New Arraignment Plan Better Serves Justice in Monroe County

Hon. Patricia D. Marks, Hon. Joseph D. Valentino, Hon. Thomas M. VanStrydonck, Hon. John J. Ark and Hon. Richard A. Dollinger.

The authors are retired judges from the New York State court system.

As retired judges, we salute the Monroe County Legislature's recent approval of funding for a Centralized Arraignment Part (CAP) that will improve the processing of people accused of crimes at arraignments in our entire county.

Currently, anyone in Monroe County charged with a criminal offense is brought by law enforcement before a judge who decides whether the accused should be detained, released after posting bail or released under conditions to assure that the accused returns to court.

Under the current plan, arraignments occur in one of two ways, depending on where an arrest occurs. If arrested in the City of Rochester, the individual is arraigned in the city courts by a city court judge, almost always in usual business hours.

If individuals are arrested in the suburbs, arraignments occur before the local town or village judge in the local courtroom throughout the day and often in off-hours or overnight. In all of these arraignments, regardless of where they occur, the defendant is entitled to counsel. Therefore, these late-night sessions in suburban courts have been staffed overnight by public defenders and local judges in local courtrooms with the arresting officers in attendance.

As an example, there may be ten people arraigned by ten different judges in ten different local court rooms over the course of a weekend.

Under the new CAP, beginning March 31, individuals charged with criminal offenses in the community will be held for a short time in the downtown Public Safety Building . Arraignments will occur twice daily, early in the morning and later in the evening. City court judges and town and village judges will share responsibilities for the arraignments.

This change is a significant step toward a fact-based application of recent changes in the bail laws and will allow a uniform practice of pre-trial arraignment for everyone, regardless of where the conduct occurs.

Recently-enacted state laws allow judges to consider whether an individual charged with a crime should be held in custody, released with or without conditions or, in certain

circumstances, have set bail to secure future appearances. In the CAP arraignments, judges will now have access to more detailed information about the accused including reports on any prior charges.

The State Legislature changed the bail laws in 2023 specifically to allow judges to consider other pending charges in determining whether to release certain defendants. As an example, a judge, in deciding whether to release a defendant, could review so called "harm to harm" offenses if there was "probable cause" that the defendant previously committed those offenses involving harm to property or a person.

Prior bail reforms, enacted several years ago, limited the use of money bail and pretrial detentions by judges. The new law makes a significant change by explicitly permitting judges to consider prior arrests for specified offenses in deciding a bail application at arraignment. The CAP permits judges, with the benefit of the prosecutor and defense counsel being present, to have more detailed information in evaluating the proper treatment of the accused pending the final disposition of the charges.

In the recent past, there has been public outcry against judges allowing release of individuals accused of multiple crimes. Judges are ethically not permitted to defend those decisions.

Often in the past, judges doing the arraignments at odd hours in local courts did not get the complete information on a defendant's prior record or pending charges.

The CAP, when fully implemented, will ensure: (a) judges will be better informed; (b) the prosecution and defense lawyers will be present at this constitutionally significant step in the criminal justice process and (c) the public's interest in fairness for the accused and the interest of the broader community will be considered by the judge.

We are former judges who presided over criminal cases and understand the concerns of the public in the operation of our criminal justice system. The CAP will improve our system of justice for all, and we commend our local officials for this legislation.