’s CAFA program was provided via a telephone and email interview by Robert Jereski with Lloyd E. Hoskins, Assigned Counsel Administrator, Cayuga County (Mar. 22 and 23 2017).

one weekend per month each earn about one-half as the first. The attorney who works one weekend per month earns about one-quarter as the first.²⁶⁴

6. Columbia County. (1) The Public Defender office administers the RFP. Originally (three to four years ago), staff attorneys would have received a stipend to cover arraignments after business hours; however, the county's comptroller refused to authorize stipends for salaried attorneys.

(2) Instead of appearing at arraignments in person, staff attorneys were provided with arraignment cell phones. Each attorney carried the phone one week at a time, and judges notified attorneys of arraignments by calling the telephone number after business hours.

(3) Attorneys spoke with defendants over the phone, then, they conferenced the matter with judges.

(4) Now, the new grant proposes for one attorney to work on cases and appeals overnight. That attorney would appear in person for arraignments at any of five selected arraignment courts (courts selected based on high arraignment values).²⁶⁵

²⁶⁴All of the information about Chemung County's CAFA program was provided via a telephone and email interview by Robert Jereski with John P. Brennan, Conflict Defender, Chemung County (Mar. 21, 2017).

²⁶⁵All of the information about Columbia County's CAFA program was provided via a telephone and email interview by Sherry Levin Wallach with Robert Linville, Public Defender, Columbia County (Sept. 18, 2017).

7. Dutchess County. (1) The Public Defender Office implements the RFP. Three full-time staff attorneys cover arraignments county-wide 24/7. Other staff attorneys provide back-up to cover arraignments when those three attorneys are unavailable.

(2) Less than 1% of arraignments occur without an attorney, as a result of the arraignment court not calling or not waiting until the attorney arrives.

(3) Courts call designated telephone numbers to notify the attorney of an arraignment.

(4) Further information about Dutchess County's program is available from a report being prepared by SUNY Albany.²⁶⁶

8. Erie County. (1) The Assigned Counsel Program implements the RFP. Assigned Counsel covers the justice courts and city courts (other than Buffalo City Court, which is covered by Legal Aid Bureau of Buffalo Criminal Defense Unit under a separate contract). There are two programs: Attorney of the Day ("AOD") and Attorney on Call ("AOC").

(2) Under AOD, attorneys are assigned only to the most congested day courts. Attorneys are re-trained on procedures regarding arraignment and bail in local courts, and submit a

²⁶⁶All of the information about Dutchess County's CAFA program was provided via a telephone and email interview by Michelle Tarangelo with Thomas N. Angell, Public Defender, Dutchess County (Feb. 24, 2017).

summary of the arraignments along with copies of accusatory instruments within 24 hours of each arraignment. They verify 24 hours in advance whether they will be needed for a regularly scheduled court calendar.

(3) The balance of the courts receives AOCs. Erie County is arbitrarily divided into geographical zones. At least one AOC is available 24 hours a day, 7 days a week per zone. Judges or court clerks contact the AOC at least 1 hour before arraignments occur; court personnel call a special line (which is reset once weekly) which connects to the attorney's personal cell phone. 18B panel members have volunteered to handle specific courts, and they are rotated weekly by agreement among themselves.

(4) At first, AOCs received an iPad mini with 4G data service to access an online portal to enter on-call cases. AOCs also were provided a special cell phone. As of July 2015, however, use of the iPads, special cell phones, and web portal became unnecessary and cost prohibitive; therefore, the iPads and cell phones have been discontinued.

(5) AODs are paid hourly for time spent in court; however, they were capped at 2-4 billable hours. AOCs are paid by quarterly stipend based on the number of cases they handled and mileage traveled. In July 2015, the 2-4 cap disappeared, as some less congested day courts required AODs to remain several hours for regular arraignment dockets.

(6) Assigned Counsel holds regular meetings to set coverage calendars in each court.²⁶⁷

9. Genesee County. (1) The office will rely on a list of qualified attorneys from the 18B panel of the local and six adjoining counties. Those attorneys would cover arraignments one week at a time on a rotating basis.

(2) Judges or law enforcement will notify the attorneys of arraignments by contacting them by a designated telephone number. The attorneys will rotate that designated cell phone. They would have to appear in court for arraignment within a reasonable amount of time.

(3) The attorneys will rotate a smart phone and iPad, equipped with the necessary apps to advocate zealously for defendants. They also may contact the public defender by telephone at any time for additional assistance.

(4) After arraignment, the attorneys will prepare a report immediately after the arraignment and scan it to the public defender office. The report will attach all papers received from the court and from law enforcement. That will allow the office to follow up with the defendant.

²⁶⁷ All of the information about Erie County's CAFA program was provided via an email interview with James Auricchio, CAFA Coordinator, Bar Association of Erie County Assigned Counsel (Nov. 22, 2016).

(5) Attorneys will cover only after business hours arraignments. Attorneys will not cover arraignments during business hours unless they occur during the court's regularly scheduled calendar when an attorney already is present.

(6) Attorneys will receive weekly stipends when they are on call, as well as mileage per arraignment and an hourly rate per arraignment (\$75/hour).²⁶⁸

10. Greene County. (1) The Public Defender Office administers the RFP. Three attorneys will participate in the program, with one on-call attorney and one back-up attorney at all times. Each attorney will have a cell phone at which she will be notified of arraignments.

(2) Five courts will participate in the program.

(3) Judges will notify the primary on-call attorney of arraignments, then the back-up attorney, if needed.

(4) The on-call attorney will receive more compensation than the back-up attorney, and weekends and holidays have different compensation rates.²⁶⁹

²⁶⁸All of the information about Genesee County's CAFA program was provided via an email interview with Jerry Ader, Public Defender, Genesee County (Oct. 2, 2017).

²⁶⁹All of the information about Greene County's CAFA program was provided via a telephone interview by Priyanka Verma with Angelo F. Scaturro, Public Defender, Greene County (Oct. 16, 2017).

11. Herkimer County. This committee has contacted Herkimer County for information on its CAFA program and looks forward to receiving its response. Upon information and belief, while the grant was awarded, the County chose to reject the grant.

12. Madison County. (1) The Public Defender Officer administers the RFP. Seven attorneys cover arraignments 24/7. One attorney covers off-hours arraignments per week.

(2) Dispatch notifies attorneys of after-business-hours arraignments by calling the attorney's telephone number. Courts notify attorneys of business-hours arraignments by calling the public defender office.

(3) Attorneys receive \$150 per week that they are on-call, as well as \$150 per arraignment after business hours.²⁷⁰

13. Monroe County. (1) The Public Defender Office always covered arraignments in the county and city court. The CAFA program began under the first RFP, allowing the office to cover

²⁷⁰All of the information about Madison County's CAFA program was provided via a telephone and email interview by Nishat Tabassum with Paul Hadley, Public Defender, Madison County (Oct. 20, 2017).

arraignments in the justice courts, as well, then the program was expanded in 2015 when additional funding became available.

(2) At first, attorneys covered only daytime arraignments (8 a.m. to 8 p.m.) with some weekend coverage (8 a.m. to 8 p.m.). Attorneys in the Town Court Division of the office rotated coverage Monday through Friday with two attorneys on call at two special cell phone numbers each day. Non-Town Court attorneys covered weekend arraignments. Justice Courts contacted attorneys at those numbers to notify them of arraignments. Courts also combined arraignment dockets with regular court schedules and disposition dockets to dispose of arraignments at other scheduled court appearances.

At first, no additional attorneys were hired; instead, the attorneys on staff participated in the program. In 2015, the program expanded to 24/7 coverage. Additional funding allowed the hiring of additional staff. One attorney per night from the Criminal Division is on call for overnight arraignments Monday through Thursday from 8 p.m. to 8 a.m. One attorney from Friday 8 p.m. through Monday 8 a.m. is on call for weekend arraignments.

Fifty-three attorneys are in the Criminal Division and participate in the program (including the Town Court Division). Attorneys in the appeals and family court divisions do not participate.

(3) The attorney who answers the call receives background information about the defendant. The attorney then notifies pre-trial services about that information, and pre-trial assesses the defendant over the phone and issues a release assessment.

(4) Payment is included as part of the attorneys' salaries.²⁷¹

14. Montgomery County. This committee has contacted Montgomery County for information on its CAFA program and looks forward to receiving its response.

15. Nassau County. This committee has contacted Nassau County for information on its CAFA program and looks forward to receiving its response.

16. Niagara County. This committee has contacted Niagara County for information on its CAFA program and looks forward to receiving its response.

17. Oneida County. (1) The Public Defender Office administers the RFP. It provides one full-time public defender and one part-time public defender (along with one investigator).

(2) Attorneys appear daily at regularly-scheduled court hours during the mornings and evenings on weekends and on holidays in the city courts of Utica and Rome. Attorneys are on

²⁷¹All of the information about Monroe County's CAFA program was provided via a telephone interview with Timothy P. Donaher, Public Defender, Monroe County (Feb. 1, 2017).

call at other times in those city courts. Attorneys also appear at regularly scheduled court hours to continue vertical representation of the defendants at whose arraignments they appeared.

(3) In 2016, the Fifth Judicial District Administrative Judge ended off-hours arraignments in those city courts; instead, he created regular arraignment hours on weekends and holidays (8:30 a.m. to 10:00 a.m.). He also provided security and court clerks during those hours. Despite this system, specific public defenders remain on-call for emergency arraignments in those courts; however, none have occurred, yet.

(4) In 2017, the Fifth Judicial District Administrative Judge submitted a plan for centralized off-hours arraignments. Off-hours arraignments would occur at the Oneida County Correctional Facility (a courtroom already has been constructed). Arraignments would occur there daily from 6 p.m. to 10 p.m. for any justice courts off-hours. The Administrative Judge will schedule town and village judges. State legislation is being sought to detain pre-arraignment arrestees.

(5) Under the 2017 proposal, two assistant public defenders and one part-time defender (perhaps one more full-time assistant) would appear at on-hours arraignments. Justice courts will provide private areas for attorneys to consult with their defendants.²⁷²

²⁷²All of the information about Oneida County's CAFA program was provided via a telephone and email interview by Michelle Tarangelo with Frank J. Nebush, Jr., Public Defender, Oneida County (Mar. 30, 2017).

18. Onondaga County. (1) The Assigned Counsel Program (“ACP”) provides attorneys to cover arraignments. Fifty-seven attorneys participate in the program.

(2) Only half of the justice courts received arraignment coverage during regular court sessions. One qualified felony ACP and one qualified misdemeanor ACP appear at each session. A 15th court receives coverage, but it only is covered by one ACP.

(3) As a result of the *Hurrell-Harring* settlement, the other 13 justice courts receive one ACP at each regular court session to cover arraignments. To cover off-hours arraignments in all 28 justice courts, the County was divided into seven geographic regions with a list of on-call attorneys available in each of those regions. Two attorneys are on call at all times, and each attorney has a designated “on-call telephone”. On-call attorneys receive \$25 per day and \$150 per arraignment at which they appear. Judges call the attorneys on the designated telephones to notify them of the arraignments.²⁷³

²⁷³All of the information on Onondaga County’s CAFA program comes from: Implementing the Counsel at Arraignment Obligations in the *Hurrell-Harring v. The State of New York* Settlement 2016 Update, <https://www.ils.ny.gov/files/Hurrell-Harring/Quality%20Improvement/Hurrell-Harring%20Updated%20Quality%20Improvement%20Plan%20111016.pdf> (accessed Mar. 3, 2017); Interview, *supra* at n 212.

19. Ontario County. (1) The Public Defender Office implements the RFP. It includes 1 public defender and 12 staff attorneys. Attorneys cover arraignments at regular “DA sessions” in justice courts.

(2) Attorneys cover off-hours arraignments in three on-call rotations:

(A) 8:30 a.m. - 5:00 p.m.

(B) 5:00 p.m. - 10:00 p.m.

(C) 8:30 a.m. - 10:00 p.m. on weekends and holidays

(3) There are no attorneys available for arraignments that occur after 10 p.m. Defendants arrested after 10 p.m. are detained and arraigned with counsel in the morning in either Canandaigua or Geneva City Court.

(4) As a result of the *Hurrell-Harring* settlement, the Public Defender Office anticipated hiring two additional staff attorneys to cover arraignments at non-DA court sessions. The Public Defender Office would create a list of private attorneys to be available for on-call arraignments on evenings, weekends, and holidays.

(5) There is no salary increase for the staff attorneys covering on-call or off-hours arraignments. Private attorneys participating in the program would receive \$75 per arraignment plus an additional \$150 per day; \$300 per weekend; or \$300 per holiday, whichever applies.

(6) For defendants arraigned after 10 p.m., the Public Defender Office reviewed the jail list each morning to identify defendants who were arraigned without counsel, then, it scheduled an immediate arraignment.²⁷⁴

20. Oswego County. This committee has contacted Oswego County for information on its CAFA program and looks forward to receiving its response.

21. Putnam County. This committee has contacted Putnam County for information on its CAFA program and looks forward to receiving its response.

22. Rensselaer County. (1) The Public Defender administers the RFP.

(2) The Conflict Defender has a part-time attorney who organizes the on-call schedule, handles reporting requirements, and covers arraignments from 9 a.m. to 5 p.m. if other staff attorneys are unavailable.

(3) The RFP covers six major courts for arraignments (county court, city courts, and three justice courts: Brunswick, North Greenbush, and East Greenbush). That covers 85-90% of the county-wide arraignments.

²⁷⁴*Id.*

(4) There are 24/7 arraignments.

(5) The attorney is on-call for one week at a time in both offices. The court or police agency call a Google Voice account phone number, which transfers to the on-call attorney's personal cell phone to notify the attorney of an arraignment. Each attorney participating in the program has her number entered into the voice account. There is one voice account for the Conflict Defender and one for the Public Defender, and the organization on call for the week verifies that the account is set to dial the correct attorney for the week.

(6) County and city courts handle arraignments only during business hours Monday through Friday, and city-court has holding cells to incarcerate inmates overnight to be arraigned the next morning.²⁷⁵

23. Rockland County. (1) The Public Defender Office administers the RFP. It employs 19 attorneys; however with the RFP, it was able to hire 2 part-time attorneys and one part-time secretary. The two part-time attorneys cover after business hours and weekend arraignments for one week at a time.

²⁷⁵All of the information about Rensselaer County's CAFA program was provided via a telephone and email interview by Robert Jereski with Sandra McCarthy, Conflict Defender, Rensselaer County (Mar. 27, 2017).

(2) Courts contact the attorneys on a special cell phone (flip phone) to notify them of after business hours arraignments. Office attorneys cover several arraignments at the end of regularly scheduled court calendars, as well.

(3) If courts call attorneys or the office during non-calendar business hours to notify of arraignments, though, no one appears to represent the defendants, and arraignments proceed without counsel; the office investigator will interview those defendants the next morning, and a bail application will be argued, as needed.

(4) Attorneys covering court-calendar arraignments or full-time attorneys covering after business hours arraignments (as needed) do not receive additional compensation. The RFP funds were used to hire the part-time attorneys and secretary.²⁷⁶

24. Saratoga County. (1) The Public Defender Office administers the RFP. Five attorneys would cover arraignments 24/7. They would receive telephones upon which the arraigning judge would notify them of arraignments.

(2) Arraignments would occur at either of two locations: a northern court and a southern court.

²⁷⁶All of the information about Rockland County's CAFA program was provided via a telephone interview with James D. Licata, Public Defender, Rockland County (Apr. 11, 2017).

(3) Primary attorneys on call Monday through Thursday would receive \$150 for being available, whether they are able to appear at the arraignments. The back-up attorney would receive \$150 for appearing at arraignments at which the primary attorney would be unable to appear. The attorney on call Friday through Sunday would receive \$750 for being available, whether or not she is able to appear at the arraignments.²⁷⁷

25. Schenectady County. (1) The Public Defender Office administers the RFP. Schenectady is awaiting receipt of ILS CAFA 2 funding before creating or implementing its program.²⁷⁸

26. Schuyler County. (1) The Public Defender Office implements the RFP. Two full-time public defenders cover all off-hours arraignments during business hours. One part-time public defender covers arraignments during 5:00 p.m. - 11:30 p.m. The three attorneys also cover arraignments at all regular court DA-sessions.

²⁷⁷All of the information about Saratoga County's CAFA program was provided via a telephone interview by Priyanka Verma with Oscar Schreiber, Public Defender, Saratoga County (Oct. 13, 2017).

²⁷⁸All of the information about Schenectady County's CAFA program was provided via a telephone interview by Priyanka Verma with Stephen M. Signore, Public Defender, Schenectady County (Oct. 13, 2017).

