

MUNICIPAL COURTS TASK FORCE

MEETING #11

DECEMBER 2, 2015

TOMPKINS COUNTY ASSIGNED COUNSEL PROGRAM

As most of you know, I am Julia Hughes, the Program Coordinator for the Tompkins County Assigned Counsel Program. But I have also had other positions within the criminal justice system that has given me a different perspective on how things work. I started out as a receptionist in a local law firm, I then was appointed as a town justice in a neighboring town, after that I was a court clerk for a village justice who was also a lawyer, after that I was given the opportunity to be the coordinator of this program. Also, once I found out we were going to have three drug courts in our county, I thought I should educate myself on addiction, so I went back to school. I am currently six credit hours away from being a Credentialed Alcohol and Substance Abuse Counselor (CASAC). In order to finish my degree I must manage a case for an individual with substance abuse problems. As you can see, I have worked in this current system for a long time.

I have sat here through every task force meeting and I can tell you it pains me to hear the things that have been presented. I respect most of the town judges and know the obstacles they face on a daily basis. I applaud their dedication to community and fair mindedness. But unfortunately this is also a

position where ego and power have come into play with some. Some of the comments may have been blunt and hurtful, but all of them have been true and accurate. It is one thing to have a justice who does not understand the law, but we must also realize that the judge has the power to put someone in jail and to take away their liberty. When a person is put in jail, the collateral damage is widespread: he/she may lose their housing, their job, their Social Security benefits, their family, their pets and last but not least their dignity. This is a powerful tool and one that should not be taken lightly, which is why our system needs a change. We need a dedicated court that will cover allailable/bailable offenses and follow them through till the end of the action. Yes, I have heard that local justice courts are the courts of the people in the community. But it is my experience that most people within the communities know nothing about their local courts and what the judge is doing on the bench. Unless that person is appearing before the court, there is usually no knowledge of the operations of the court and if it is working according to the law. I have also heard people testify here that we have had this system in place for 200 years, why change now. That is not a reason to keep the status quo. Another topic that has been widely discussed here is "consistency" in justice. That seems to mean different things to different people. To me it means our courts should be asking for reasonable bails and that the sentences should be consistent with the crime. Currently that is not the case. Some of that has to do with the District Attorney's Office, but the end result lies with the justices. If you plea to a DWI offense in

some courts you are give probation or a conditional court, but in some courts ALL DWI offenses must spend some time in jail. I am sorry to say that is not justice, it is a POLICY. There is data to support these facts and I hope the committee will look into it. We are an innovative county, with leaders who are not afraid to implement new initiatives. This is a place where a dedicated court could work

My staff has compiled some data to show you how the courts are currently scheduled. Slide #2, is a weekly court schedule by municipalities. As you have heard from many different parties the Monday night court schedule is a problem. Our department usually has between 15 and 20 attorneys out that night to represent clients. But Wednesday is also a problem. We have two of the biggest justice courts meeting at the same time. Dryden being the biggest justice court in our county. But, also keep in mind, while these courts are being held, County Court and Family Court are also going on everyday from 8:30 a.m. to 4:30 p.m. This is no small feat to keep all clients covered by attorneys on any given day. But it is not only a hardship for the attorneys, but it is also a hardship for the clients. The bus system does not conform to the court schedules making transportation a problem for them. This is an area which needs to be looked at more closely and discussed with the different transportation organizations within our county.

Slide #3 is a map to show you how many different directions the attorneys are going to on a Monday night. And sometimes an attorney may

have to appear in more than one court. Some judges are understanding of this dilemma and will make adjustments to their court schedules to handle the attorneys with many cases, but not all of the judges are willing to wait.

Slide #4 is a breakdown of the costs associated with justice courts.

According to law, the attorneys are entitled to payment for mileage, the time it takes to get back and forth to court, the time they actually appear in front of the judge and the time it takes for the case to be called. On pretrial nights (when the Assistant District Attorneys are present) the wait time may be anywhere from an hour to three hours at a cost of \$60.00 - \$75.00 per hour. When you have 15 to 20 attorneys in the audience waiting to be called, this figure can add up quickly.

