

Minutes
Municipal Courts Task Force
Tompkins County Legislature Chambers
October 28, 2015

Present: Ray Schlather, Jason Leifer, Scott Miller, Betty Poole, Mark Solomon, Glenn Galbreath, Liz Thomas
Excused: Gwen Wilkinson, Mary Ann Sumner
Presenters: Undersheriff Brian Robison and Captain Ray Bunce, Tompkins County Sheriff's Office, and Sgt. Kelly Daley, NYS Police
Staff Joe Mareane, Marcia Lynch

Mr. Schlather opened the meeting at 4:30 p.m.

No changes were made to the agenda. Mr. Schlather introduced members of the task force. He noted that Mr. Leifer and Mr. Galbreath would be leaving early.

The minutes of the October 14 meeting were moved by , seconded by and approved.

No member of the public asked to address the task force.

Mr. Schlather reported that he had interviewed three highly qualified Cornell law students, all of whom were qualified to assist the task force. Offers will be extended to two of the three, recognizing that the third will be leaving at the end of this semester. Mr. Schlather has asked the third student whether he could offer 30-40 hours of his time before leaving to assist with a single-issue legal research project. Mr. Schlather noted that in making any assignment regarding any area of legal research, the request itself may suggest that the task force is heading in a certain direction. However, the group does need to move forward with legal research. He suggested having the intern review the path toward setting up a DWI or any other particular part of court that would become countywide, whether in a district court or city court or stand alone fashion. Research would provide a statutory or constitutional perspective. He again noted that he doesn't want the assignment to be misconstrued as a direction to which the group is committed. He asked the members for their thoughts.

Mr. Miller asked whether the assignment would be focused in a DWI part. Mr. Schlather said it could be any specialty part; that the task would be to identify what is possible under existing constitutional/legislative framework or, if the path isn't currently permitted, what legislative or constitutional change would be necessary.

Mr. Miller said he'd heard a recurring thread in the discussion among town and village judges that some judges don't see enough DWI cases to get comfortable with them, or that common sense could be applied to DWI cases—which he doesn't agree with. He said he is curious about the data, given that

Judge Lippman had mandated that all City and County courts had to set up a DWI part. He said he'd been skeptical about how that would work, but now finds that it seems to be working. He is therefore interested in knowing how many DWI cases go through the local courts. Mr. Schlather indicated that such data is forthcoming from the local courts, but that he would like to use the student's legal acumen to do raw legal research.

Mr. Solomon agreed that this would be a good use of the intern to assess what would be needed to establish special parts.

Mr. Schlather said he felt the DWI, Misdemeanor, and Landlord-Tenant parts seemed to be the most likely to pursue. Mr. Miller asked whether youth courts could also be explored. Mr. Schlather agreed.

Mr. Schlather reiterated that if the request for research will create misperceptions that could be horribly traumatic for the community, we could forego this research and do it later if a specific direction is established by the group. Mr. Miller and Ms. Thomas said that undertaking the research doesn't mean that the research would bind the group to a specific action. Ms. Poole said we have no way of controlling what the perception will be, as we have seen from past meetings, so is hesitant and worries that the research could be severely misinterpreted by the public and those involved. Mr. Galbreath said we may find that the options are not possible, and that he favors knowledge over ignorance, so would support going forward. Mr. Schlather noted that there is some disagreement, but that the consensus is to move forward.

Mr. Mareane had no staff report.

Mr. Schlather introduced Undersheriff Brian Robison and Captain Ray Bunce of the Sheriff's Office and Sgt. Kelly Daley of the NYS Police.

Mr. Robison thanked the panel for looking into this matter, noting that his office is always looking for efficiencies and it is in that context that the Sheriff's presentation has been created. He said his presentation doesn't reflect the views of all law enforcement, but that he had talked to many law enforcement administrators to arrive at several discussion items for the task force. The presentation is geared toward efficiencies on the law enforcement side. Mr. Bunce will be speaking about things as they exist today, and potential efficiencies. Mr. Robison will provide thoughts about possibilities down the road.