(2) Judges notify the attorneys of arraignments by calling an on-call telephone number.

(3) Although the attorneys are unavailable for overnight arraignments, judges notify them of those arraignments. Attorneys track the number of arraignments that way, as well as arrange for immediate morning arraignments for defendants arraigned without counsel the night before.

(4) As a result of the *Hurrell-Harring* settlement, an on-call attorney covers weekend and holiday arraignments from 9 a.m. to 9 p.m. The attorney is paid \$200 per day. Judges notify the attorney of arraignments by calling a special on-call telephone. Defendants arraigned after 9 p.m. without counsel are arraigned immediately the next morning with counsel.

(5) Also under the settlement, the Public Defender could hire an additional full-time and part-time attorney to cover off-hours, non-DA session arraignments, unless arresting officers increase the issuance of appearance tickets returnable on DA-session dates.²⁷⁹

27. St. Lawrence County. (1) The County administers the RFP. The County orders the courts to assign attorneys at arraignment. If the CAFA attorney cannot remain on the case, though, the Public Defender Office will continue representing the defendant.

²⁷⁹All of the information on Schuyler County's CAFA program comes from *Implementing Obligations*, *supra* at n 271; Interview, *supra* at n 219.

(2) The Assigned Counsel Program, Public Defender and Conflict Defender give a list to courts of attorneys available for arraignments at which times of day, along with their personal contact telephone numbers. Judges call the attorneys to notify them of arraignments.

(3) Attorneys are paid \$75 per hour per arraignment.²⁸⁰

28. Suffolk County. (1) The Legal Aid Society (“LAS”) and Assigned Counsel Program (“ACP”) implement the RFP. District Court covers five western towns in Suffolk County. Two parts cover arraignments: D-11 covers those who are detained and arraigned the next day (operates seven days per week), and SAP covers defendants who are issued an appearance ticket and scheduled for arraignment on a specific day (operates five days per week). LAS covers D-11 arraignments.

(2) West End Village Court arraignments are covered by LAS. LAS covers all scheduled court sessions.

(3) East End arraignments encompass four town courts. LAS covers court session and off-hours arraignments in those courts. No one covers weekend arraignments in those courts, though.

²⁸⁰All of the information about St. Lawrence County’s CAFA program was provided via a telephone and email interview by Michelle Tarangelo with Scott B. Goldie, Assigned Counsel Administrator, St. Lawrence County (Mar. 28, 2017).

(4) As a result of the *Hurrell-Harring* settlement, ACP covers D-11 conflicts, as well as SAP. Also, LAS could hire two additional attorneys to cover weekday coverage for the rest of the East End courts (five more courts). Finally, the County would contract with private attorneys to be on-call for weekend and holiday arraignments, and ACP would handle the administration of the on-call program.²⁸¹

29. Tompkins County. (1) The Assigned Counsel Program implements counsel at first appearance. Assigned Counsel has 30 attorneys in its CAFA program. Only one attorney is on call from 12:00 p.m. to 12:00 p.m. each day. Each justice court judge has a list of which attorney is on call for which day, as well as each attorney's contact information (home and cell phone—there is no dedicated CAFA telephone number). Judges call the attorneys to notify them of arraignments.

(2) When there simultaneous arraignments in different courts, the attorney on call may ask the judge to wait. If the judge cannot wait, then the judge may call the supervising Assigned Counsel Coordinator to represent the defendant at arraignment.

(3) The Assigned Counsel Coordinator schedules attorneys one to two months ahead of time according to the attorneys' availabilities. The coordinator gives those finalized schedules to the judges.

²⁸¹Implementing Obligations, *supra* at n 273; Interview, *supra* at 219.

(4) Attorneys are paid hourly at assigned counsel rates. Attorneys covering holidays (10 holidays per year) are paid an additional \$250 stipend per holiday.²⁸²

30. Ulster County. (1) Ulster County applied for the grant in 2014, and it was approved; however no plan has been implemented, yet, because the county has received only ILS formulated money, so far.

(2) The original plan called for 4 arraignment courts (county in quadrants): 2 attorneys assigned to each quadrant (keeping the geographical residence of attorneys in mind - a 15 to 20 minute ride to each court). There would be overnight arraignment coverage. Daytime arraignments would be without counsel (usually, one of the adjacent courts were operating, and an attorney would be present to cover it).

(3) Each attorney would be issued a tablet that would have a notification, and they would respond. Courts would notify attorneys of arraignments.

(4) Centralized arraignments will allow a reduction from four to two attorneys.

(5) Attorneys would be paid extra with grant money with a stipend.²⁸³

²⁸²All of the information about Tompkins County's CAFA program was provided via a telephone and email interview by Michelle Tarangelo with Julia P. Hughes, Assigned Counsel Coordinator, Tompkins County (Mar. 17 and 20, 2017).

31. Warren County. (1) The Public Defender Office administers the RFP. Eight attorneys participate in CAFA. The attorneys cover arraignments throughout the day, after business hours (only until 10 p.m.), on weekends, and on holidays.

(2) The attorneys that cover after-business hours arraignments rotate a telephone among each other to be notified of arraignments. The District Attorney's office, police, or judges notify them of those arraignments via a telephone call or text message.

(3) Payment for arraignment coverage is incorporated into the attorneys' salaries and vacation time.²⁸⁴

32. Wayne County. (1) The Public Defender Office administers the RFP. Originally, it used formulated money for a part-time position to cover all 24/7 arraignments countywide, but it soon realized that CAFA was too overwhelming for just one part-time position. Then, it began a pilot

²⁸³All of the information about Ulster County's CAFA program was provided via an email interview with Andrew Kossover, Public Defender, Ulster County (Feb. 22, 2017).

²⁸⁴All of the information about Warren County's CAFA program was provided via a telephone and email interview by Priyanka Verma with Marcy I. Flores, Public Defender, Warren County (Oct. 2, 2017).

project to provide attorneys at arraignments 24/7 in four of its justice courts. The courts include Arcadia Town Court, Newark Village Court, Palmyra Town Court, and Palmyra Village Court.

(2) Seven attorneys are available for Palmyra arraignments, and five attorneys are available for Arcadia and Newark arraignments. The office provides judges with a list of three attorneys to call and telephone numbers by which to call them. The first attorney is the primary attorney on-call, and the next two are back-ups.

(3) Monday through Friday during business hours, the three full-time public defenders appear for on-call arraignments in those courts. Almost all daytime arraignments are covered. Evenings, weekends, and holidays are covered by lists of public defenders and available 18B attorneys. Arraignment coverage lasts 7am-9am and 5pm-10pm Monday through Thursday, as well as 5pm Friday - 9am Monday.

(4) Weekday after business hours arraignments pay \$150 per arraignment. Weekend and holiday arraignments pay \$200 per arraignment. Funds are paid from the formulated money set aside for the part-time position. The rates used to be \$50 lower in each category; however they were raised to retain interest and participants in the program.²⁸⁵

²⁸⁵All of the information about Wayne County's CAFA program was provided via an email interview with Andrew D. Correia, First Assistant Public Defender, Wayne County (Sept. 18, 2017).

33. Westchester County. (1) The Legal Aid Society of Westchester County (“LAS”) administers the RFP. During business hours, it assigns two attorneys to appear at any court for arraignments. Attorneys also appear during regularly scheduled justice court sessions and cover arraignments, as necessary (not considered a CAFA appearance). After business hours, two staff attorneys per region are on-call from 5 p.m. to 8 a.m. (except just one attorney on Friday) and on weekends.

(2) The county is divided into three regions: North, Central, and South. A telephone number is designated for each area. LAS gives the courts the telephone number to call for their specific area to notify of an arraignment. During business hours, the assigned CAFA attorneys contact their jurisdictions’ police before 8 a.m. and around noon to leave the business-hours contact telephone number of the day. Generally only court clerks call to notify attorneys of arraignments, though, and police do not call.

(3) Monday through Thursday, 5 p.m. to 9 p.m., one telephone number is contacted to notify of arraignments. The secretary answering the call collects all relevant information, then relays that information to the on-call attorney. After 9 p.m., as well as on weekends, the calls are forwarded to the CAFA coordinator (an attorney from LAS or the Executive Director) who contacts the appropriate on-call attorney.

(4) Attorneys covering business-hours arraignments are not paid extra as the responsibility to represent defendants at arraignments is listed as part of their job responsibilities; however, they may seek reimbursement for mileage. CAFA attorneys are paid for being on call; however, they do not receive extra compensation for going out. Overnight CAFA attorneys are paid if they go out to an arraignment, though.

(5) Yonkers and Mount Vernon City Courts regularly schedule weekend arraignment hours.

(6) Legal Aid represents defendants charged with felonies. Defendants charged with misdemeanors or who conflict out on felonies are represented by 18B attorneys. As a result, LAS has not been available (as a rule) for misdemeanor arraignments. Nevertheless, because no defendant should be arraigned without counsel, LAS will appear for misdemeanor arraignments; however, it encourages judges and police to contact available 18B attorneys, first. LAS will ask to be relieved from further assignment after appearing at arraignment, though, because LAS's contract does not allow them to represent defendants on misdemeanors.²⁸⁶

34. Wyoming County. (1) The Public Defender Office implements the RFP. Three assistant public defenders are on call during business hours for arraignments in any court. If the attorneys are unavailable, then they may select from a list of designated 18B panel members.

(2) Two of the attorneys are on call after business hours and on weekends for arraignments in the justice courts. Either judges, sheriff deputies, or sheriff's dispatch contact the defenders at a designated cell phone number to notify them of the time and place of the arraignment. If the attorneys are unavailable, then they may select from a list of designated 18B panel members.

²⁸⁶All of the information about Westchester County's CAFA program was provided via an email interview with Clare J. Degnan, Executive Director, Legal Aid Society of Westchester County (Mar. 30, 2017).

(3) The three attorney's business-hours arraignments are part of their job duties, and they do not receive additional compensation for those arraignments. The two attorneys who handle after-business-hours and weekend arraignments are paid a yearly stipend for their services. 18B panel members are paid hourly at \$75 per hour per arraignment (from bed to bed).

(4) Since one attorney sought alternative employment, the program changed. Now, three full-time attorneys and one part-time attorney are on call during business hours. Of those attorneys, two full-time attorneys and the part-time attorney are on call after business hours, each dedicated to a week at a time. An investigator licensed as an attorney is on call for a couple of designated courts after business hours and only during certain days of the week.²⁸⁷

35. Yates County. (1) The Public Defender Office administers the RFP. Three part-time attorneys work for the office, and they are on-call for one week each, 24/7, for off-hours arraignments. The attorney who handles court during the day is on call for that day.

(2) The office schedules on-call availability three months ahead of time. It gives the schedules to all courts. The courts call the on-call attorney at their phone number listed (office or personal cell) to notify of an arraignment. If the attorney cannot be reached, then the court calls the Public Defender

²⁸⁷All of the information about Wyoming County's CAFA program and its justice courts was provided via an in-person interview with Norman P. Effman, Public Defender, Wyoming County (Oct. 5, 2016 and January 10, 2018).

(3) The office used ILS grant money to hire its third part-time attorney. Otherwise, none of the attorneys receive extra compensation for being on-call; rather, they may seek reimbursement for mileage.²⁸⁸

G. Effects of CAFA

The following includes data and experiences provided by the first RFP recipients:

1. Arraignment coverage. Despite “small, insufficient, or telephone” coverage after business hours and during weekends, attorneys appear at close to 90% of arraignments.²⁸⁹ Co-defendants are arraigned by the same attorney; however, offices try to provide multiple attorneys upon notice of such arraignments.²⁹⁰ Arraignment coverage is verified by the lack of faxes from courts, as well as a review of jail lists.²⁹¹ Missed arraignments are handled immediately the next morning.²⁹² Too many defendants continue to be arrested for minor matters (failure to pay fines

²⁸⁸All of the information about Yates County’s CAFA program and its justice courts was provided via a telephone interview with Edward J. Brockman, Public Defender, Yates County (Apr. 5, 2017).

²⁸⁹Interviews, *supra* at nn 263; 265; 271.

²⁹⁰Interview, *supra* at n 276.

²⁹¹*Id.*

²⁹²*Id.*; Implementing Obligations, *supra* at n 273.

and surcharges) and held overnight or over the weekend.²⁹³ Calls for attorneys at arraignments have increased in some counties, and attorneys work non-stop to cover arraignments.²⁹⁴

2. Increased Release Rates. Police officers have increased the issuance of appearance tickets (especially if they know that the judge will ROR); as a result, on-call attorneys receive fewer calls for arraignments.²⁹⁵ Judges have dismissed accusatory instruments due to facial insufficiency, as well as increased RORs and release under supervision based upon a defendant's name, lack of record, and low charge.²⁹⁶ Even where bail still is set, more defendants are able to afford it, now, due to a 20-40% increase in lower bail amounts.²⁹⁷ As much as 33-69% of defendants are ROR'd or can post bail on misdemeanor and felony arraignments.²⁹⁸ Increased

²⁹³Interview, *supra* at n 272.

²⁹⁴Interview, *supra* at n 259.

²⁹⁵Interviews, *supra* at nn 264; 282; 288.

²⁹⁶Interviews, *supra* at nn 262; 264; 285; 288.

²⁹⁷Interview, *supra* at n 263.

²⁹⁸Interviews, *supra* at nn 265; 267; 285; 286; 287.

release rates save the county \$500,000 to \$1,000,000 annually in incarceration costs, including a reduction of the release under supervision coordinator's position.²⁹⁹

3. District Attorneys. DAs do not appear for misdemeanors or appearance tickets (unless they coincidentally are present during a regularly scheduled court calendar or weekend arraignment session in city court); however, they may appear for significant cases or violent felonies.³⁰⁰ They readily are available by telephone for bail recommendations, though.³⁰¹ Arresting officers also relay the DAs' recommendations to the court; however, sometimes officers will "relay a recommendation" even where none has been made.³⁰² Some judges will remand a defendant without bail absent the DA's recommendation; therefore, the DA's presence is invaluable to a defendant's possibility of release.³⁰³

²⁹⁹Interviews, *supra* at nn 286; 287.

³⁰⁰Interviews, *supra* at nn 259; 265; 270; 271.

³⁰¹Interview, *supra* at n 272.

³⁰²Interviews, *supra* at nn 265; 276; 287.

³⁰³Interview, *supra* at n 259.

4. Judge reservations. Many judges like the presence of attorneys.³⁰⁴ Some judges are concerned about the disruption of judges' and attorneys' work schedules (for daytime off-hours arraignments) and disruption of sleep (for overnight off-hours arraignments), though.³⁰⁵ Sometimes judges call attorneys who are not on call and if those attorneys are unavailable, then the arraignment will occur without counsel.³⁰⁶ Some judges will call the same few 18B attorneys rather than rely on the entire panel. 18B attorneys often claim that some judges call their "favorites" rather than following a rotating roster of attorneys. Despite some resistance during the program's inception, most (if not all) judges participate, now, depending on the county.³⁰⁷ Other judges (even lawyer-judges) "habitually forget" to call attorneys or refuse to participate in the program altogether.³⁰⁸ Some judges appear and arraign defendants in jail without the attorneys' knowledge; attorneys have been locked out of court rooms and ignored by some judges as they waive at the window seeking entrance; some judges refuse to wait 30-40 minutes for attorneys to arrive; attorneys are prevented from interviewing defendants privately; and

³⁰⁴Interviews, *supra* at nn 259; 282.

³⁰⁵Implementing Obligations, *supra* at n 273.

³⁰⁶Interviews, *supra* at nn 280; 282.

³⁰⁷Interview, *supra* at n 259.

³⁰⁸Interviews, *supra* at nn 264; 265; 276; 288; *see* Interview, *supra* at 262.

defendants' arraignments were delayed several hours to prevent midnight arraignments.³⁰⁹ Some judges also complain about having to provide copies of accusatory instruments and associated paperwork to attorneys and about allowing attorneys time to discuss the matter with the defendants.³¹⁰

In some jurisdictions, attorneys arrive at court before judges.³¹¹ Once in court, neither the courts nor law enforcement honor attorneys' requests to consult their clients in private.³¹² If one judge arraigns for another jurisdiction, the arraigning judge often will set higher bail.³¹³

5. Attorney-Client Confidentiality. Neither the size nor structure of courtrooms has changed, and although many arresting officers allow attorneys to speak with their clients briefly before arraignment, not all officers or courtrooms foster attorney-client confidentiality. For example, the New York State Police stand "within arm's reach" or at least within earshot while attorney interview clients, and requests to change that practice have been responded to by sending

³⁰⁹Interviews, *supra* at nn 262; 286.

