

Statement

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Municipal Courts Task Force
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Mr. Chairman and Members. Thank you for the opportunity to speak this afternoon. I have been present for many of the sessions of the Task Force, but have not been present for all of your meetings. I am here today to present some ideas as a county magistrate, but certainly to not speak for the association as a body. The Tompkins County Magistrates Association has met to consider issues raised by the Task Force but has not taken a formal position on any of them. I may share my sense of some consensus, and will offer my positions. Other Town and Village Justices here today will speak as well.

I serve as an elected Justice in the Town of Newfield here in Tompkins County. In that role I am a part of a system created by the New York State Constitution that recognizes, as does the Constitution of the United States, three separate, equal, and distinct branches of government: Legislative, Executive, and Judicial. Justice courts, or justice-of-the-peace courts following in the tradition of English courts was followed in New York¹ since Colonial times. In the intervening years the role of the Town and Village Courts has been studied, codified and revised, and in many ways similar to the examination taking place here in Tompkins County.

On January 31, 2015, Deputy Chief Administrative Judge of the New York State Unified Court System Michael V. Coccoma Issued the update of the *Justice Court Manual* which provides guidance to Town and Village Justice Courts. Judge Coccoma notes that we are governed by the Uniform Justice Court Act (UJCA) first enacted in 1967, as amended, as well as a host of other statutes, executive-branch regulations, and rules enacted by the State Judiciary.

It is important to note that the functioning of the Justice Courts, as one of the three distinct parts of a constitutional government is overseen Office of Court Administration, rather than by the legislative or executive branches of various levels of state government.²

Justice Courts are empowered to hear both civil and criminal cases, but are courts of limited jurisdiction in that they adjudicate only certain types of civil and criminal cases. Every Town and Village Justice shares responsibility for ensuring the effectiveness of the Justice Court under the State Constitution, the UJCA and other statutes that govern our actions—Criminal Procedure

¹ Dunn Report at page 25; see cite at footnote.

² See NY Const, art VI, §§ 1(a); 28 Judiciary Law §§ 211-121.

Law (CPL), Real Property Actions and Proceedings Law (RPAPL), Vehicle and Traffic Law (VTL), General Municipal Law (GML), and Town and Village Law.³

Civil Law

In the civil area, Town and Village Justices of the county extend to actions to recover money or chattel where the amount at stake is less than \$3000. The Court also has jurisdiction over summary proceedings to (a) recover possession of real property located in whole or in part within the town or village for which the court presides; (b) remove tenants from such real property; and, (c) render judgement for rent due without regard to the amount in controversy.⁴ Other very local actions involve enforcement of town and village laws and regulations as well as presiding at weddings!

Criminal Law

Town and Village Justices are given limited jurisdiction to handle criminal matters within their geographical boundaries involving the prosecution of misdemeanors, violations and traffic infractions where they preside, or in an adjoining town.⁵ Justice Courts have exclusive trial jurisdiction over petty offenses, which consist of violations and traffic infractions, but superior courts have jurisdiction over petty offenses when charged in an indictment that also charges a crime.⁶ Justice Court criminal procedure in criminal actions and proceedings is subject to the Criminal Procedure Law.⁷

We, the Town and Village Justices comprise the largest corps of New York judicial officials who are potentially on-call 24 hours a day to arraign criminal charges and issue orders of protection or enter certain emergency orders when Family Court is not in session. In cases involving domestic violence, Town and Village Justices have jurisdiction to issue temporary orders of protection during off-hours.⁸

Other Laws

Of course, there are other categories of activities into which Town and Village courts become involved. For example: The Agriculture and Markets Law (AGM) confers jurisdiction to deal with dangerous animals, and to protect animals from dangerous conditions. The Environment Conservation Law (ECL) for certain offenses against the environment (including State Parks, and Hunting and Fishing incidents), Social Services Law (SSL) grants jurisdiction over special

³ Justice Court Manual. P. 7.