Slide 5 is a breakdown of the cost associated with Monday nights for time and travel. Slide 6 is a breakdown of the costs associated with all courts. This gives you an idea on how much it is costing the county to cover all these courts.

Slide #7 is a snapshot of the costs for Monday night. During this task force I have heard many times that a district court would not be a cost saver. I disagree with that. Just Monday night alone costs almost \$50,000.00 per year to cover the costs of travel and mileage. To me this is a fair amount of money that could be saved by having a centrally located court within the City, which is where most law offices are located. This figure does not cover the many hours that are spent in court waiting for the case to be heard. This figure could add another \$50,000.00 or more to the total cost of Monday. Would a dedicated court cut

down on the amount of hours an attorney is in court? Yes. An efficiently run single court – where cases are scheduled at various times of the day, rather than all at the same time – would certainly be a cost saving for the taxpayers of Tompkins County

To switch topics a bit, in May of 2014 our program changed completely with the initiation of Counsel at First Appearance. It was a Court of Appeals decision, which stated that for all clients, an attorney should be present at the first appearance in court. Our supervising attorney at the time, Wesley McDermott and I, came up with a county wide system to try to cover all arraignments, 24 hours a day, every day. We devised a calendar by assigning a different attorney for a 24 hour period one day a month. This includes all holidays and snow storms. On Slide Number 8, you can see how many after-hour arraignments we have had up to August 31, 2015, that our office is aware of. We broke it down by courts, by crime and the result of the arraignment. We think it is cutting down on jail cases, but we have no way of knowing. We will compare data, once we have a few years of data in place. We have heard from OAR that bails seem to be lower and more reasonable and there seems to be more people being released instead of going to the jail. Counsel at First Appearance has by no means been perfect. Unfortunately, we live in the world of cell phones and some of our attorneys have not had cell service which sometimes makes it hard for the court to contact them. But while it is easy to blame the waiting on the defense attorney, law enforcement has also had

trouble getting the justices to come in for after hours arraignments. One person in the court system told me that a few weeks ago on a Friday night six judges had to be called before one was found for a felony arraignment. I know this is a problem, because all arraignments come across my desk and it is the same judges over and over being called in. Some judges, who are currently on the bench hardly ever come out for arraignments, some have never had a felony preliminary hearing and as you heard when the justices appeared, some have never had jury trials. These procedures are the backbone of our justice system. They are not things you should be doing once in awhile, but on a regular basis. The laws of our state are too complex to be learned in a short period of time or with the help of a resource center. If we had a dedicated court open 24 hours a day with a scheduled judge it would cut down on costs for the defense attorneys and would help law enforcement be out on the road more quickly.

Slide Number 9, shows the breakdown of arraignments by court. As expected, most of the after hours arraignments have been done in City Court. City Court has a lock up located on premises, so the judge is called in for the next morning, if the arrest is after midnight. This system would also be helpful in Dryden which is the next biggest court that we have.

Then finally slide number 10, shows the breakdown by crimes and the percent of people who went to jail. As you can see, some courts have far fewer arraignments than others. If for some reason the Task Force does not recommend a district court, there are areas within our system that could be

improved. First, oversight of the justice courts by a higher authority must be increased and improved. Second, a local procedure for the review of complaints would enhance justice, efficiency and accountability. And finally, it would be beneficial to the taxpayers of some townships to consolidate their courts with another town or to only have one judge. It has been the practice in the justice courts to have two judges to cover conflicts; really there are not that many conflicts. If a judge has a conflict, it can always be assigned to another court. That number would not be significant. I have had only one case this year where both judges have been conflicted out of hearing a case. That case was then sent to City Court, where it will now be heard. This number is not enough to overwhelm any court.

This slide also shows that some courts send a higher percentage of people to jail than others at first arraignment for whatever reason. This data could also be looked at as an "inconsistency" in justice. We realize all cases are different, but these figures need to be looked at more closely to determine if our current justice system is fair.

Finally, thank you for having me. I hope you find our information helpful and thought provoking. If we can be of any further assistance or furnish you with any other data we have access to, please let us know and we will do our best to accommodate you. This is an important issue to all of us and I thank you for being so dedicated to making the right decision for our community.