

Michael J. Mercure
Public Defender

J. Bruhns

J. Merry
Barry J. Jones
Cherney
First Assistant

S. Martin

OFFICE OF THE PUBLIC DEFENDER
WASHINGTON COUNTY, NEW YORK
383 Broadway, Building B, ROOM 268

Fort Edward, New York 12828

Telephone: (518) 746-2200

Fax: (518) 746-2201

Assistant Public Defenders

Alyson S. Clark
Dustin

Sarah

Elan Y.

Michael

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New York State Bar Association
Reports Group
Executive Committee/House of Delegates
One Elk Street
Albany, New York 12207

RE: Report and Recommendation of the Criminal Justice Section, Town and Village Justice Court Report, Update Regarding Counsel at First Appearance, Training and Education, and Centralized Arraignment 2018

Dear Executive Committee Members and House of Delegates,

This writing is to comment upon the above report specifically as to the materials concerning Washington County's involvement with counsel at first appearance. As a Hurrell-Harring County, the Washington County Public Defender has been integrally involved in the provision of Counsel at Arraignment or first appearance before a judge or magistrate within Washington County.

Early in 2016, the Washington County Public Defender, in conjunction with the New York State Office of Indigent Legal Services (ILS), The Office of Court Administration (OCA), the Washington County Magistrates Association, the Washington County District Attorney, Washington County government, and the Washington County Sheriff developed a plan to provide counsel at arraignment for all felonies, misdemeanors, and penal law violations in the county. The plan was implemented on May 16, 2016.

The plan provided for appearances at both regularly scheduled courts in session in the county together with all off hour arraignments. For regularly scheduled court sessions, an assistant public defender was assigned to appear in each court, meet with anyone on the court's calendar charged with a crime or penal law violation, provide an application for assignment of counsel, appear at arraignment on behalf of the person and make all initial arraignment arguments as necessary. County Court arraignments are handled on the same basis.

Additionally, the Washington County Public Defender implemented 24/7 coverage for all courts in the county when those courts were not in session. The magistrate would call the Public Defender's Office whenever any court had an arraignment to make. During business hours, and on weekends, assigned Public Defenders would answer an on-call phone and travel to any requested arraignments.

This system resulted in providing counsel at arraignment in nearly every instance. It also resulted in more defendants being released on their own recognizance at off hour arraignments. It also resulted in lower, more affordable bail being set together with the provision of assistance in contacting family or bail bondsmen to aid in obtaining release at arraignment.

Throughout 2017, the Washington County Public Defender together with the New York State Office of Indigent Legal Services (ILS), the Office of Court Administration (OCA), the Washington County Magistrates Association, Washington County District Attorney, Washington County government, and the Washington County Sheriff developed and implemented a Centralized Arraignment Court (CAP Court). The Court officially opened on October 20, 2017. This Court provides for one of the local Court magistrates to preside over the CAP Court for an arraignment on charges returnable in any local Court of the County. Arrestees are brought to the Washington County Jail by the arresting agency where they are held until the CAP Court opens.

The Court is held daily in the lobby of the Washington County Jail at 8:00 am and 7:00 pm. The Washington County Public Defender provides counsel for every arraignment at the CAP Court. Additionally, since the commencement of the CAP Court, the Washington County Public Defender has also utilized an on-call phone system in order to provide counsel at arraignment as needed outside the Centralized Arraignment Court.

Statistically, the Washington County Public Defenders appeared pursuant to the plan for the following number of arraignments through March 7, 2018:

<u>Dates</u>	<u>After Hour</u>	<u>Office Hours</u>	<u>CAP</u>	<u>Scheduled Sessions</u>
5/16/2016 – 12/31/2016	316	121	N/A	666
1/1/2017-12/31/2017	453	176	155*	1374
1/1/2018-Present	0	10	119	213
5/16/2016-Present	Totals: 769	307	274	2253
	Total Arraignments:	3603	*10/20/2017 start	

I would respectfully request that you include this information within or in conjunction with the report.

Very truly yours,

Michael J. Mercure

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