Mr. Bunce thanked the task force for the opportunity to present some thoughts. He extended his appreciation to the courts and clerks for the cooperation needed to get inmates to court, securing orders, and the like.

Mr. Bunce said that transports occur five days per week, with County and City court scheduled between 9-4. Most of the town courts have evening times; several have early morning times. For the Sheriff, transports are managed to and from courts every day, with the goal of doing that at the least cost to taxpayers. He said on Monday evenings, 3 courts start at 5 p.m., meaning that there may be an inmate going to Caroline at 5 and one to Enfield at 5 pm—two officers going two different directions. There are

times when the transport officer is sitting in Caroline, and finds that the same attorney is representing another in Enfield. Had that been known, the Sheriff could have used one rather than two officers. He suggested the Magistrates get together to set up schedules throughout the week that might be include Assigned Counsel and Sheriff's considerations for representation and transport.

Drug courts are big issues for the jail staff. There are sometimes last minute orders to produce an inmate, and do all possible to accommodate those requests.

Overall, he would like to see a firm weekly schedule in order to help the Sheriff's Office, ACP, and the DA's office.

Mr. Galbreath asked what percentage of inmates are pre-trial detainees. Mr. Bunce said the sentenced population is about 40% of the population. Some are also parole violators, state ready inmates, and convicted inmates awaiting sentencing. Mr. Galbreath said he is concerned about the number of pre-trial detainees at the jail, and asked Mr. Bunce for his opinion about how many could have been released ROR or ROS. Mr. Bunce reminded the group that he does not put people in jail, and said that many inmates have substance abuse and mental health problems. He said he couldn't judge how many would be hazards to the public if they were released. He also said that he doesn't see people in jail for silly reasons any more—that the system seems to be getting better at not putting people in jail for frivolous reasons.

Mr. Schlather asked how many of the 60% of the unsentenced came out of town and village courts. Mr. Bunce didn't have an answer, but said that data is probably available through the jail data. Mr. Mareane said he believes data from 2014 could be developed to show how many come out of town and village court. Mr. Bunce offered to do a snapshot based on the current population.

ACP Coordinator Julia Hughes offered that 51% of the criminal matters come out of City court, although that didn't mean that 51% of the pre-sentenced detainees are from City court. She said the majority of the cases ACP handles are from City Court.

Mr. Leifer asked how Mr. Bunce thinks the court schedule should be changed. Mr. Bunce said it would be helpful if there were different times for each court. Back-ups occur especially on Monday nights. Dryden, Caroline, Groton, Enfield and Ulysses all meet on Monday. On average 2-3 transport officers are involved on a Monday night. Mr. Miller asked about the worst case on Monday. Mr. Bunce said that if more than one inmate appeared in a single court, he would have to send two officers. He would expect the worst case would be six officers, but that hasn't happened. The transport system doesn't have vehicles going from one court to another, but instead has separate vehicles going to each court.

Mr. Bunce returned to the data, saying that in September, there was an average of 25 sentenced inmates, on a total average population of about 93. Mr. Schlather confirmed with Mr. Bunce that will send the snapshot report to Mr. Mareane who will then distribute it to the group.

Mr. Robison began a powerpoint presentation (which will be in the record). He said law enforcement will be silent on the issue of lawyer vs. non-lawyer judge, but will speak to consolidation and centralized booking and after hour arraignments.

He said the Sheriff's Office does many transports from jail, with many inmates transported multiple times for court appearances. One of the main goals is to get law enforcement back on the street more quickly. Budget constraints mean that hiring more officers is unlikely, so the goal is to use personnel more efficiently.

Centralized booking—most law enforcement officers favor centralized booking, which is particularly germane when talking about after-hours arraignment. It can take hours after an arrest to do a booking, drive back to the appropriate jurisdiction, wake up those involved, do the arraignment, drive back to jail for remanding. In a county where there may only be three on patrol for the entire county, this loss of time can have a tremendous impact. We should be trying to address this.