³¹⁰*Id.*

³¹¹Interview, *supra* at n 272.

³¹²Interview, *supra* at n 264.

³¹³Interview, *supra* at n 271.

sergeants with arresting officers to enforce state policy.³¹⁴ State Police also have responded by taking defendants to courts outside of the four designated arraignment courts for arraignment, resulting in arraignments without counsel.³¹⁵

6. Distance, Cost, and Delays. In some jurisdictions, attorneys arrive at arraignment within 20 minutes of notification (even before the judges) because they are located within reasonable driving distance.³¹⁶ In other jurisdictions, some judges become frustrated by having to wait 30-45 or more minutes for attorneys because they do not live in outlying areas.³¹⁷ Mileage reimbursement requests have increased.³¹⁸ Where fewer attorneys cover a significant number of arraignments, travel significant distances, and work throughout the night (without sufficient back up), they complain about physical exhaustion, “push back,” “burn out” and seek other

³¹⁴Interview, *supra* at n 285.

³¹⁵*Id.*

³¹⁶*Id.*

³¹⁷Implementing Obligations, *supra* at n 273; Interviews, *supra* at nn 262; 280.

³¹⁸Interview, *supra* at n 271.

employment.³¹⁹ Centralized arraignment parts have reduced this frustration.³²⁰ Increased compensation or sliding fee scales may also be an incentive to continue employment.³²¹

H. Centralized/ Off-Hours Arraignments

Recognizing the need for counsel at arraignment, the Advisory Committee on Criminal Law and Procedure proposed centralized arraignment parts (“CAP”) on a rotating basis for off-hours arraignments.³²² “Off-hours” means anytime a court is not sitting in session. Such centralization would provide for the swift arraignment of defendants and to ensure counsel at arraignment. Under a centralized arraignment plan, a police officer:

- * may bring the accusatory instrument to an off-hours court when no other court is open;
- * may bring the accusatory instrument either to an off-hours court or to an open justice court if defense counsel is present at the justice court; or
- * must bring the accusatory instrument to the off-hours court when defense counsel is not present at the open justice court.

³¹⁹Implementing Obligations, *supra* at n 273; Interview, *supra* at n 259.

³²⁰Implementing Obligations, *supra* at n 273.

³²¹Interview, *supra* at n 280.

³²²2016 NY Senate-Assembly Bill S7209-A, A10360.

In CAPs, jurisdictional impediments are lifted on arraignments of accusatory instruments on misdemeanors or violations; therefore, those parts with a centralized arraignment plan may have jurisdiction over any arraignment on a misdemeanor or violation in the county, whether or not the crime happened in a geographically contiguous jurisdiction. After arraignment, the part retains jurisdiction over all matters incidental thereto (handle returns on warrants, conduct bail review, hold felony hearings, etc.). After arraignment and any matters incidental thereto, then the centralized part will transfer the case back to the court that has trial jurisdiction.³²³

Several general suggestions have been made, including the following:

- * rotating judges through a central location; and
- * holding defendants overnight and arraigning them in the morning.

Local administrative judges are meeting with each county's stakeholders (public defender, district attorney, 18B provider, and justice court judges) on a county-by-county basis beginning in January 2017 to develop a county-by-county centralized arraignment plan.³²⁴ The

³²³All of the information regarding "off-hours" and centralized arraignment plans comes from the Town & Village Justice Courts Committee Meeting (Jan. 24, 2017).

³²⁴Centralized Arraignment Parts for Off-Hours Arraignments Stakeholders' Meeting, (Dec. 19, 2016, Albany, NY).

Chief Administrative Judge must approve each plan before it becomes effective, but no plan will be approved before February 26, 2017.³²⁵ There is no deadline by which plans must be submitted.³²⁶

Some of the CAFA program administrators recognize that CAPs would alleviate many frustrations in providing attorneys at arraignments.³²⁷ Nevertheless, many counties will not adopt a CAP. There is an overwhelming perception that some judges vehemently oppose CAPs.³²⁸ Interviewees relate conversations in which magistrates have expressed their concerns such as: fear loss of sleep if traveling outside of their jurisdiction for multiple arraignments in one day/night before returning to their full-time jobs; having to learn a new computer system; multiple courts' computer and filing systems; and unfamiliarity with foreign courts' layouts. Some judges rely on their clerks for forms and cannot operate without their clerks' assistance, requiring clerks to appear at off-hours arraignments, as well. Because most clerks work part time, they may not be scheduled or even available the next day to scan, email, or mail paperwork to the appropriate jurisdiction. Bail receipt deposit books would not be balanced in a timely manner.

³²⁵*Id.*

³²⁶*Id.*

³²⁷Interviews, *supra* at nn 259; 283; 285; 287.

³²⁸The New York State Magistrates Association does not oppose CAPs.

Sheriffs voiced concerns over transporting defendants from one side of the county to another, only to have that defendant be released, and then what? How long would that sheriff be required to wait for that defendant to get a ride? What if he has no ride? Would the Sheriff be required to transport him home? Local village police objected to such situations, concerned that it would remove them from protecting their jurisdictions, violate their union contracts, make their municipality liable for some other municipality's defendants, etc.

Counties are not required to have a plan; however, four counties have initiated the following:

1. Broome County. (1) Off-hours arraignments will occur in a designated room at the county jail.

Up to 10 members of the public may access the room at a time.

(2) Several private attorney-client conference rooms exist.

(3) The CAP operates Monday through Friday from 7:00 p.m. to 7:00 a.m., as well as throughout the weekend.

(4) On-call judges are required to remain within a reasonable distance from the jail during their shifts. There will be a back-up on-call judge for emergencies or conflicts.

(5) The county is also seeking a centralized booking process to facilitate law enforcement.³²⁹

2. Oneida County. (1) A courtroom will be built at the Oneida County Sheriff's Office. A town or village Judge will be assigned to that court from 6:00 p.m. to 10:00 p.m. daily. It will be open to the public. Only defendants charged with detainable offenses (i.e. domestic violence, orders of protection, warrants) will be brought for arraignment; anyone expected to be released will be given appearance tickets. Any defendant detained after the arraignment part is closed will be arraigned the following morning in either Rome or Utica City Court. The Fifth District Administrative Judge will assign judges in conjunction with the local County Magistrates Association. Each judge will receive \$250 per evening.

(2) The Oneida County Sheriff's Office will provide security.

(3) OCA will provide computer and office equipment. Arraignment paperwork immediately will be faxed and mailed to the court of trial jurisdiction by using a file cabinet of pre-addressed envelopes.

³²⁹Arrested after-hours in Broome County? A judge will meet you at the jail, <http://www.pressconnects.com/story/news/public-safety/2017/10/06/arrested-after-hours-broome-county-judge-meet-you-jail/736213001/> (accessed Oct. 23, 2017).

(4) The anticipated cost (salaries for judges, security, attorneys, and costs of equipment and supplies) totals \$365,000. \$197,000 is strictly a county cost; however, the remainder is either a USC cost or ILS reimbursable.³³⁰

3. Onondaga County. (1) A courtroom will be provided at the Syracuse Public Safety Building, next to the county jail. Off-hours arraignments will occur from 6:00 p.m. to 10:00 p.m. each night.

(2) It is estimated to save about \$1 million annually (a combination of state and local tax money). Savings come from the efficiencies of having to staff only one courtroom per night.

(3) Regular security would staff the courtroom so that police officers could return to patrolling immediately.

(4) Judges would be paid for off-hours arraignments, whereas they do not receive extra compensation for off-hours arraignments that do not occur in a CAP. One judge would rotate per night.

(5) There would be a staffed prosecutor and two defense attorneys. Defense attorneys would meet with their clients in private rooms.

³³⁰All of Oneida County's centralized arraignment plan information comes from Centralized Arraignment Part Oneida County, Fifth Judicial District.

(6) Arraignments are open to the public.

(7) This system will work because the county has enough after-business-hours arraignments to justify a scheduled court.³³¹

4. Washington County. (1) A courtroom will be provided at the visitor's area of the Washington County Law Enforcement Center (located within the Washington County Jail). A town or village judge will be assigned by the Washington County Magistrates' Association to that courtroom for all after hours, weekend, evening, and holiday arrests; however, arraignments will be held at 9:00 a.m., 7:00 p.m., and other times, as "emergency" arraignments. It will be open to the public.

(2) The centralized part will have a separate conference room for the on-call attorney to meet with the defendant.

(3) Security includes magnetometers, one security officer, and locked filing cabinets.

(4) The CAFA judge will give the on-call attorney copies of the accusatory instruments, supporting depositions, and RAP sheets.

(5) If a defendant is released after arraignment, he will be allowed to call for transportation to his residence, as well as to wait in the facility staffed by the Sheriff while

³³¹Syracuse courts push radical shakeup in way suspects are arraigned off hours, http://www.syracuse.com/crime/index.ssf/2017/02/syracuse_courts_push_radical_shakeup_in_way_suspects_are_arraigned_after_hours.html (accessed Oct. 23, 2017).

awaiting his transportation. The arraignment part conveniently is located across from a gas station/convenient store/restaurant facility.

(6) The Sheriff's Department will collect posted bail and transfer it to the court of original jurisdiction. The centralized part should not collect bail from defendants.

(7) All arraignment paperwork immediately will be scanned, emailed, and mailed to the court of trial jurisdiction. The arraignment judge will keep an arraignment log to track his arraignments.

(8) If a defendant pleads guilty at arraignment, then the arraignment judge's original jurisdiction will assume jurisdiction of the fine and surcharge owed. The defendant will be given a reasonable period within which to make payment.

(9) Arraignment judges will be paid according to UJCA § 106 (2) at a rate of compensation to be approved by OCA, along with mileage reimbursement, after completion and approval of their payment vouchers.

I. Professional Associations' Opinions

Several associations have commented about CAFA both before its inception and throughout its implementation. Those associations' members have voiced their concerns about arraignment issues, as well as CAFA, and the associations have advocated and spoken on their behalf. This committee has contacted the District Attorneys' Association of New York, New

York State Defenders Association, New York State Sheriffs' Association, and New York State Magistrates Association to gather the collective opinions of district attorneys, defense attorneys, sheriffs, and judges statewide. They have shared the following:

1. District Attorneys' Association of the State of New York ("DAASNY"). This committee has contacted DAASNY for its position on CAFA and looks forward to receiving its response.

2. New York State Defenders Association ("NYSDA"). NYSDA supports counsel at arraignment. It supported only ILS administering the program, though, rather than creating a separate OCA panel to administer it. NYSDA also opposed the use of video-technology for arraignments based on several reasons. It opposed that ILS funds be used to cover any other costs associated with arraignment other than representation of the defendant (other costs such as funding the courts, police agencies, or district attorneys). NYSDA supports that the State fund counties "the full amount necessary to provide public defense legal services, and the full amount necessary to ensure the delivery of quality legal services for clients, including any increased costs incurred by public defense programs in complying with any standards promulgated by the Office of Indigent Legal Services; and the first important step is passage of the Public Defense Mandate Relief Act (A.6202C and S.6341A)."

Regarding centralized arraignments, NYSDA supported the signing and enforcement of off-hours/centralized-arraignment parts. NYSDA voiced its concern that the goals of centralized arraignments were, first, to ensure that defendants are represented by counsel at arraignment and, second, to make the arraignment process more predictable, timely, and cost-efficient for all

parties involved. Centralized arraignment plans should be reviewed and amended as needed. At centralized arraignments, counsel should be provided the defendant's "rap sheet," as well as be provided adequate privacy or consultation room to consult with the defendant. Any pre-arraignment detention should prevent law enforcement from accessing defendants.³³²

3. New York State Sheriffs' Association ("NYSSA"). NYSSA supports centralized arraignments. "Sheriffs have been generally receptive to the idea of a centralized, off-hours arraignment court." NYSSA lists frustrations with finding judges, removing road patrols from diverting crime, and preventing responses to emergency calls. Under CAFA without centralized arraignments, it takes too long for counsel to arrive. "A centralized arraignment court would save the Sheriff's Office time and manpower by requiring a single transport to a single court." Nevertheless, centralized courts would still waste time and manpower in larger counties where driving long distances to one court would take just as long if not longer than finding a judge, causing defendants to be detained longer. Also, holding cells may become dumping grounds for off-hours courts not in constant operation. Finally, staffing of off-hours courts would be

³³²NYSDA's position was gathered from the following: Letter from Jonathan Gradess, Executive Director, New York State Defenders Association (Mar. 13, 2013); New York State Defenders Association Resolution (May 2, 2016); Letter from Jonathan Gradess, Executive Director, New York State Defenders Association (Nov. 22, 2016).; Letter from Susan Bryant, Special Counsel, New York State Defenders Association (Jan. 17, 2017).

burdensome to the Sheriff's Office if members of their office must provide security. "Indeed, the potential cost of this initiative is what gives Sheriffs the most concern."

Regarding CAFA, it appears that most counties have their central dispatch notify counsel and judges about arraignments; however, it is unclear whether dispatch notifies the district attorneys, as well. Even this process is not quick or efficient, and it takes a long time for the parties to conduct an arraignment. NYSSA endorses the use of videoconferencing to conduct arraignments: the arresting officer would transport a defendant to the closest Sheriff's station, contact the lawyers and judges via videoconference, and arraign the defendant from the station. Statutory and political hurdles (especially from defense organizations) prevent current use of such technology statewide.³³³

4. New York State Magistrates Association ("NYSMA"). NYSMA encourages its justice court judges to provide defendants their Constitutional Rights at arraignment. In many towns and villages, CAFA cannot exist without centralized arraignments, though: in a significant number of counties, counsel is not available after business hours. Even in some counties that receive the ILS RFP, counsel is available only in city courts which operate only during business hours.

³³³NYSSA's position was gathered from the following: Letter from Christopher Farber, President, New York State Sheriffs' Association (Jan. 17, 2017); Telephone interview with Alex Wilson, President, New York State Sheriffs' Association, (Feb. 9, 2017).

District Attorneys also should be present at arraignments. NYSMA will meet every few months to discuss issues before taking a formal position or issuing a formal statement on this matter.³³⁴

J. Approved & Proposed Legislation

Several pieces of legislation and other recommendations have been proposed that affect arraignments in justice courts. A summary of frequent, important, and most current legislation is provided below:

Mandatory Counsel at First Appearance Plans. County Law § 722-e. Any such additional expenses incurred for the provision of counsel and services as a result of a plan established under Executive Law § 832 (4) shall be reimbursed by the state to the county or city providing such services. Under Executive Law § 832 (4), ILS shall develop and implement a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel in person at her arraignment, and arraignment shall not be delayed pending eligibility determinations. Plans must be developed by December 1, 2017, and they shall be fully implemented by April 1, 2023.

This law passed as Section 11 of Governor Cuomo's 2017 New York State Budget.

³³⁴All of the information regarding NYSMA was acquired via a telephone interview with Sherry Davenport, President, New York State Magistrates Association (Mar. 23, 2017).

Centralized Off-Hours Arraignments. A.10360/S.7209-A. In line with those recommendations, these bills have proposed off-hours arraignment parts outside of NYC. After consultation with ILS and local magistrates' associations, institutional providers, and other local government officials, off-hours arraignment parts would be established in select local criminal courts of a county to be held in such courts on a rotating basis for the conduct of arraignments and incidental preliminary proceedings. The bill promotes centralized arraignments on a rotating basis for off-hours arraignments. It facilitates the availability of institutional providers, judges, and law enforcement to be present in a timely fashion and definite location for those arraignments.

This bill was signed by the governor on November 28, 2016.

Additional Hurrell-Harring recommendations. In addition to providing CAFA, *Hurrell-Harring* also proposed:

- a. approving and using holding cells for next-day arraignments;
- b. encouraging the issuance of more appearance tickets;
- c. rotating arraignment courts; and
- d. holding morning arraignments or special arraignment hours in county court with the county court judge sitting as an acting justice court judge.

Public Defense Mandate Relief Act, A.6202-C/S.6341-A. This bill explains that New York State is constitutionally required to provide public defense services and to undertake initiatives to (1) improve the quality of indigent defense; (2) ensure representation at arraignment; (3) implement caseload standards for providers of indigent legal services; and (4) implement statewide standards for determining eligibility for mandated representation. To ensure that it meets those standards, “the state shall pay counties the full amount necessary to ensure the delivery of quality legal services for indigent criminal defendants in a consistent manner throughout the state.”

Bail Reform:

Danger to community. A.1161 (2017-2018); A.69 (2015-2016); A.3798 (2015-2016); A.10546 (2015-2016); A.1809 (2013-2014); A.2411 (2013-2014). This bill amends CPL § 510.30 to add a factor when considering bail: a court may consider a defendant’s violent criminal history to ensure public safety. The court may consider detaining a defendant with the existence of clear and convincing evidence of danger to any person, or the community, as a requisite.