⁴ See UJCA § 204; RPAPL § 701

⁵ See UCJA §2001 CPL § 10.30

⁶ See CPL § 10.20

⁷ See *People v Hickey*, 40 NY2d 761 (1976)

⁸ Justice Court Manual p. 9.

proceedings to terminate admission agreements of residents of adult homes, the General Business Law (GBL) grants jurisdiction over cases alleging unlawful use of milk cans, and The Mental Hygiene Law (MHL) confers jurisdiction upon Town and Village Justices in Limited circumstances to commit with serious mental illness to appears to be a danger to themselves or others.⁹

Separation of Powers

A fundamental premise of the American system of government lies in the very design of its tripartite nature with three separate and equal branches. A legislature to craft laws. An executive to carry out and administer the laws. A judiciary to interpret, referee and view the constitutional foundation of the laws. The United States and the New York Constitutions each require that no one branch be allowed to dominate the others—a check and balance is appropriate. This balance is still as essential in 2016 as it was 240 years ago in 1776. It is as essential in Tompkins County as it is in Albany as it is in Washington DC. Neither the Town Boards nor the County Legislatures must attempt to influence the Justice Courts concerning judicial roles; they cannot influence revenue streams payable to the locality; they must adequately budget for the court operations; may not interfere unduly with court operations; and the town boards must set and pay rational salaries for its justices.¹⁰ And, Justices should generally avoid the appearance of participating in the affairs of town or village government outside of their Justice Courts.

Town Justices

The number of town justices for each Town Justice Court is prescribed by the Legislature as required by the Constitution.¹¹ Town Law generally provides that each town must have **two** justices. Where a town has two justices, the town board may reduce the number of justices to one justice by resolution subject to permissive resolution.¹²

Villages are not required to establish a Justice Court but may do so. It may have either one or two justices, or one justice and an acting justice.

Election of Justices

⁹ Justice Court Manual p. 11.

¹⁰ See e.g. *Kelch v Town bd. of the Town Davenport*, 36 AD3d 1110 (3d Dept 2007)

¹¹ See NY Const, art IV § 17 (d).

¹² See Town Law §§ 20, 60-a

Town and Village Justices are elected to four-year terms by the voters of the town or village. There are no specific requirements other than to undergo “fingerprint-based criminal history record/fugitive files in accordance with Federal NCIS/III criteria...”¹³

Vacancies in Town and Village Justice positions caused by death or resignation may be filled by action of the town or village board, or at an election.¹⁴

The Task Force

The task force has been charged by resolution to review “the current structure and operations of the municipal court system for the purpose of identifying potential ways and means to sustain and improve the efficiency of operations and quality of justice provided by the town and village courts.”¹⁵

Therefore, in light of my foregoing remarks regarding notions of separation of powers, we, Town and Village magistrates, might consider the “exploratory review” of this task force, and any action of the Tompkins County Council of Governments to be advisory.

Areas of Discussion

District Court, Attorney Justices only

For the record, the County Magistrates has met twice to consider issues that have been raised before this task force. Discussion has been spirited, and there are few items on which general agreement can be articulated.

Two areas in which agreement is generally agreed, however, were raised early and agreed upon early: the notion of a district court, and the requirement for lawyers-only to be eligible to serve as town and village justices. In my view, both were soundly rejected by county magistrates in attendance.

After-hours arraignment, Central lock-up

One area in which there is strong, but not universal, support for change in current operations related to after-hours arraignments. The current practice for arraignment of misdemeanor and felony cases outside of court hours, especially during the early morning hours, has sometimes proved to be burdensome on law enforcement, attorneys, and justices.

Law enforcement (both county and state) report difficulty in reaching justices who are able to come out for arraignments. Justices have difficulty in reaching attorneys for those

¹³ See Justice Court Manual p 24

¹⁴ See Justice Court Manual p 29

¹⁵ Tompkins County Council of Governments Resolution No Doc ID 5347 Meeting 01/22/15

arraignments. These statements are not universal, but they do occur. Where an event involves multiple defendants, the problems are more complex, as we have seen in recent weeks.

A preferred improvement from the standpoint of town and village justices seems to be the establishment of a central lock-up where arrested persons could be held until first thing in the following morning when an assigned justice could conduct an arraignment. This could require two legislative changes: (a) to create a lock-up, and (b) to permit one justice in the county to arraign for any town or village in the county.

A second improvement is one on which some justices are now working on—to develop a schedule of “assigned justice” to be the on-call person for a designated time period similar to that used by the Assigned Counsel office for a number of adjacent towns or villages. This potential program is currently limited by geographic boundaries and could be improved by the legislative change noted in (b) above.

Establishment of a DWI part

Many of the county justices would support the practice of other, higher, courts to have a separate DWI part focusing on driving while intoxicated cases. Other members of the association are strongly opposed to the notion of moving DWI, or any other class of cases from the town and village courts.