Mr. Robison suggested having all after-hours arraignments at a central court. Two arraignment courts—a city and county arrangement court—could be created, with a county court allowing city cases. The City, which is very active, would continue to do daytime arraignments. For the other (county) court, it should be located at or near the public safety building, where centralized booking could also be located, to facilitate a smooth transition from court to jail. Consideration should be given to retaining jurisdiction of all misdemeanor and above cases. Instead of doing transports, individuals would be walked from one side of the building to another; for arraignment, preliminary hearings, and even have that as the court of jurisdiction throughout. He said he recently heard that it's not legal to have a court within a jail, but that there is a separation between the jail and office program function now that may be enough of a separation.

If, as suggested, misdemeanors would be heard in the central court, it is perhaps here where lawyer-judges should be required.

It may be convenient for OAR and others who must go to courts on a regular basis to have this centralized arrangement.

Mr. Robison said this centralization would allow officers to return to the road more quickly, and could allow towns and villages to reduce the number of judges.

As a disadvantage, he cited the diminished scope of work within the local courts and a likely increase in corrections staff, who would be involved in the centralized booking function (but would have a reduced transport burden.) To facilitate the use of space in the PSB for court functions, it may require moving the Sheriff's headquarter and civil functions out of the PSB and into different space. This may also augment the space available for inmate programs.

Mr. Robison concluded his presentation at this point.

Mr. Miller asked Sgt. Daley about the process of a police officer who makes an arrest. He had spoken to someone who described an arrest that occurred at 5 p.m.; the individual brought to barracks for prints

and photos and accusatories to be drawn up that was completed at 1-2 a.m., locating a judge took an hour or so; the attorney was contacted by 2 a.m.; the arraignment occurred at 4 a.m. Sgt. Daly wasn't aware of the specifics of this case, but said it seemed likely it was a higher charge. She said it is common to have an individual in custody for 4-5 hours, and that an arraignment such as the 4 a.m. proceeding is not uncommon.

Mr. Solomon asked whether a centralized facility would cause problems accommodating the various hardware and software used by area law enforcement agencies. Sgt. Daly said that all processes are now computerized, and that the NYSP has a different data base and record-keeping system than other agencies. She said that she worked in Nassau County and that centralized booking worked there. There, paperwork was done at the State Police office and brought to the central booking facility. Undersheriff Robison said that all local law enforcement agencies, other than the state, share a common data base and record keeping system. He said the basic accusatory documents that must be filed by the officer could be passed off to staff at the central booking facility. He suggested the possibility of a central holding cell, which would avoid the need for night arraignments by being able to hold an inmate until a morning arraignment.

Mr. Schlather inquired about Nassau County. Sgt. Daly confirmed that they have a countywide police department and district court. Still, the State maintains its own data base and records system. In response to Mr. Schlather's follow-up about the time spent after an arrest by a trooper. Sgt. Daly said it depends on the situation, but that a trooper (or FTE) is tied up on a continuous basis until the person is out of custody, which could be 10-11 hours.

Mr. Miller asked if there was a central booking location in the center of the county, with a separate building for an arraignment court, could the paperwork be filed at the booking facility, with the person held at the booking facility for a few hours regardless of whether it is a Dryden or a Danby case. Rather than retaining jurisdiction, would it be possible for there to be a county lock-up and 8 or 9 a.m. arraignment at a centralized arraignment court, with charges then be sent to the proper jurisdiction,. Why couldn't the case be electronically filed with the proper court? Undersheriff Robison believes that would be possible, but that wouldn't address the transport cost issue.