Victim’s right in pretrial proceedings. A.1163 (2017-2018); A.74 (2015-2016); A.2413 (2013-2014). This bill amends CPL §§ 210.10 and 530.10 to allow victims to be present at a defendant’s arraignment and bail proceeding. It does not grant them any rights other than to be present physically, such as to support or to oppose bail or orders of protection.

Lenient bail. A.1485 (2017-2018); A.1754 (2015-2016); A.9176 (2013-2014). This bill amends CPL § 530.30 to allow prosecutors to seek bail review of justice-court-fixed ROR or low bail in superior court. They initiate the process by filing a Notice of Intention to Apply to a superior court judge, with copies to the defendant, which stays the justice court's order for 72 hours. Such motion must allege new facts that were not alleged in any previous applications. It will be granted only if the justice court's decision constitutes an abuse of discretion.

Isol Cotto Act. A.1660 (2017-2018); A.1755/S.3183 (2015-2016); A.1439/S.2024 (2013-2014). This bill creates CPL § 510.25 which requires defendants charged with certain delineated domestic violence-related offenses to appear before a judge within 12 hours of being arrested. The court will set bail after reviewing the circumstances surrounding the arrest, any prior violent offenses, and the risk that the accused poses to the victim, if released.

Domestic violence bail factors. A.2411 (2017-2018); A.6775 (2015-2016). This bill amends CPL § 510.30 by adding that when a defendant is charged with a crime against members of the same family or household, a court may consider (1) any history of prior acts of violence or threats of violence against a witness in the pending criminal action; (2) any order of protection issued against the defendant for the protection of a member of the same family or household, whether or not that order currently is in effect; and (3) any prior arrest or conviction for a crime or violation against a member of the same family or household .

Exonerate bail for grand jury delay. A.4658 (2017-2018); A.4209 (2015-2016); A.3349 (2013-2014). This bill would allow bail to be exonerated and a defendant to be released on recognizance where a justice court has fixed bail on a felony complaint, a defendant has posted bail and remained at liberty pending the matter, but the grand jury has not taken any action on the matter within 45 days of the defendant's arraignment in justice court. The people may show good cause why bail should not be exonerated.

Pretrial bail recommendation. A.5033/S.3579 (2017-2018); A.8551/S.6061 (2015-2016) S.294; A.7178/S.4091 (2013-2014). This bill amends the criminal procedure law to require counties and cities to appoint (according to the chief administrative judge's process and qualifications) and to compensate pretrial services agents to interview and evaluate defendants before arraignment. Those agents shall interview and evaluate a defendant before arraignment. They shall identify the (1) criminal charges presented; (2) defendant's ties to the community; (3) defendant's place and length of residence; (4) defendant's commitments and contacts with family or friends; (5) defendant's employment history and sources of income; (6) defendant's ability to verify information; (7) defendant's history of appearing or failing to appear in court; (8) defendant's character, reputation, habits, and mental condition; (9) any pending criminal charges against the defendant; and (10) any other information that the agent deems necessary. After interviewing the defendant, the agent shall verify the information and evaluate the defendant for release on recognizance. Then, the agent shall recommend to the court that the defendant (1) be released on recognizance; (2) be released subject to non-monetary conditions; or (3) be

committed to the custody of the sheriff. Securing orders are amended to require a defendant to be subject to probation-like terms and conditions while released subject to those conditions. *Every court in the issuance of a securing order shall grant a preference to release on his or her own recognizance when the most severe charge against the defendant is a violation or misdemeanor. The attendance of a defendant shall not be secured by means of bail . . . shall utilize the least restrictive means necessary to secure the defendant's attendance at future proceedings, including the least restrictive conditions when release subject to conditions is permitted.*

Domestic violence arrest bail forfeiture. S.311 (2017-2018); A.9989/S.7360 (2015-2016). This bill allows for posted bail to be forfeited upon the defendant's arrest for a delineated domestic violence-related offense and who violated an order of protection while doing so.

Protection of Victims of Domestic Violence Act. A.2027/S.3473 (2017-2018); A.2995/S.1413 (2015-2016); A.3499/S.2914 (2013-2014). This bill adds Executive Law Article 22-A which allows a judge who releases a defendant, subject to protective conditions, to impose the condition that he wear a GPS device.

Public safety bail factor. A.7028/S.5167 (2015-2016); A.6799/S.4483 (2013-2014); A.2142 (2013-2014). This bill allows a court to issue a securing order after considering the safety of any other person or the community. *The court must order release on recognizance (unless the*

defendant is charged with a violent felony offense, class A felony, or manslaughter 2nd) *unless the court determines that a securing order will not reasonable secure the defendant's court attendance when required or will endanger the safety of any other person in the community, in which event the court must order bail.*

Family offense appearance ticket. A.2616 (2013-2014). This bill amends the CPL to allow that a person arrested for certain delineated family-offense related conduct be issued an appearance ticket rather than be arraigned in a local criminal court. "Family offense appearance ticket" means an appearance ticket issued to a person alleging his or her commission of a family offense, as described in CPL § 530.11 (1), which contains a direction to such person not to have contact with the complaining witness prior to his or her appearance in court.

DWI no bail. A.4018 (2013-2014). This bill amends the CPL to deny bail to a defendant charged with a DWI-related offense that also involved serious physical injury or death to another person under Penal Law § 125.12

Bail bond study required. A.7057/S.506 (2013-2014). This bill requires that the commissioner of financial services conduct a study about the bail bond business to identify improvements and clarifications in the bail bond system. The department will prepare a report with its suggestions for changes, and it will hold a public hearing on that report.

Broadening bail jurisdiction. A.9281 (2013-2014). This bill amends CPL § 530.20 (2) to allow justice courts to set bail on defendants charged with felonies unless a defendant is charged with a crime calling for a sentence of life imprisonment (Class A or persistent felony offender).

Bail form modification. A.9283-A (2013-2014). This bill amends CPL § 520.10 to state that courts may set bail without designating how it may be posted. If no forms are designated, then it may be posted in forms (g) or (h). Bail may be posted in two or more forms; instead of one of the designated forms.

K. Summary

There are 1,209-1,247 town and village justice courts located throughout 62 counties in the State of New York. The amount of courts varies because not all agencies report the same number of courts or corresponding court information. Although the website managed by the Office of Court Administration lists much information, it lacks a substantial number of courts and their corresponding information. Its information may conflict with that listed on county websites or other websites that organize court information. A defendant, plaintiff, or other resident is left researching multiple websites for correct answers on what should be simple, available information.

Most CAFA programs operate by the courts contacting the attorney-on-call. Theoretically, CAFA runs most smoothly where a large number of attorneys are available for on-

call rotation, and the judges (or other notifying agency) have a reliable, updated list of whom to contact on what days. CAFA has been successful in reducing amounts of bail set at arraignment, in facilitating defendants in being able to afford bail, and in reducing the number of incarcerated persons by increasing the number of appearance tickets issued by arresting officers.

CAFA is not flawless, though. First, some Courts do not cooperate where it takes too long for attorneys to arrive. Second, the program loses its appeal where attorneys experience burn-out. Third, although DAs play an important role, they remain noticeably absent from arraignments, and their absence affects bail arguments. Centralized arraignment parts may alleviate burdens imposed on all parties involved in the program.

Although many of the CAFA and centralized programs currently available provide for attorneys immediately or as soon as possible, not all of them provide 24/7 coverage. CAFA plans fall short of the constitutional right of providing attorneys at arraignment *at the first stage of criminal proceedings* by embracing overnight detention followed by morning arraignments. That promotes detention, however slight, along with disruption to the defendant's work, family, medical, or other areas of life.

Despite having one year's worth of time to develop a CAP, only 6% of counties have done so. The existing plans address sheriffs' concerns by cooperating with county law enforcement and CAP security. The plans also address judge's concerns by designating arraignment hours.

II. TRAINING & EDUCATION

A. What Happens During Town and Village Justice Courts' criminal calendar

The experiences of the parties appearing before judges can be as varied as the number of courts; however, there are some common experiences shared by many defendants across the length of our state. The following descriptions of what one could encounter in a justice court is a meshing of the experiences of the parties from all over the state and is an amalgam of some, but by no means all, justice courts.

There are approximately 2,000 locally elected town and village judges. Of that amount, 60% are non-lawyers.³³⁵ Although there are minimal education requirements for judges, they are not required to hold law degrees or to be admitted as attorneys. Many work day jobs as farmers, laborers, postmen, nurses, construction workers, etc., or are retired. They hold court regularly either during the day or in the evening: traffic court and prosecutor night may occur weekly or monthly; however, criminal court (district attorney and public defender night) may be calendared as infrequently as twice or thrice per year (especially in rural jurisdictions). When occurring that infrequently, counsel may schedule off-calendar appearances with the district attorneys and judges. Court proceedings take place either in town halls, local barns, community centers, or small courtrooms. Judges may sit at simple card tables, desks, or benches. Some have court clerks to assist them with paperwork and other administrative duties; however, others handle all

³³⁵ Email from Kenneth S. Carlson, Assistant Deputy Counsel, Office of Justice Court Support (Oct. 18, 2017).

tasks by themselves. Small, digital recorders are available (rather than stenographers) to record the court's proceedings.

Attorneys conference with clients either in a conference room (if available), outside of the building, in the courtroom's kitchen, or in a broom closet—as far out of earshot from others to ensure client confidentiality. Furniture must be rearranged hurriedly and haphazardly for jury trials in courtrooms without jury boxes. Magnetometers are a relief for buildings without court officers; in some other courts, a judge's concealed pistol may be the only form of security available.

Judges administer justice according to their training. While many judges recall their training and enforce the Criminal Procedure Law, some judges find defendants guilty of violations of probation without holding hearings or make them plead guilty without notice to their attorney. Other abuses have been known to happen, such as some judges sentencing defendants to a year in jail without a pre-sentence report and incarcerating defendants on failure to pay fines without holding willful violation hearings. Occasionally some judges' biases are on display in court when they voice racial and sexual bigotry toward defendants that appear before them. Sometimes, judges just make mistakes. Court clerks assist judges when possible. Despite good intentions, though, some judges and clerks have mishandled court funds and have failed to

file paperwork timely. Some have exhibited inappropriate conduct toward others in public. A few also have used their position to influence political or legal matters on behalf of others.³³⁶

B. Statutory and regulatory background

The justice court assistance program (“JCAP”) provides funds to assist the operation of town and village justice courts.³³⁷ “Funds available pursuant to this article may be used for any purpose having at its end enhancement of the justice courts’ ability to provide suitable and sufficient services to their respective communities.”³³⁸ Those funds may be used for a number of things, including the provision of law books, treatises, and appropriate training for justices and non-judicial court staff; however, they *shall not be used to reduce funding provided to the courts by towns and villages.*³³⁹ *Expenses incurred in fulfilling the training requirements shall be a charge against the municipality.*³⁴⁰ When JCAP funds are applied for, the chief administrator

³³⁶New York State Commission on Judicial Conduct Annual Report 2017, <http://www.scjc.state.ny.us/Publications/AnnualReports/nyscjc.2017annualreport.pdf> (accessed Jan. 24, 2018).

³³⁷Judiciary Law § 849-h (1).

³³⁸Judiciary Law § 849-h (2).

³³⁹*Id.*

³⁴⁰UJCA 105 (b).

shall consider the availability of other sources of funding to pay for some or all of the costs for which the application seeks funding under the program, as well as other factors.³⁴¹ No application in excess of \$30,000 shall be approved unless it is a joint application.³⁴²

The Uniform Justice Court Act (“UJCA”) and 22 NYCRR § 17.2 regulate the education and training of justice court judges. Training shall be conducted at least three times per year according to the following:

(a) Non-lawyer judges. All newly elected/ appointed non-lawyer judges shall attend the first available basic course after their election. Certification upon successful completion is valid until the next available advanced course;

(b) Incumbent judges. Every incumbent judge must complete successfully an advanced course once per year to maintain certification;

(c) Successful completion. “Successful completion” means attendance at no less than 80% of the sessions with a passing grade on a written exam as established by the Chief Administrator;

(d) The Chief Administrator may issue temporary certificates to non-lawyer judges which shall be valid until the time of the next available course; and

³⁴¹Judiciary Law § 849-i (3) (c).

³⁴²Judiciary Law § 849-i (4).

(e) Lawyer judges. Each newly elected/ appointed judge who is a member of the Bar of this State shall attend the first available advanced course of training after he is elected/ appointed. Each such judge shall attend an advanced course of training each calendar year thereafter while holding office. “Attendance” means attendance at no less than 80% of the sessions. The Chief Administrator shall issue appropriate certificates of attendance.³⁴³

C. Previous reports’ findings

In the review process for this section, nine reports (exhumed from the archives of the New York State Bar Association) were examined for content and summarized. Each is referenced at the end of the summarized content.

Justice court judges are required to attend 12 hours of training each year, and non-attorney judges must attend a 6-day basic certification class before sitting as a local judge. After those training requirements, though, justice court judges operate their courts without any meaningful standards or oversight, their actions and decisions were not recorded, and nearly 70% of the judges were non-attorney judges. Those without any legal experience face innumerable issues of statutory interpretation, case law, and legal concepts (such as *stare decisis*) which were, at first blush, foreign to them. It is impossible to learn all of the law in a six-day training course. Some judges do not remain on the bench long enough to gain sufficient experience and

³⁴³22 NYCRR § 17.2; Report and Recommendations of the New York State Bar Association Committee on the New York State Constitution, The Judiciary Article of the New York State Constitution - Opportunities to Restructure and Modernize the New York Courts (Dec. 12, 2016).

confidence. A Resource Center was staffed, at the time, with three attorneys and is available to judges and to court clerks through a toll-free number to answer questions; one attorney is available four evenings each week through an answering machine paging system. Despite the Center, though, if judges have questions about the law, they sometimes rely on district attorneys for help: in two upstate counties, the district attorneys admitted to *ex parte* communications with some judges where defense counsel should have been present. One district attorney believed that those communications occurred because some judges were uncertain of themselves and wanted to make sure that what they were doing was right. Another district attorney noted that one judge did not know the difference between “overruled” and “sustained.” Some judges had an aversion to litigation and discouraged defendants from arguing motions and from going to trial. Those problems became more serious in the absence of meaningful oversight, standards, and goals. There was no mechanism by which justice court statistics (such as the timing of case dispositions) were regularly reported or reviewed. Without oversight and records, justice courts ran their courtrooms according to their own rules; how cases were handled depended on the personalities of the courts; some resulted in excessive sentences and bail whereas other did not.³⁴⁴

A second report recommended that the OCA would create a Justice Court institute. The Institute would serve as an upstate satellite facility for the White Plains-based Judicial Institute, which the Legislature established to serve as a year-round education and training center for the

³⁴⁴Local judge’s training was reported by The Spangenberg Group, *Status of Indigent Defense in New York: A study for Chief Judge Kaye’s Commission on the Future of Indigent Defense Services* (June 2006).

State-paid courts and their judges and personnel. The Institute would, for the first time, allow OCA to bring together newly-elected judges (for the basic program), as well as incumbent judges (for advanced and re-certification programs) in modern facilities.

Regarding Justice Courts, it included:

- * supplying justice courts with digital recorders to make them “courts of record” and to facilitate appeals;
- * providing laptops and other much-needed technical support that would make the courts more efficient while allowing OCA to exercise oversight of the courts more easily;
- * doubling the current required training period to two weeks and adding at-home supplementary training sessions;
- * expanding administrative resources dedicated to advising and educating justice court personnel;
- * expanding the Resource Center to provide additional attorney assistance for justice courts;
- * creating an online library for justice court training; and
- * establishing Justice Court Advisory and Support Teams (“J-CASTs”) to visit newly elected judges before they take office or during their initial months of their first term.

The plan also restructured the justice court education program. The new program would include four parts:

1. Pre-basic, self-study program;
2. First week of basic classroom training;
3. Second period of self-study; and
4. Second week of basic training that emphasizes skill development.

The newly elected judges would be required to attend the one-week program in person. The advanced program would be diversified, though, allowing for dual-tracking, quarterly live and remote (rather than annual) appearances, and online discussion groups.

OCA will create a Permanent Committee on Justice Court Education and Training, including members from the Magistrates Association, New York State Association of Towns, New York State Conference of Mayors, OCA, the State Comptroller's Office, and experts in adult education and psychometrics. The OCA will work with the organized bar to help prepare and implement the new curriculum. Finally, the representatives of the New York State Advisory Committee on Judicial Ethics will provide training seminars dedicated to justice courts on ethical issues likely to arise in their courts.³⁴⁵

³⁴⁵Local judge's training was reported by the Office of Court Administration Task Force, *Action Plan for the Justice Courts* (November 2006).