Scheduling

Scheduling of court sessions, and of court hours, was a matter of concern expressed by representatives of Assigned Counsel, public defender, and law enforcement. No representative of the public (traffic tickets, etc.) was heard from, to this writer’s knowledge. As part of those presentations, it became apparent that there are certain bottlenecks that might be addressed, and ways that efficiencies that might be introduced to assist law enforcement and assigned counsel operations. Other scheduling issues relate to office hours where courts have only part-time staff, and only limited court hearing times. These might be augmented in other ways.

Other operational issues

The municipal courts in the county face other operational issues, most of which must be considered at the town or village level. They include items as diverse as whether to not to take credit cards (with a surcharge), and whether to take partial payments for fines and surcharges.

At the county-wide level, the issue of obtaining counsel for defendant(s) after hours remains a challenge, though the process has been improved recently.

Town of Newfield

On a personal note, one that may be separate from that of the county association members, I thought it might be interesting to share some activities in the town court in Newfield where we are making some changes.

This justice is a firm believer in the principle of separation of powers. That does not mean that this justice is not willing to take outside suggestions to work to improve the town court in which I sit.

I believe that I am the town justice with the least seniority in Tompkins County. Perhaps that means I have less past practice to undo. I also like to challenge the status-quo to make things work better, and I inherited a situation with a lot of status quo.

Newfield had two justices. One justice stepped down on December 31, 2015; the town board has initiated the process under town law to maintain just one justice.¹⁶ The citizen petition challenge process permitted under the law is underway at this time.

Efforts Underway in Newfield Town Court

As a retired person, and in some other ways, this justice is not typical of those in Tompkins County. I would like to get out ahead and see what can be done, not to take instruction from outside—from OCA, yes—but to make some improvements in the working of the town court in delivering equitable justice on my own initiative. Much of that depends on my sense of fairness and of understanding and application of the law. That requires input from the District Attorney and from defense counsel. It also requires administrative structure. On that we are working. John Petito, who you have met, and me.

Records Management. We have committed to going paperless. It will not happen this quarter as we had hoped, but certainly the second quarter. All new cases will be saved electronically (initially with paper backup) with off-site electronic backup. We will be working with the County Clerk to retire all of the paper files that we now have to have them scanned and organized as part of the county program. This will take place at the first opportunity on her schedule.

An interesting thing happened with this initiative: When I started inquiring about how to apply for grants for scanners and monitors as part of the Justice Court Assistance Program (JCAP), the tech folk in Albany just made the equipment available, on the spot. Similarly, the Sixth Judicial District has upgraded the office computer equipment to better accommodate paperless working.

¹⁶ See Town Law §§ 20, 60-a. Town Board Resolution February 11, 2016, Permissive Referendum

Scheduling. In the case where the town had two justices, each having cases, an adjournment with the assistant district attorney generally resulted in a delay of one month. Now, that one justice handles all cases, the ADA still meets court twice a month and it is necessary to adjourn for only two weeks—resulting in an improved case management and flow.

Now this judge is able to hear cases twice a week: on Tuesdays in late afternoon beginning at four pm, and on Thursdays at one pm. The clerk is available four days a week, and payments can also be received at the town clerks office until noon on Fridays—envelopes are provided for easy deposit of ticket information and payments.

We are also working on ways to ensure that the time of both counsel and law enforcement are optimized by preplanning arrival and hearing times, and by grouping appearances with one particular counsel.

Justice Court Assistance Program (JCAP). The court was successful in receiving a JCAP grant in the amount of \$23,500 to improve courtroom functionality and security and functionality. The grant will permit the construction of a new handicap-accessible bench on which the judge and clerk can work together, video security system, and hardware and software to implement the transition to paperless court operation. A second grant proposal is planned for the new year for subsequent improvements in courtroom appearance and operational efficiency.

Training. The Newfield Town court is taking every opportunity to avail ourselves of training that may be applicable to law, operations or technology.

Payments. The court accepts payments by credit card, money order, bank draft, cash, or verified local checks.

Feedback, Mentoring. As a result of this judge's past work experiences he is developing a program for feedback to gauge his performance and effectiveness as a town justice. He is developing tools to seek views to become better in that role and to better serve the citizens of the town who elected him. The Sixth Judicial District has offered to help develop a mentorship program, and this individual plans to take advantage of that offer.

I appreciate the opportunity to share with you today, and look forward to continuing to make improvements in the process of local justice here in my home town. Thank you.