Mr. Solomon asked whether the law intern could help estimate the cost savings associated with the centralized plan

Ms. Poole asked Captain Bunce about the schedule he would like to see. The Captain suggested either creating a greater time separation between the Monday schedules or to have those courts schedule sessions on other nights. Ms. Poole said that judges have shown flexibility to accommodate the transport challenges (Capt. Bunce concurred.) Capt. Bunce agreed with Ms. Poole that moving some of the Monday courts to a different day would be helpful. He also said Ulysses and Lansing have court at the same time on Tuesday morning, which presents a challenge.

Ms. Poole confirmed the data to be provided by the Sheriff, which will focus on unsentenced individuals held by town and village courts. She thanked the Sheriff's Office for giving her advanced notice that someone was being brought in for an after-hours arraignment, which then expedites the process of

having attorneys available for the arraignment. She suggested this should be a model for all law enforcement agencies.

Ms. Thomas said she has discussed the scheduling challenge with a Ulysses Town justice, who was amenable to change.

Mr. Schlather asked for best guesstimates on a few matters. First, the amount of time and money spent in the existing environment versus a scenario such as Undersheriff Robison described regarding central arraignment and booking. Capt. Bunce noted that correction officers are not involved prior to an arraignment. Transport savings would come only if there are ways to do subsequent appearances at the court near the jail, which would allow a 1 hours savings on each end of the court appearance. Mr. Schlather clarified that the only place for transport savings would be in coordinating the schedules of the courts, something that could theoretically reduce staffing from two-three to just one. Mr. Schlather asked Undersheriff Robison for a savings estimate for the law enforcement side of the process. The Undersheriff said that a 1-3 hours would be required to process an arrest (although every case differs), with another 1-3 hours needed if the officer remains involved to find a judge and go to court.

Mr., Schlather asked if the 2-court system proposed by the Sheriff anticipated the City handling arraignments countywide during the day, or just for the City. The Undersheriff that it could do both, but feels that it would make most sense to have it near the jail, similar to Chenango County, where centralized booking occurs in space within the Sheriff's Office.

Sgt. Daley estimated 1.5-2 hours of savings if centralized booking existed.

Mr. Schlather asked for an estimate of the number of after-hours arrests that result in searching out a local court. Sgt. Daly estimated 1-2 per week, but wanted time to research this. Capt. Bunce said there were 75 intakes in September, with 41 felony and 34 misdemeanor jail intakes. Three hours would be saved on average for each of these. Mr. Schlather noted that other cases were issued appearance tickets and were not brought to the jail, and that some of the intakes were for mandated items such as parole violations. Ms. Hughes said she will have pertinent data at her presentation.

Mr. Miller asked whether, if there is a NYS Police arrest brought to the central booking facility, would the paperwork be presented by the NYSP at the booking and, at that point, would the NYSP leave? (Sgt. Daly said that's the way it is done in Nassau. After booking, individuals are in the custody of Nassau County Detention) He asked how many correction officers would be required to staff the holding facility? Capt. Bunce confirmed there are regulations governing the operation of a lock-up, and that several counties operate lock-ups. He said he envisions a separate lock-up within the facility, but separate from the other jail holding area.

Mr. Schlather asked whether an electronic records system that tied all the courts together would make a difference to law enforcement agencies, and asked whether records are currently hand-delivered to the courts. Undersheriff Robison said arraignment papers are delivered with the suspect. Sgt. Daly said NYSP does weekly drop offs to the courts and DA. She believes that is to provide an original document

to the courts; Mr. Solomon noted recent changes in rules that may change the rules regarding original documents.

Ms. Poole said she is bringing up the matter of court nights at the next Magistrates Association meeting. She asked whether anyone has looked at the possibility of having satellite offices, noting that most of the operations were located on East Hill. Undersheriff Robison said that equipment such as expensive electronic fingerprinting machines might offset the cost effectiveness of a satellite.

Mr. Schlather thanked the presenters and indicated there may be follow-up questions regarding data such as overtime costs.

He asked the panel whether value was added by the meeting. All found the meeting substantive and valuable.

The meeting was adjourned at 6 p.m.