A third report found that OCA began to fulfill prior recommendations. New recommendations included that proceedings in every case be recorded by court reporters using current technology or by digital recording in lieu of a court reporter. Records provide a basis for appellate review, as well as maintain transparency and oversight. Because there was no requirement that all proceedings be recorded, some courts recorded proceedings and some did not—no uniform practice existed; no record existed for proceedings that did not involve testimony and sometimes judges or court clerks kept notes. As a result, the following year, OCA bought and distributed modern recording devices to justice courts (beginning with those that had the largest caseloads). It was recommended that those courts without any recording receive the digital recorders, first. It also was recommended that every judge and court clerk have access to a computer with uniform software for case management, fiscal record keeping, and financial reporting. Training in the use of the software should be mandatory with monitoring and assistance available. Newly appointed supervising judges should be responsible for the oversight of training and record keeping. Judges should have computer access for training, research, conferencing with other judges, and writing opinions and orders. Training should include Westlaw or Lexis, other research tools, and general search techniques. Computers should include software for form letters and orders. It also recommended consideration of videoconferencing for designated court proceedings to avoid delays when lawyers cannot appear personally or when a defendant cannot be transported to court from a detention facility. It supported the expanded use of email to simplify communications between justice courts and everyone else. Although desktop computers are provided, laptops also should be provided if the courtroom and judge’s chambers

are not in the same place or when the court clerk and judge are doing different tasks at the same time.³⁴⁶

A fourth report recommended that the OCA provide to judges an adequate number of lawyers to help judges with research and analysis to resolve the substantive, procedural, and judicial conduct issues that arise in justice courts. Judges also should be assisted by experts in court and fiscal management. The Resource Center is already in place; however, it is not funded sufficiently to provide assistance comparable to that available to state courts. It also recommended that the Resource Center be staffed sufficiently to provide requested assistance and to enhance the confidence of the judges in the Center's work while making clear to the judges that they are the responsible decision makers. It was recommended that the Resource Center be available to provide assistance throughout the day, as well as during evening sessions, night-time arraignments, and bail decisions. The Center also regularly should prepare and distribute updates to relevant laws, regulations, and case law. It also recommended that the OCA undertake a project of statewide publicity about the Center. It also recommended the establishment of regional offices, especially in towns consisting of non-lawyer judges, on-site assistance when dealing with difficult cases or issues, small group training sessions, and other face-to-face contacts between Center staff and justice court judges and court clerks. The Center

³⁴⁶Local judges' training was reported by the New York City Bar Association Task Force on Town and Village Justice Courts, *Memorandum on Justice Court Technology* (March 2007).

should continue to exist even if all justice courts are run by lawyer judges because all judges need assistance.³⁴⁷

A fifth report, recommended that the City Bar work with other bar associations and appropriate entities to establish a committee to identify volunteer lawyers to work with the New York State Judicial Institute to prepare and present courses of study for basic and advanced programs for local judges. The Judicial Institute should collaborate with the OCA, Office of the State Comptroller, DCJS, and other agencies to form those courses. Those courses should cover training on court administration, as well as fiscal responsibility and accountability. Members of any advisory committee established to plan and monitor the training programs should be neutral in their positions with respect to the issues that come before the justice courts (membership should not reflect only governmental or prosecutorial interests). Judges should be trained intensively on procedural and substantive law regarding summary proceeding eviction cases. It also recommended the establishment of regional offices, especially in areas of non-lawyer judges, and on-site assistance when dealing with difficult cases or issues, small-group training sessions, and other face to face contacts between Center staff and justice court judges and court clerks. Judges and court clerks should be given access to computers with uniform software for case management, fiscal record keeping, and financial reporting; furthermore, training in that software should be mandatory with monitoring and assistance available. Every justice court should have a court clerk trained to prepare financial records; the clerks should be full time and

³⁴⁷Local judges' training was reported by the New York City Bar Association Task Force on Town and Village Justice Courts, *Recommendations Relating to Assisting Town and Village Justices* (June 2007).

fairly compensated; courts may share clerks where necessary; and clerks should be supervised by a state employee who is available to provide assistance.³⁴⁸

A sixth report found that local judges are not required to undergo the same intensity of training offered to state-funded judges through the State Judicial Institute. The report urges NYSBA to explore ways in which the Association could support continuing training and education. It recommended that NYSBA support the OCA's request for increased funding to support the development and implementation of enhanced training and education programs for town and village judges. It also recommended mentoring/training programs for judges that could use the *pro bono* talents of retired judges and attorneys. It also recommended that one consider how retired attorneys could be used to complement the efforts of the Resource Center.³⁴⁹

³⁴⁸Local judges' training was reported by the New York City Bar Association Task Force on Town and Village Justice Courts, *Recommendations Relating to Structure and Organization* (October 2007).

³⁴⁹Local judges' training was reported by NYSBA, *Report of the New York State Bar Association Task Force on Town and Village Justice Courts* (August 2007).

A seventh report found that many of the local judges are non-lawyers and have little or no legal training other than a week-long course that is administered at the beginning of their term, followed by an annual two-day mandatory training session.³⁵⁰

An eighth report found that expanding and improving education and training programs for the local judges was a key aspect of the Action Plan. Newly elected non-lawyer judges traditionally were required to complete only a one-week “basic” training course before taking the bench, and incumbent non-lawyer judges only needed to attend 12 hours of training per year. Additional steps were required to reform justice courts because for judges with no prior experience with the judicial system, two weeks of basic training, even if followed by in-home training, is an insufficient primer for serving as a modern judge. The commission learned that judges complained that there was too much classroom training and not enough hands-on learning, such as observing or presiding over mock arraignments, trials, or other proceedings. The Action Plan recommended:

- * increasing “basic” training from one week to two weeks of in-class training, followed by five weeks of in-home training;
- * restructuring the “advanced” training that incumbent judges receive (geared to the experience level of each judge);
- * establishing a joint training and certification program for court clerks;

³⁵⁰Local judges’ training was reported by the Special Commission on the Future of New York State Courts, *A Court System for the Future: The Promise of Court Restructuring in New York State* (February 2007).

- * establishing a year-round, centrally located Justice Court Institute to serve as a training center for judges and court clerks; and
- * creating Justice Court Advisory and Support Teams (“J-CASTs”) comprised of attorneys, court administrators, and financial experts, to visit the courts of newly elected justices at or before the beginning of their terms to provide onsite, hands-on training tailored to each justice court.

The Commission recommended that the basic training program be increased, and that towns and villages actively support judges and court clerks to remain trained properly. Incoming judges should be required to observe proceedings over a period of weeks, either via formal training sessions or by auditing supreme and county courts. Advanced training for incumbent judges should also be improved; for example, more elective courses should be offered throughout the year so that judges may select courses that are most appropriate and beneficial to their unique experiences. Courses should also be made available in different formats, such as online or on DVDs.³⁵¹

A ninth report found that interpretation of foreign languages remains an issue. When the financial responsibility for the operation of the trial courts was transferred, in 1976, from local

³⁵¹Local judges’ training was reported by the Special Commission on the Future of New York State Courts, *Justice Most Local: The Future of Town and Village Courts in New York State* (September 2008).

governments to the state, the Justice Courts were expressly exempted.³⁵² “As a result, each of the more than 1,200 Justice Courts in New York is operated, financed, and administered by its sponsoring town or village, with very limited financial and technical assistance from the state. None of the Justice Courts has a staff court interpreter, and many lack the funds to hire a per diem interpreter. The difficulty of ensuring language access in the Justice Courts is further compounded by the nature of Justice Court operations. These courts are located in more than 1,200 different locations across the state, in every county outside of New York City. Many of these courts are located in communities where a significant portion of the local population needs language assistance, often in less common languages. In addition, many appearances before the Justice Courts are relatively short, often with little, if any, advance notice of the need for interpreting services. Of particular concern are criminal arraignments conducted late at night or on weekends. Given the due process and access to justice implications, anecdotal reports that relatives or arresting officers serve as interpreters for arraigned defendants are especially troubling.”³⁵³

“The Bar takes the position that all judges should be lawyers, concluding that “[i]t is unfair for litigants in civil or criminal cases to have matters determined by a person who may be

³⁵²L.1976, ch. 966 (Unified Court Budget Act).

³⁵³Ensuring Language Access: A Strategic Plan for the New York State Courts at 29-31, Advisory Committee on Language Access, Office of Court Administration (Mar. 2017).

unfamiliar with the law.”³⁵⁴ Despite that position or the opinions listed, above, the 2008 Dunne Commission Report on Town and Village Justice Courts did not find a compelling basis to eliminate those courts altogether or to require that their judges be admitted attorneys.³⁵⁵ The Report recommended that 1) minimum standards be developed for those courts and 2) panels be developed to discuss court consolidation.³⁵⁶ Three months later, the State Bar agreed that 1) requiring judges in town and village justice courts to be lawyers was not possible; 2) developing standards for those courts was important; and 3) consolidating those courts should be discussed.³⁵⁷ The proposals that the State Bar did not agree with included: 1) judges be a

³⁵⁴New York State Bar Association Committee on the New York State Constitution, *The Judiciary Article of the New York State Constitution - Opportunities to Restructure and Modernize the New York Courts* (Dec. 12, 2016); William Glaberson, *How a Reviled Court System Has Outlasted Many Critics*, N.Y. Times, at B8-B9 (Sept. 27, 2006).

³⁵⁵New York State Bar Association Committee on the New York State Constitution, *The Judiciary Article of the New York State Constitution - Opportunities to Restructure and Modernize the New York Courts* (Dec. 12, 2016).

³⁵⁶*Id.*; Special Commission on the Future of New York State Courts, *Justice Most Local: The Future of Town and Village Courts in New York State* at 83-104 (September 2008).

³⁵⁷See January 30, 2009 New York State Bar Association House of Delegates Minutes (adopting Report of the Committee on Court Structure and Judicial Selection re: *Justice Most Local: The Future of Town and Village Courts in New York State* but rejecting one recommendation in the Committee report in favor of the original recommendation set forth in the Dunne Commission Report); Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Courts in New York State (Dec. 16, 2008). See also Special Commission

minimum age of 25 (the State Bar recommended 30) and 2) judges have a two-year college degree (the State Bar recommended a four-year degree).³⁵⁸

D. Training for Judges

In compliance with the current training requirements, the OCA requires magistrates to complete training annually. The courses are offered online or at physical locations, and they are provided in live and video format. Justices receive CLE-type packets of information, consisting of Power Point slides, black letter law, case law, statutes, and regulations. The materials also include commentary, memoranda, and ethics opinions. The material also reviews the history of the issues, including previous legislation and references to the Criminal Procedure Law. Training reviews FAQs and written examples/scenarios of how to apply the law to different situations. To assist judges in their duties, materials include samples of accusatory instruments, forms, decision templates, and charts/quick reference guides. The training qualifies as CLE credits for attorney

on the Future of New York State Courts, *Justice Most Local: The Future of Town and Village Courts in New York State* at 83-104 (September 2008).

³⁵⁸ Compare January 30, 2009 New York State Bar Association House of Delegates Minutes (adopting Report of the Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Courts in New York State except rejecting one recommendation for the original recommendation found in the Dunne Commission Report) with Report of the Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Court in New York State (Dec. 16, 2008); Justice Most Local: The Future of Town and Village Courts in New York State, A Report by the Special Commission on the Future of the New York State Courts (Sept. 2008).

judges. Finally, judges also receive information on legal research sites, as well as contact information to ask further questions.

Training over the past several years has covered the following topics:

2011 (Basic Course)

Accepting Pleas

ACD and Sentencing

Appeals: Civil & Criminal

Arrest and Assignment of Counsel

Bail: Setting and ROR

Civil Actions

Controlling the Courtroom

Life Cycle of a Criminal Case

Domestic Violence

DWI

Ethics

Evidence

Motion Practice

Non-Jury Trial and Accepting Trial Waiver

Omnibus Motions

Pleas, Sentencing, and ACD

Pringle Hearings

Record Keeping & Reporting

Securing Defendant's Attendance

Determining Legal Sufficiency

Small Claims Forms

Statute of Limitations

Speeding and AUO

Summary Proceeding

Youthful Offender, Juvenile Offender, and Juvenile Delinquent

2012

DMV Updates

Domestic Violence

Judicial Ethics

Life Cycle of a Small Claim

2013

DMV Updates

Judicial Ethics

Leandra's Law and IID

Parker Warnings

Pringle Hearings

Search Warrants

Sovereign Citizen

Tech Center

2014

Conditional Discharge and Violations of Probation

Discovery in a Criminal Case

Ethics

Distracted Driving

Domestic Violence

E-justice

Extradition Warrants

Mental Health Issues in the Courtroom

Revocable Sentences

Summary Proceeding

2015

ADR Best Practices

DWI

Judicial Ethics

Legal Updates

Settlements, Stays, and Unrepresented Litigants

Summary Contempt

Surcharges

2016

Chemical Breath Test and Pringle

Dangerous Dogs

Dismissal in the Interests of Justice

Ethics

Judicial Independence

Judicial Decision Writing

Leandra's Law and IID

Recordkeeping

Sovereign Citizens

Warrant of Habitability

2017

Chemical Breath Test and Preliminary Pringle Determinations

Dismissal in the Interests of Justice

DMV Update

DWI and Refusals

Ethics

Fines Under CPL Article 420

Life Cycle of a Criminal Appeal

New Assigned Counsel Eligibility Guidelines

In addition to their training, justices receive a quarterly magazine published by the New York State Magistrates Association titled, “The Magistrate,” which provides articles about different legal topics, as well as recent case law. Local Magistrates Associations also hold meetings to discuss trainings and other topics. Depending on the location, meetings can be sporadic, attendance is not mandatory, and attendance records may not be maintained.³⁵⁹

Justices have now been advised that it is unethical to arraign a defendant without counsel and to do so will subject them to scrutiny of the Commission on Judicial Conduct. Therefore, they now have no choice but to leave the defendant in the custody of the arresting officer until counsel appears.

Justices may access training materials online or through other links that try to organize and to facilitate their work, such as <http://nyjusticecourts.law.columbia.edu/>.

E. Training for Court Clerks

The Court Clerks Association has existed since 1979 and has about 1115 members (court clerks). There are 1700 court clerks statewide, so 66% of them belong to the association. The clerks deal daily with public funds and people’s freedom. If a clerk mistakes reporting a criminal case, it will impact that defendant’s life. Mistakes can mean the difference between an existing

³⁵⁹ All of the above-referenced information was obtained via an in-person interview with a local village court judge (November 2016-November 2017).

commissary account (deferred or non-deferred restitution); release dates (concurrent versus consecutive sentencing), and potential immediate charges (complete stay away versus refrain from orders of protection). If a clerk mistakes reporting justice courts funds, it will impact the municipality as a whole. Several jurisdictions' clerks have been prosecuted for misreporting funds, resulting in extensive costs for audits, prosecution, theft, etc.

In response to a survey issued several years ago by a joint committee of the State Magistrates (NYSMA) and Court Clerks Association, 1330 court clerks responded. Eighty-five percent agreed that mandatory training for court clerks was necessary (before proposed legislation in December 2016, there were no training requirements for court clerks). Although training is offered, many clerks do not attend it because it is not mandatory, and municipalities will not reimburse or assist with non-mandatory training costs. Furthermore, not every jurisdiction budgets for education of court clerks, and clerks' schedules do not allow time for training. A well-trained court clerk is an asset not only to the judge, but also to the community. Too many clerks have accepted their positions only to become disheartened, overwhelmed, and overworked by having to organize the mismanaged files left behind by an untrained clerk that had worked there for several years. By mandating training, clerks are taking steps to ensure that they will have the appropriate tools and knowledge.

NYSAMCC promotes or co-sponsors statewide events for court clerks; however, it does not retain materials used in trainings nor take attendance at trainings. There are three annual conferences: Association of Towns, Potsdam, and Annual Court Clerk's Association. The Association of Towns offers annual trainings in New York City on President's Day weekend,

and 117 clerks attended this past year. A program is offered annually in Potsdam, New York during the third week in July (all Tuesday and Wednesday), and 70 clerks attended it this past year. OCA organizes the training, and NYSCCA provides instructors. The Annual Court Clerk's Conference takes place at a rotating location during the last week of September (Monday through Wednesday), and 250 clerks attended this past year. The Court Clerk's Association does not retain copies of the training materials provided at the trainings. OCA does not record attendance at any of the trainings unless judges attend. Local training material and attendance information are not shared with or tracked by OCA because clerks do not receive credit for attending training; therefore, OCA does not find it necessary to track that information.³⁶⁰

In Fall 2017, the Court Clerks Association held its training in Ellicottville, New York. Instructors included individuals from NYSAMCC, NYSMA, OCA, various judicial districts (court analyst, management analyst, PC analyst), and DMV. They instructed on the following:

Supporting the Bench

Introduction to Court Clerk Position

Fiscal Responsibilities

CDR - Basic

Introduction to Civil Actions: Small Claims, Civil Claims, and Summary Proceedings

TSLED

³⁶⁰ All of the above-referenced information was obtained via email and in-person interviews with Gillian Koerner, President of Court Clerks Association (Feb. 23 and 24, Mar. 24, 2017), as well as NYSAMCC's comments on proposed regulation 22 NYCRR § 17.2 (f), Nov. 3, 2016.

Web-DVS

Digital Recorder/Outlook

Introduction to Criminal Procedure Law

Advanced Classes

Advanced DWI

Violations of Probation

Civil and Criminal Appeals

Advanced Web-DVS

Advanced CDR

DWI Drugs - Part I

Drugged Drivers - Part II

Advanced TSLED

Advanced Web DVS

Bail Me Out

Elective Classes

All in the Details

Environmental Conservation

NYS Courts Access to Justice Program

Forms Class

Records Management

E-Justice Portal and TAC Responsibilities

CJIS - Audits

Advanced Fiscal³⁶¹

Other than those statewide, annual trainings, towns and villages offer a range of trainings. For example, the Seventh Judicial District offered training on April 7, 2016 to court clerks in Geneva, New York.³⁶² Some counties combine court clerk and judge associations, and when they are combined, there are better records of court clerk training.³⁶³ Each county and/or each district would have to be contacted to determine that information, a task beyond this committee's abilities; however, no trainings were provided for the past two years in Cattaraugus or Chemung Counties.³⁶⁴ Training was provided in Rockland County at the Rockland County Courthouse on October 25, 2016; but the participants were not given an agenda or syllabus.³⁶⁵

³⁶¹All of the information about the 2017 court clerks training was provided from the 2017 New York State Association of Magistrates Court Clerks, Inc. Annual Conference Agenda.

³⁶²Interview with Amy Monachino, Town & Village Court Liaison, 7th Judicial District, Mar. 21, 2017.

³⁶³*Id.*

³⁶⁴Email to Robert Jereski from Kenneth S. Carlson, Assistant Deputy Counsel, Office of Justice Court Support (Mar. 29, 2017).

³⁶⁵Email to Robert Jereski from Kenneth S. Carlson, Assistant Deputy Counsel, Office of Justice Court Support (Apr. 18, 2017).

The court clerks association did not have much organization at all until recently. It now has an interactive, informational website (<https://nysamcc.com>) including training schedules, educational resources, and contact information.³⁶⁶ When court clerks have questions about training or other matters not answered on the website, then they may contact the Office of Justice Court Support (“OJCS”).³⁶⁷

In December 2016, Governor Cuomo signed into law 22 NYCRR § 17.2 to mandate that each court clerk in a town or village justice court complete annually a training or continuing education program approved by the Chief Administrator of the Courts. The regulation applies to all justice court clerks, regardless of how many hours they work. Effective 2019, each veteran court clerk must receive at least 6 hours of approved annual training, and at least 1 course per year must address financial/fiscal matters.³⁶⁸ Clerks newly hired in 2019 and thereafter will be required to take an introductory, 12-hour “Supporting the Bench” training, as well as an additional 6 hours of annual approved training.³⁶⁹ Nassau County justice court clerks must

³⁶⁶New York State Association of Magistrates Court Clerks, Inc., <https://nysamcc.com/#home-1-section> (accessed Oct. 18, 2017).

³⁶⁷Interview, *supra* at n 357.

³⁶⁸22 NYCRR § 17.2 (f).

³⁶⁹22 NYCRR § 17.2 (f) proposal; Email from Nancy Sunukjian, Director of OJCS, Special Counsel to the DCAJ (Aug, 2, 2017).

complete only six hours of “Supporting the Bench” training with an additional four hours of annual approved training.³⁷⁰ To alleviate the costs associated with mandatory training, training will be offered online.³⁷¹ Credits earned in 2018 may be applied to 2019 requirements.³⁷²

OJCS is creating a database to track the training of every justice court clerk statewide—“a task that never before has been undertaken.”³⁷³ It will create appropriate curriculum and appoint appropriate instructors.³⁷⁴ Ken Carlson (Assistant Deputy Counsel), Alex Glick-Kutscha (Associate Counsel), Kate Breen (Senior Court Analyst), and Kathy Roberts (Assistant Court Analyst) will assist in that project.

F. Office of Justice Court Support and the Town and Village Resource Center

The Office of Justice Court Support and Town and Village Resource Center (“the Center”) is part of the Office of Court Administration (“OCA”) and is located in Albany, New York. It has existed for more than 30 years. Its director currently also serves as special counsel to

³⁷⁰22 NYCRR § 17.2 (f) proposal.

³⁷¹Email, *supra* at n 366.

³⁷²22 NYCRR § 17.2 (f) proposal.

³⁷³Email, *supra* at n 366.

³⁷⁴*Id.*

the Deputy Chief Administrative Judge for Courts Outside of New York City. The Center supports justice courts by giving legal and other assistance to those courts, as well as by providing training and education to judges and to court clerks.

The Center is staffed by 17-18 individuals. Currently, eight of those individuals are attorneys. Approximately three of those attorneys also serve as local judges, and at least one is a former local judge. They have a variety of backgrounds, including one with 17 years as an assistant district attorney, another with several years as an assistant public defender, and another with 10 years of criminal defense work in private practice, as well as several years as an assistant district attorney. Other attorneys have their experience working with a bar association, general practice firm, administrative law, human resources, and court administration. Two of the attorneys have worked with the Center for more than 20 years, and one attorney has worked there for more than 10 years.

The attorneys serve as confidential law clerks to over 1,830 justice court judges. They respond to telephone and e-mail inquiries from judges and clerks, perform legal research, and draft memoranda or other written materials to assist the courts. They often consult each other, as well, before answering difficult questions. They receive approximately 75-80 calls per day (more than 20,000 phone calls per year). Five to six individuals work per shift, and at least one staff attorney remains on-call during evening and weekend hours to assist courts after business hours. The attorneys must comply with their CLE requirements, and they keep abreast of new case law by developing annual trainings. Administrative staff also receives training, although it is not legal in nature; rather, it reviews software and database programs.

Administratively, the Center also liaises with OCA's Division of Technology to assist justice courts with other technological issues. Furthermore, the Center secures credit card machines, ensures that justice courts meet their audit obligations, and oversees the JCAP grant program (providing approximately \$3 million to justice courts statewide in 2017). The Center also develops and implements other administrative initiatives, such as increasing language access and improving data entry.

The Center assists with the training and education of judges and clerks, as well. It develops the annual "Core" programs that are offered at the Association of Towns conference in New York City each February. It presents at the late March conference in Albany, July program in Potsdam, and State Magistrates Association in October (held at a different location each year, although it does not develop the October training). All recorded programs are available to local judges through an online learning portal. The Center also sends email blasts to judges to inform them about new legislation that passes post-training sessions. It also develops the "Taking the Bench" training for newly elected non-lawyer judges (an intensive, six-day training offered each December and April with a follow-up session after several months). All lawyer and non-lawyer judges must take 12 advanced training credits annually. The Center also will develop the newly-required court clerk trainings. The Center works with a curriculum consultant to develop new training and includes both lectures and hands-on exercises in its programs.

The Center is aware of the issues involved in communicating with non-English speaking persons, and it has trained the judges on "the importance of ensuring access to justice for individuals with limited English proficiency." A Task Force is reviewing similar practices

around the state and will issue a report in Spring 2018. In the meantime, “there is a State contract with Language Line, a private provider of telephonic interpreting services,” and many courts use it.³⁷⁵ Indeed, court rules provide that the clerk of a court or other designated administrative officer *shall* schedule an interpreter at no expense from an OCA-maintained approved list, and that interpreter may interpret by telephone or other audiovisual means.³⁷⁶

G. Approved and Proposed Legislation

Training and Education of Justices and Non-Judicial Personnel. A.7375/S.4222 (2007)

Requires non-judicial staff to complete courses in docket management, financial control, and court operations. After passing the assembly, this bill died in the senate, was returned to the assembly, and was referred to the finance committee.

Justice Court Efficiency and Modernization Act. A.10945 (2009); A.5647 (2011); A.5338

(2013). Advancing recommendations of Chief Judge Kaye’s 2008 Special Commission on the Future of New York State Courts, this imposes age and educational requirements for justice court judges. Judges must be at least 25 years old and have graduated from high school or earned

³⁷⁵ All of the above-referenced information was obtained via email and in-person interviews with Kenneth S. Carlson, Assistant Deputy Counsel, Office of Justice Court Support (Oct. 18 and Nov. 29, 2017).

³⁷⁶ 22 NYCRR Part 217.

a GED, as well as an Associate's or Bachelor of Arts degree. A person may sit as a judge in any justice court of his county of residence or an adjoining county.

A defendant charged with a misdemeanor or felony may choose to appear only before a judge admitted to practice law. Such motion must be made after arraignment.

Judges must complete training before assuming the functions of a judge, unless that judge is a licensed attorney. This bill was referred to the judiciary, and no votes were taken.

Minimum Educational Requirements for Town and Village Justices. A.8336-A (2013); A.2867 (2015). Allows each municipality to determine whether their town and village court justices must be licensed attorneys. In both 2013 and 2015, this bill was referred to the judiciary, and no votes were taken on it.

Educational Programs for Judicial Personnel on the Law of Searches, Arrests, and Seizures.

A.4012/S.4354 (2016). Reinforces provisions of the Criminal Procedure Law relating to hours of the day that a "no-knock" warrant may be applied for and executed, as well as requiring specific, factual application requirements. The bill also requires that the application court place its finding on the record. It mandates regular training of judicial personnel on the substantive law of search and seizure. This bill has been proposed before.

Allows the Town Supervisor to Examine Justice Court Docket Quarterly Regarding

Payment of Fines and Fees. A.2237 (2016). Allows the town supervisor to review the courts' dockets to ensure that monies collected are not being embezzled by court personnel. This bill has been referred to local governments, and no vote has been taken. This bill has been proposed before.

22 NYCRR §17.2 (f). (2016) Mandatory training for court clerks. The additional section to the existing court rule proposes:

(a)) Newly admitted clerks. Newly admitted clerks would complete successfully a “supporting the bench” course within 90 days of their appointment. A certificate of completion will be issued and valid throughout the calendar year.

(b) Advanced training. Court clerks shall be required to complete 6 hours of training each year, 1 hour of which will include fiscal training. The training could occur in one day: online, at conferences, or at local and district trainings. The addition of the fiscal requirement would minimize the amount of fiscal mistakes, highlighted by the Office of the State Comptrollers in many of their Justice Court audits.

(c)) Successful completion. “Successful completion” means completion of training which must include 1 credit hour of fiscal education annually and attendance verification and/or certification on attendance as established by the Chief Administrator.

On December 14, 2016 the section was approved to read, “Each court clerk in a town or village court shall annually complete a training or continuing education program approved by the Chief Administrator of the Courts.”³⁷⁷

H. Summary

Both judges and clerks have a plethora of quality, CLE-type, training materials available to them, both in print, online, lecture, and role-play formats. Those materials give a thorough overview of both civil and criminal topics that frequently appear in justice courts. Judges may attend any of several available sessions and may access materials at any time if they do not print and save them for their convenience. Additionally, the Center is available throughout the day, evening, and weekends to answer any legal questions or procedures that may arise.

Despite all the training and resource materials available, some justice courts fall short of providing constitutionally mandated due process or timely administrative services. For whatever reasons, some Judges do not follow basic due process requirements, for example, more rural jurisdictions have delayed due process to foreign-speaking defendants by neglecting to provide interpreters or utilize Language Line. Sometimes, judges may be unaware of what certain terms mean or how to impose certain types of relief and other instances they do not have all of the forms available to order certain types of relief (such as less common forms of bail).

³⁷⁷Interview, *supra* at 357.

Training for judges is shorter than previously recommended. A 6-day training course followed by 12 hours of advanced training still is no comparison to the three years of legal education followed by even several more years of practical experience to become a well-rounded attorney (even in a specialized field). Training also does not account for the growing ethnic and cultural diversity/sensitivity of today's defendants. Justice courts also have access to resources to assist them in administering justice; however, JCAP grants do not apply toward funding the costs associated with training. Municipalities must cover that cost; therefore, it becomes yet another unfunded mandate.

Not all court clerks are employed full time, as previously recommended. Where court clerks are available, they do not work enough hours to be able to process the court's paperwork timely, sufficiently, or without mistake.

III. CENTRALIZATION

A. Previous Recommendations

Town and Village Justice Courts are established as part of New York's "Unified Court System" under New York State's Constitution Article VI.³⁷⁸ In 1976, in response to increasing

³⁷⁸N.Y. Const. Art. VI, § 1

caseloads and expense, the Unified Court Budget Act provided for State funding of that Unified Court System - excluding funding of the Town and Village Justice Courts.³⁷⁹

In 1997, Chief Judge Judith S. Kaye and then-Chief Administrative Judge Jonathan Lippman proposed to consolidate New York's Court System into just two levels: Supreme Court (with jurisdiction over most criminal, civil, family, and probate matters) and District Courts (with jurisdiction over housing, as well as minor criminal and civil matters).³⁸⁰ State Bar policy endorses this two-tier system.³⁸¹

In 2006, Chief Judge Kaye appointed the Special Commission on the Future of New York State Courts, headed by Carey Dunne ("Dunne Commission"). In 2007, that commission issued a report: "A Court System for the Future: The Promise of Court Restructuring in New

³⁷⁹Judiciary Law § 39 (1976); L. 1976, ch. 966. This legislation resulted from a 1974 report by the Governor-Elect's Task Force on Judicial Selection and Court Reform, which was headed by Cyrus R. Vance.

³⁸⁰Jan Hoffman, *Chief Judge Offers a Plan to Consolidate the Court System*, N.Y. Times (Mar. 20, 1997), available at <http://www.nytimes.com/1997/03/20/nyregion/chief-judge-offers-a-plan-to-consolidate-the-court-system.html>.

³⁸¹April 1998 New York State Bar Association House of Delegates Minutes; May 31, 2007 New York State Bar Association Executive Committee Minutes; November 4, 2011 New York State Bar Association Executive Committee Minutes. *See also* Letter from President M. Alcott of the New York State Bar Association to C. Dunne of Davis Polk & Wardwell (dated Feb. 1, 2007).

York State;”³⁸² and, town and village justice courts are excluded from the commission’s proposed new court structure diagram. The Commission issued a separate report on town and village justice courts in 2008 titled “*Justice Most Local: The Future of Town and Village Courts in New York State*, A Report by the Special Commission on the Future of the New York State Courts”.

Currently, voters elect town and village court judges.³⁸³ State Bar policy advocates for “merit selection” of New York’s judiciary.³⁸⁴

Under the current system, only town and village court judges do not have a mandatory retirement age.³⁸⁵ They are, however, elected for terms of four years.³⁸⁶ “There is no requirement that judges be members of the Bar, although they must receive some judicial training after

³⁸²A Court System for the Future: The Promise of Court Restructuring in New York State - A Report by the Special Commission on the Future of the New York State Courts, (dated Feb. 2007), at 51-53, *available at* http://nycourts.gov/reports/courtsys-4future_2007.pdf.

³⁸³N.Y. Const. art. VI § 17 (d) (2015).

³⁸⁴*See, e.g.*, April 3, 1993 New York State Bar Association House of Delegates Resolution (“RESOLVED, that this House of Delegates hereby endorses and reaffirms the position adopted by the New York State Bar Association in 1979 in support of the concept of merit selection[.]”)

³⁸⁵N.Y. Const. art VI, § 25 (b) (2015).

³⁸⁶Village Law § 3-302 (3) (2016).

election, the extent of which depends on whether they are members of the Bar.”³⁸⁷ Many have suggested that New should require that these judges be attorneys who are admitted to practice in New York.”³⁸⁸ The Bar has taken the position that all judges should be lawyers, concluding that “[i]t is unfair for litigants in civil or criminal cases to have matters determined by a person who may be unfamiliar with the law.”³⁸⁹

Despite that position or the opinions listed, above, the 2008 Dunne Commission Report on Town and Village Justice Courts did not find a compelling basis to eliminate those courts altogether or to require that their judges be admitted attorneys.³⁹⁰ The Report recommended that 1) minimum standards be developed for those courts and 2) panels be developed to discuss court

³⁸⁷Report and Recommendations of the New York State Bar Association Committee on the New York State Constitution, The Judiciary Article of the New York State Constitution - Opportunities to Restructure and Modernize the New York Courts Dec. 12, 2016.

³⁸⁸*Id.*

³⁸⁹*Id.*; William Glaberson, *How a Reviled Court System Has Outlasted Many Critics*, N.Y. Times, at B8-B9 (Sept. 27, 2006).

³⁹⁰Report and Recommendations of the New York State Bar Association Committee on the New York State Constitution, The Judiciary Article of the New York State Constitution - Opportunities to Restructure and Modernize the New York Courts Dec. 12, 2016.

consolidation.³⁹¹ Three months later, the State Bar agreed that 1) requiring judges in town and village justice courts to be lawyers was not possible; 2) developing standards for those courts was important; and 3) consolidating those courts should be discussed.³⁹² The proposals that the State Bar did not agree with included: 1) judges be a minimum age of 25 (the State Bar recommended 30); 2) judges have a two-year college degree (the State Bar recommended a four-year degree).³⁹³

³⁹¹*Id.*; Justice Most Local: The Future of Town and Village Courts in New York State, A Report by the Special Commission on the Future of the New York State Courts (Sept. 2008), at 83-104.

³⁹²*See* January 30, 2009 New York State Bar Association House of Delegates Minutes (adopting Report of the Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Court in New York State but rejecting one recommendation in the Committee report in favor of the original recommendation set forth in the Dunne Commission Report); Report of the Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Courts in New York State (Dec. 16, 2008). *See also* Justice Most Local: The Future of Town and Village Courts in New York State, A Report by the Special Commission on the Future of the New York State Courts (Sept. 2008).

³⁹³*Compare* January 30, 2009 New York State Bar Association House of Delegates Minutes (adopting Report of the Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Courts in New York State except rejecting one recommendation for the original recommendation found in the Dunne Commission Report) *with* Report of the Committee on Court Structure and Judicial Selection re: Justice Most Local: The Future of Town and Village Court in New York State (Dec. 16, 2008); Justice Most Local: The Future of Town and Village Courts in New York State, A Report by the Special Commission on the Future of the New York State Courts (Sept. 2008).

In 2017, it has been proposed that the issues affecting Town and Village Justice Courts would be appropriately discussed in a Constitutional Convention.³⁹⁴ NYSBA’s Committee on the New York State Constitution believes “that the restructuring and reorganization of the State’s court system — for nearly five decades an abiding concern of the State Bar — has little practical chance of being achieved without a Constitutional Convention.”³⁹⁵ “Of concern is the Constitution’s Judiciary Article (Article VI), which promises a unified court system and then proceeds to establish the most byzantine and complex system in the nation.”³⁹⁶ Clearly, with the voters’ rejection in the November 2017 election, it will be another 20 years before the next time a vote to hold a Constitutional Convention will be on the ballot.

B. Court consolidation

1. Uniform Justice Court Act

³⁹⁴Report and Recommendations of the New York State Bar Association Committee on the New York State Constitution, The Judiciary Article of the New York State Constitution - Opportunities to Restructure and Modernize the New York Courts Dec. 12, 2016.

³⁹⁵Report and Recommendations concerning Whether New Yorkers Should Approve the 2017 Ballot Question Calling For a Constitutional Convention at 2, adopted by the Committee on the New York State Constitution, Apr. 20, 2017.

³⁹⁶Report and Recommendations concerning Whether New Yorkers Should Approve the 2017 Ballot Question Calling For a Constitutional Convention at 9, adopted by the Committee on the New York State Constitution, Apr. 20, 2017.

The law currently provides a procedure by which a more unified—or at least consolidated—court system can exist at the justice court level. Justice Courts are governed by the Uniform Justice Court Act (“UJCA”) and 22 NYCRR Part 214. Under the act, court location and judge assignment is flexible when necessary.³⁹⁷ Certain towns can use other jurisdictions’ spaces and judges for jury trials and for court proceedings, as well.³⁹⁸ Two or more neighboring towns within the same county may form a single town court, that court would be staffed by town justices from each of those “member towns”, and they would be elected in the same manner and

³⁹⁷ UCJA 106 (1-2): A town judge may hold court in a variety of places (anywhere in the town’s municipality, in a village wholly or partly contained within that town whether or not that village maintains a village court and regardless of whether more than one village occupies that space for its offices, in an adjacent town, or in a court in any one of the contiguous municipalities upon agreement with those municipalities). A judge from one court may be assigned temporarily to another court, and even after the assignment ends, that temporary judge may retain jurisdiction over the matters before which he presided (under such circumstances, the temporary judge’s expenses shall be paid out of the state judiciary funds).

³⁹⁸ UCJA 106 (4, 5, and 10): The Town of Watson, Village of Saddle Rock, and Village of Port Dickinson to use other jurisdictions’ spaces for jury trials, on an as-needed basis. The towns of Elba, Oakfield, and Batavia in Genesee County may hold their town court proceedings in any of those towns’ courts or in the city of Batavia; UCJA 106 (b); 106 (b)-7.

for the same terms as if they sat in their towns.³⁹⁹ Such joinder of courts may be initiated either by the town board or by petition.⁴⁰⁰

Even under consolidation, records of the court remain the property of the village or town of the justice.⁴⁰¹ When that justice's term expires, he shall file his records in the clerk's office of his town or village.⁴⁰² There are no stenographers, for whenever a contested criminal proceeding

³⁹⁹UJCA 106-a (1).

⁴⁰⁰UCJA 106-a (1, 7, 8, 10, 11, 13); UCJA-b (2, 3, 6, 7). If initiated by petition, then the petition must contain the verbiage and form requirements of UJCA § 106-a (2) and be signed by at least 20% of the registered voters in each town before being submitted to each town board. After a hearing on the board resolution or petition, the town boards of each municipality involved shall vote as to whether a joinder of courts will occur. If the petition is not approved, then the matter terminates. If the petition is approved, then the town boards shall resolve that the office of one justice in each town shall be abolished, and the remaining justice shall have jurisdiction in both towns as if he had been elected in both. The boards shall study the effects of the proposed resolution (hearing testimony and receiving evidence and information), and then, they will present the results of the study at a hearing. Voters will vote on that resolution at the next general election that occurs more than 60 days after the resolution is finalized. A majority of the qualified voters of each town is required for the resolution to pass. If the resolution passes, then the presiding judge shall keep a separate records, dockets, and bank accounts for each town in which he exercises jurisdiction. The resolution becomes a municipal home rule. It does not take effect until state legislation enacting it shall have become a law.

⁴⁰¹UJCA 2019-a.

⁴⁰²*Id.*

occurs, a justice *may* employ a stenographer.⁴⁰³ The municipal board shall fix the rate of compensation for such stenographer.⁴⁰⁴ The stenographer’s compensation shall be a municipal charge.⁴⁰⁵ The affidavit of errors method, although archaic, is still the method of appeal for justice court matters.⁴⁰⁶

Two or more towns or villages may make a joint application for JCAP funds.⁴⁰⁷

The UCJA governs town and village courts; however, it does not govern civil or criminal matters in city courts.⁴⁰⁸

2. Uniform District Court Act

District Courts are another form of justice court consolidation with the added achieved State Bar goal of having a lawyer judge. They are governed by the Uniform District Court Act (“UDCA”) and 22 NYCRR Part 212. Like justice courts, any town that decided to join its district

⁴⁰³UJCA 2021.

⁴⁰⁴*Id.*

⁴⁰⁵*Id.*

⁴⁰⁶ UCJA 1704 (a).

⁴⁰⁷Judiciary Law § 849-i (1).

⁴⁰⁸UJCA 2300.

court system did so irrevocably.⁴⁰⁹ Currently, Suffolk County has at least six districts in addition to the county district, and Nassau County has at least four districts in addition to the County District.⁴¹⁰

Unlike justice courts, though, a district court judge must be admitted to practice law for at least five years as of the date that she commences offices, among other requirements.⁴¹¹ The

⁴⁰⁹UDCA 2402 and 2403: At least three contiguous towns must cast a majority vote in each town to join. Any town contiguous to those towns thereafter may elect by majority vote to join once the court is established. The county shall be divided as follows: the county serves as one district, and 1 judge is elected for that. Each town joining the district serves as a judicial district, except if two or more contiguous town have a population of less than 60,000 (according to the last census), then they serve as one judicial district. If any of those towns has a population of greater than 30,000, though, then it shall serve as a separate judicial district. One judge shall be elected from each district.

⁴¹⁰ 22 NYCRR 212.2 (a) (1-2). Suffolk County's First District includes the Towns of Babylon, Huntington, Smith Town, Islip, and Brookhaven. Suffolk County's Second District includes the Town of Babylon. Suffolk County's Third District includes the Town of Huntington. Suffolk County's Fourth District includes the Town of Smithtown. Suffolk County's Fifth District includes the Town of Islip. Suffolk County's Sixth District includes the Town of Brookhaven. Nassau County's First District includes the Towns of Hempstead, North Hempstead, and Oyster Bay, as well as Cities of Long Beach and Glen Cove. Nassau County's Second District includes the Town of Hempstead and City of Long Beach. Nassau County's Third District includes the Town of North Hempstead. Nassau County's Fourth District includes the Town of Oyster Bay and City of Glen Cove.

⁴¹¹UDCA 103 (c).

judge may not engage in any other profession which interferes with the performance of her judicial duties.⁴¹²

The handling of criminal matters is flexible.⁴¹³ Once created, although all justice court criminal dockets, powers, duties, and jurisdiction are transferred to the district courts (abolishing justice courts and justices of the peace), towns and villages retain jurisdiction of violations of ordinances, regulations, and vehicle and traffic law offenses (except for operating a motor vehicle in an intoxicated condition.⁴¹⁴ They also retain fine monies collected by district courts for convictions of town and villages ordinances taken in district courts encompassed among other matters.⁴¹⁵

⁴¹²UDCA 103 (d) (4).

⁴¹³ UDCA 2002, 2009: If the criminal matter it is not a felony, then the defendant may appear by mail instead of appearing in person or by counsel. Charges of a misdemeanor may be tried in any place within the territorial jurisdiction of the court; on the other hand, all other charges shall be tried in the judicial district of the court in which the offense is alleged to have been committed. A defendant need not be tried before the judge issuing the summons; instead, he may be tried before any judge of the court.

⁴¹⁴UDCA 2021, 2402, and 2603.

⁴¹⁵ UDCA 2408-a (1, 2, and 4): Fines and penalties collected in cases arising out of the violation of the violation of ordinances or regulations of any town, city, or village shall be paid at least monthly into the treasury of such town, city, or village. Fines and penalties that are payable to New York State or any department, commission, or agency thereof shall be paid as in such general state law at least monthly. Fines and penalties, which by general state laws, but for this section, would be required to be paid to a town or any officer of a town, shall be paid instead to

District courts are not state courts, though. The *county* shall provide the place for holding court, as well as supply and pay for necessary business expenses (proper accommodations, books, stationary, furniture, *salaries*, compensations, expenses, and disbursements).⁴¹⁶ The board of judges shall appoint their court clerks, deputy court clerks, marshals, deputy marshals, stenographers, and other assistants and employees.⁴¹⁷ The appellate division and the supreme court shall approve those appointments.⁴¹⁸ Court clerks, marshals, deputy court clerks, and deputy marshals shall be residents of the county in which they work, and removal from the county shall vacate their position.⁴¹⁹ Salaries for district court judges are defined by statute, and judges in Nassau and Suffolk County District Courts earn \$122,700 annually.⁴²⁰ They also may be reimbursed up to \$75-150 per day (depending on county population) for actual and necessary

the county treasurer and credited to the general fund for the use of such county.

⁴¹⁶UDCA 2409; 2412; 2408*2.

⁴¹⁷UDCA 2415.

⁴¹⁸*Id.*

⁴¹⁹*Id.*

⁴²⁰Judiciary Law § 221-h.

transportation and travel expenses related to judicial duties performed outside of the county of his residence.⁴²¹

District courts also *are not courts of record*.⁴²²

The board of judges shall provide suitable places for holding court.⁴²³ During July and August, at least one part of the court shall be in session at least three days each week to hear civil and criminal cases.⁴²⁴ Except for illness, each judge shall be available for service as assigned throughout 11 months of the year.⁴²⁵

C. Specialty Courts

Specialty courts also are known as boutique courts or problem-solving courts. They regionalize criminal matters resulting from specific types of addiction, providing a term of interim probation, upon successful completion of which, pending charges will be reduced or dismissed (a “carrot at the end of a stick” or “pot of gold at the end of the rainbow” approach to treating addiction recovery). Throughout the term of interim probation, defendants may be

⁴²¹Judiciary Law § 222 (d).

⁴²²*see* UDCA 2401.

⁴²³UDCA 2410.

⁴²⁴*Id.*

⁴²⁵*Id.*

required to participate in counseling, job training, job placement, volunteering, inpatient rehabilitation, random drug testing, group therapy, mentorship, curfews, etc. Violations may result in small sanctions or restarting the term of interim probation rather than in immediate incarceration. Specialty courts realize that incarceration, alone, does not resolve the problems underlying addiction.

A variety of specialty courts exists. They include drug, integrated domestic violence (“IDV”), mental health, sex offense, veterans, human trafficking court, opioid, and youth part courts.⁴²⁶ Since their inception,⁴²⁷ they have become renown and successful.

Often, the only way of entering a specialty court is through indictment or by pleading guilty to a superior court information. When a defendant pleads guilty, he enters into a contract which outlines his sentence if he is successful (reduction or dismissal of charges) or unsuccessful (imposition of the felony followed by a lengthier term of probation or state incarceration). Specialty courts will prohibit defendants charged only with misdemeanors from entering the programs because there is not enough leverage over their heads to make them want to succeed (the maximum term of incarceration on a misdemeanor is one year in a county jail, and specialty

⁴²⁶22 NYCRR Parts 41, 43, 46, 47, and 49.

⁴²⁷ Drug court was created in 1995 in Rochester. IDV court was created in 1996 in Brooklyn. Mental health court was created in 2002 in Kings County. Sex offense court was created in 2005. Veterans court was created in 2008 in Buffalo. Human trafficking court was created in 2012 in New York City. Opioid court was created in 2017 in Buffalo. Youth part will be created in 2018-2019.

courts do not feel that one year of incarceration is hammer enough over one's head). Because of that, misdemeanor cases are pled out in justice courts. Justice court judges do not have the power to refer cases themselves or to encourage referral to the attorneys handling the matter.

Starting in October 2018, justice courts no longer will have jurisdiction over criminal matters involving 16-year olds, and in October 2019, over criminal matters involving 17 year olds. All of those matters (arraignments, matters incidental thereto, dispositions, sentencing) must be transferred to the youth part of the county court or be referred to family court.

D. Centralized/ Off-Hours Arraignments

As mentioned, above, centralized arraignments have attempted to achieve the goal of *Hurrell-Harring* by consolidating justice courts for the purposes of arraignments, albeit "off-hours" arraignments. The legislation organizes arraignments so that arresting officers, police, defense counsel, and prosecutors (where available) know exactly where to go to argue about bail upon a defendant's arrest. It is efficient for all parties involved and promotes constitutional due process.

Despite the convenience and efficiency of the program, only 4 out of 62 counties have created a CAP (*see* Counsel at First Appearance, Paragraph H). The long-held idea of constitutional "home-rule" is too ingrained in many jurisdictions to overcome.

E. Approved and Proposed Legislation

Temporary Assignment of Judges and Justices to Town and Village Courts. A.7374/S.4257 (2007). To implement the goals of the 2006 Action Plan for the Justice Courts, this bill allows the Chief Administrator of the Courts to temporarily assign a justice of a town, village, or city court to another town, village, or city court of that justice's residence or adjoining county. This will increase the resources available to justice courts on an as needed basis. The bill was signed by the governor on July 18, 2007.

Justices Could Preside Over Arraignments Anywhere in the County. S.3615-A (2007/2008); S.4336 (2013); S.4337 (2015). A judge of a local criminal court may appear in any court or other facility in his county to preside over arraignments and bench warrants only if no judge of the "return" jurisdiction is available, no neighboring jurisdictions' judges are available, and the judge assigned is assigned via an established, emergency plan.

In 2007, 2013, and 2015, this bill passed the senate, was delivered to the assembly, then was referred to the judiciary.

Justice Court Efficiency and Modernization Act. A.10945 (2009); A.5647 (2011); A.5338 (2013). Advancing recommendations of Chief Judge Kaye's 2008 Special Commission on the Future of New York State Courts, this imposes age and educational requirements for justice court judges. Judges must be at least 25 years old and have graduated from high school or earned

a GED, as well as an Associate's or Bachelor of Arts degree. A person may sit as a judge in any justice court of his county of residence or an adjoining county.

A defendant charged with a misdemeanor or felony may choose to appear only before a judge admitted to practice law. Such motion must be made after arraignment.

Judges must complete training before assuming the functions of a judge, unless that judge is a licensed attorney. This bill was referred to the judiciary, and no votes were taken.

Election to Proceed Before a Lawyer Justice. A.5899 (2009); A.5221 (2011); A.3149 (2013).

Following on recommendations of the 2008 Special Commission on the Future of the New York State Courts, this allows defendants in justice courts charged with a misdemeanor or felony to choose to appear before a judge who is admitted as a lawyer without having to show good cause for removal. The "opt-out" right would be available after arraignment and before motions are filed. This bill was referred to Judiciary and Codes, and no vote was taken on it.

Allows the Town Supervisor to Examine Justice Court Docket Quarterly Regarding

Payment of Fines and Fees. A.2237 (2016). Allows the town supervisor to review the courts' dockets to ensure that monies collected are not being embezzled by court personnel. This bill has been referred to local governments, and no vote has been taken. This bill has been proposed before.

Centralized Off-Hours Arraignments. A.10360/S.7209-A. In line with those recommendations, these bills have proposed off-hours arraignment parts outside of NYC. After consultation with ILS and local magistrates associations, institutional providers, and other local government officials, off-hours arraignment parts would be established in select local criminal courts of a county to be held in such courts on a rotating basis for the conduct of arraignments and incidental preliminary proceedings. The bill promotes centralized arraignments on a rotating basis for off-hours arraignments. It facilitates the availability of institutional providers, judges, and law enforcement to be present in a timely fashion and definite location for those arraignments.

This bill was signed by the governor on November 28, 2016.

F. Summary

Consolidation of courts or of the issues that they deal with is the wave of the future. It has existed at least for more than half a century through the district court model (by reducing the number of courts and judges), and it has been revived shortly before the turn of the century (through specialty courts). In theory, specialty courts and centralization provide public convenience, due process, and economic benefits for the criminal justice system that the current local home rule system does not. Justice courts are unable to provide the services available through those specialty courts, and many defendants may be prohibited unfortunately from receiving court-ordered help simply because they were fortunate enough to be charged with a lesser crime.

Many attorneys have advocated replacing justice courts with district courts.

Unfortunately, the only things that district courts do is replace a non-lawyer judge with a lawyer judge and raise the small claims threshold by \$10,000. District courts are not courts of record and do not provide the same conveniences that supreme and county courts provide; therefore, they may not be a viable alternative. They are still a municipal charge. Also, it takes too long to establish them. Finally, 18 counties have populations of 60,000 or less; therefore, their individual municipalities would not be represented adequately under the current district court structure (33 counties have populations of 100,000 or less, and they would face the same disadvantage).

IV. CONCLUSION

Town and Village Justice Courts play an important role in administering justice. When well-trained judges and clerks serve the public enthusiastically, neutrally, and professionally, justice runs smoothly. There are many such judges and clerks, and we appreciate their service. We encourage them to continue to serve the public and to uphold New York State's laws.

Nevertheless, the few that do not play by the rules ruin the system. Counsel at first appearance has shed light on a number of inadequacies both in training, education, and application, as well as the difficulties associated with juggling over 1,200 justice courts. The constant changes of laws and procedures in the criminal justice system have made the system too complex for the simple tasks and issues that justice courts were meant to handle. The time has come to reform justice courts so that they are as modern as the laws that they are meant to adjudicate.

V. RECOMMENDATIONS

Recommendation 1:

All counties should adopt at counsel at first appearance plan that fulfills the vision and goals of *Hurrell-Harring*.

Although current plans provide attorneys during certain hours of the day, not all plans provide for attorneys at arraignment 24/7. That leaves defendants unrepresented which fails to provide them the constitutional due process accorded under the New York State Constitution and Constitution of the United States of America. Furthermore, absent a well-trained judge, police force, and knowledgeable defense attorney, arraignment without an attorney allows defendants to incriminate themselves at arraignment. Realizing that not every county may have the staff available to provide 24/7 arraignments, it is recommended that their plans should include continuing the arraignment of a defendant with an attorney within 24 hours after his arrest where he was originally arraigned without an attorney. It is not recommended that a “one-size-fits-all” plan be adopted or imposed statewide regarding counsel at first appearance.

Recommendation 2:

All arraignments should include defense counsel and District Attorneys.

As experience has shown, arraigning judges may refuse to set bail without the district attorney’s bail argument. Arresting officers may state the district attorney’s “bail recommendation” based on practice or policy; however, even that recommendation may change on a case by case basis and the arresting officer may not be aware of the change. Arraignments will be more well-rounded and accurate by the presence of attorneys. As a result, it is

recommended that district attorneys appear at arraignments, as well. A specific method of appearance is not recommended.

Recommendation 3:

All arraigning judges shall use the Language Line for foreign-speaking defendants.

“The purpose of a local criminal court accusatory instrument is to ‘supply defendant with notice of the charged crime to satisfy the demands of due process and double jeopardy.’”⁴²⁸ The court is obligated to provide an interpreter in all civil and criminal cases where a party is unable to understand and to communicate in English.⁴²⁹ It reasonably follows that for a defendant to be on notice of the crime charged, then he must understand the charges against him; therefore, he has a due process right to be arraigned in his primary language and through use of an interpreter, if necessary.⁴³⁰ The United States is a melting pot and continues to grow in cultural diversity. It encompasses a variety of broken-English and foreign speakers. The only way that they can

⁴²⁸ *People v Padilla*, 42 Misc3d 1221(A), *8 (Rockland County Ct 2014).

⁴²⁹ 22 NYCRR § 217.1 (a).

⁴³⁰ *People v Duenas*, 120 AD2d 97, 979 (4th Dept 1986); see *Matter of Rivera v Smith*, 100 AD2d 1043 (4th Dept 1985); *Padilla* at *10-11; *People v Ramos*, 40 NY2d 610, 620 n* (1976); see *People v Resto*, 147 AD3d 1331, 1331-32 (4th Dept 2017); see *People v Wong*, 256 AD2d 724, 725 (3d Dept 1998).

understand the charges against them is if their charges are read to them in *their* primary language. Because the state contracts with an organization that provides interpretation services, it is recommended every justice court must use that interpretation service when arraigning foreign-speaking defendants rather than rely on other forms of interpretation. It is recommended that every justice court be provided with the telephone number for Language Line (or similar service as contracted with the state), that every justice court contact the Center to access Language Line, when necessary, and that the telephone number for Language Line be provided to institutional providers with CAFA plans so that they have it available when justice courts do not.

Recommendation 4:

All justice courts shall have access to the proper paperwork relating to all forms of bail and be better trained in all forms of bail.

Counsel at first appearance has shown that less common forms of bail are unused or underutilized either because arraigning courts do not have the proper paperwork or do not know what different forms of bail mean. It is recommended that the Office of Court Administration provide these forms and appropriate training on them to judges and to clerks.

Recommendation 5:

All counties shall adopt a centralized arraignment plan.

The centralized arraignment plans make the vision of achieving the constitutional due process mandates of *Hurrell-Harring* more realistic. They save time: the plans consolidate arraignments in one location so that the parties involved need not scramble to find judges or courthouses available for arraignments. They conserve manpower: arresting officers may use their discretion to issue more appearance tickets for less serious offenses which allows them to be “on the streets” and available to arrest defendants who commit more serious offenses. They are economically feasible: they use space already available, schedule shifts ahead of time so that not every judge is on call every night, and result in less crowded jails. It is recommended that every county adopt a centralized arraignment plan to assist implementing the mandates of *Hurrell-Harring*. It is recommended that the Office of Court administration impose a centralized arraignment plan upon counties that fail to adopt a plan within a reasonable amount of time. It is recommended that the Centralized Off-Hours Arraignments Bill (A.10360/S.7209-A) be amended to require centralized arraignment parts and that a deadline be established by which those plans must be created.

Recommendation 6:

All justice court judges and clerks should be trained in diversity and inclusion.

Given the State Bar’s adoption of diversity and inclusion to continuing legal education requirements, and cognizant of the problems associated with language access and cultural

diversity in the justice courts, it is recommended that annual training include courses on diversity and inclusion both for judges and for court clerks. It also is recommended that failure to participate in those courses result in professional discipline, including but not limited to removal from office.

Recommendation 7:

Each judge's written and/or recorded work should be audited randomly for compliance with training.

A non-lawyer judge's performance is reviewed on appeal or by the committee on judicial conduct. Judicial errors may prevent a party from seeking further legal relief or may result in unprofessional, unethical, or illegal decision making. It is recommended that the Office of Court Administration randomly review justice court digital recordings and/or written decisions of non-attorney judges to evaluate their performance and to recommend any additional training that may be required.

Recommendation 8:

Records should be kept of justice court judges' and court clerks' attendance at trainings, as well as training materials (agendas, written materials, recorded materials, etc.).

The New York State CLE Department keeps precise records of attorneys' attendance at programs, issues certificates, and mandates that attorneys certify whether they have complied with CLE reporting requirements as a condition to maintain their license to practice law. The

public has a right to know whether their elected officials—individuals who interpret and enforce public laws—are in compliance with the training required to understand and to interpret the substance and procedure of those laws. It is recommended that the attendance of judges and clerks be kept at every training program that they attend and that certificates of their attendance be issued to them. It also is recommended that they certify on a regular basis that they have complied with their training requirements to continue practicing in their positions. It is not recommended how often that they certify. It is recommended that their failure to comply with training requirements results in disciplinary action against them, including but not limited to removal from office. It also is recommended that a public access database be created listing which judges and clerks are in compliance with registration and training requirements (similar to the OCA website for attorneys).

Recommendation 9:

A public access database should be created to track judges' disciplinary records.

Licensed attorneys' conduct and discipline is monitored by the Office of Court Administration and Grievance Committee. In fact, regular decisions are issued from the grievance committee about what attorneys are disciplined for what type of conduct regarding their practice of law. Similarly, it is recommended that decisions regarding non-lawyer judges be made available and easily searchable. The public has a right to know the conduct of its elected officials, as certainly, such conduct may determine the results not only of their current performance in office, but the outcome of the next election. It is recommended that this

information already maintained by the Commission on Judicial Conduct be distributed to the public each time a judge runs for election.

Recommendation 10:

“Misdemeanor Courts” should be established as a specialty court for jurisdiction over criminal matters where the highest crime charged is a misdemeanor.

Establishment of a specialty court dedicated to adjudicating misdemeanors and felony complaints resolves many of the issues outlined, above.

First, it is recommended that one of these specialty courts be established in each county. This court would be staffed appropriately. This court would take over jurisdiction of all criminal matters in which misdemeanors are the highest crimes charged, as well as felony complaints and matters incidental thereto. Town and Village Justice Courts would lose their jurisdiction to hear criminal matters; however, they would retain jurisdiction over civil matters, as well as vehicle and traffic and all other violations, and they retain the ability to contact the Center for legal assistance related to those matters. This relieves non-lawyer judges of the burden of having defendants sentenced by non-lawyer judges, as well as by having non-lawyer judges make probable cause determinations at felony hearings. Furthermore, it promotes State Bar policy of having all local courts staffed by lawyer-judges. As a result, it is recommended that the Criminal Procedure Law § 10.10 (3) be amended to include “(h) misdemeanor court.” It is recommended that Criminal Procedure Law § 10.30 (1) be amended to state “all local criminal courts except for town and village courts have trial jurisdiction over all offenses other than felonies.” It is

recommended that Criminal Procedure Law § 20.50 be amended to exclude jurisdictional requirements for town and villages as they relate to criminal matters. It is recommended that Criminal Procedure Law §§ 100.05; 100.10 (1); 100.10 (3); 100.10 (4); 100.10 (5); 100.55 (1); 100.55 (2); 100.55 (3); 100.55 (7); 100.55 (8); 110.10 (1); 110.10 (2); 110.20; 120.20 (1); 120.30 (1); 120.30 (2); 120.70 (1); 120.70 (2); 120.90 (1); 120.90 (3); 120.90 (4); 120.90 (5); 120.90 (6); 130.10 (1); 130.20; 130.30; 130.50; 140.20 (1); 140.20 (1) (a); 140.20 (1) (d); 140.20 (1) (e); 140.27 (2); 140.40 (1); 140.40 (3); 140.40 (6) (b); 140.55 (3); 150.40 (1); 150.50 (1); 150.60; 170.10 (1); 170.15 (1); 170.15 (2); 170.15 (4); 170.20 (2); 170.20 (2) (b); 170.25 (1); 170.25 (2); 170.25 (3); 170.25 (3) (c); 170.25 (3) (d); 170.30 (1); 170.30 (4); 170.50 (1); 170.55 (4); 170.70; 180.10 (1); 180.20 (1); 180.20 (1-a); 180.20 (2); 180.20 (2) (a); 180.20 (3); 180.30 (1); 180.40; 180.50 (1); 180.70 (1); 180.75 (1); 180.75 (2); 180.75 (3) (a); 180.75 (4); 180.75 (5); 180.80; 180.85 (1); 180.85 (9); 340.20 (1); 340.30; 340.00 (1); 340.00 (2); 350.10 (1); 350.20 (1); 360.05; 360.20; 360.25 (2); 360.35 (2); 360.55; 690.35 (2) (a); 690.35 (2) (b); 730.40 (1); 730.40 (2); 730.40 (3); and 730.40 (4) be amended to exclude town and village courts from local criminal courts. It is recommended that Criminal Procedure Law §§ 100.55 (4), (5), and (6) be amended to exclude town court and village court. It is recommended that Criminal Procedure Law § 100.55 (9) be eliminated. It is recommended that Criminal Procedure Law § 120.40 be amended to eliminate all references to “town court” or “village court”. It is recommended that Criminal Procedure Law § 180 be amended to give jurisdiction of felony complaints to “misdemeanor courts”. It is recommended that Criminal Procedure Law § 360.10 (2) be amended to eliminate references to the Uniform Justice Court Act. It is recommended that

Criminal Procedure Law § 690.35 be amended to eliminate town or village courts from executing search warrants.

Second, it is recommended that this court be staffed by lawyer judges, a requirement similar to district courts. By requiring such staffing, the judges' training, training attendance, and judicial professionalism would be tracked and monitored easily by the Office of Court Administration, as such training and compliance already is tracked by the nature of their profession. No additional partial training established by the Center is needed. Discipline for failure to comply with training can be handled swiftly and professionally and with public knowledge.

Third, it is recommended that these courts be courts of record. A stenographer or more professional digital recorder (such as that made available by the Office of Court Administration for Family Courts) would be made available to record all proceedings. Recording would be preserved under OCA policy, and they would be easily accessible for parties for further legal needs.

Fourth, these courts serve as the centralized arraignment parts for each county. The courts may operate on a 24/7 schedule (or as otherwise decided) for the purpose of conducting arraignments, as well as their other jurisdictional criminal matters. Arresting officers, defense attorneys, judges, and any other party involved would know exactly where to go at what time (if arraiging schedules are established) to effect an arraignment. It is recommended that the Centralized Off-Hours Arraignments Bill (A.10360/S.7209-A) be amended to require that

arresting officers bring defendants to misdemeanor courts for arraignment during any hour. It is recommended that Criminal Procedure Law § 100.55 (11) be eliminated.

Finally, such centralization minimizes the overwhelming number of local criminal courts hearing criminal matters by approximately 80%. There would be approximately 62 misdemeanor courts rather than 1,235 to 1,247 that currently exist. It would relieve the financial burden of an unfunded mandate to towns and villages regarding the training and education of their judges and staff. It is recommended that these courts be established in existing county court buildings or by an appropriately-sized addition thereto. Cost savings to the state occur by using as much space, security, staff, technology, etc., as already is available. It is recommended that the State of New York fully fund what is currently an unfunded mandate.

Crimes are prosecuted on behalf of the *People of the State of New York*—not on behalf of the town or village of a particular county. Civil matters involve individuals, though, matters which are more sensitive, personal, and meaningful to local, home rule. For all the reasons, above, it is recommended that at least one misdemeanor court be established in each county, with jurisdiction over all misdemeanors in that county (removing jurisdiction of criminal matters from justice courts), allowing justice courts to retain jurisdiction over civil matters—over justice *most local*.