

Statewide Plan for Implementing Counsel at Arraignment:

Year Six Report

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New York State Office of
Indigent Legal Services

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Introduction

In 1963, the United States Supreme Court issued its landmark decision in *Gideon v. Wainwright* unequivocally stating that the right to appointed counsel is protected by the Sixth Amendment of the United States Constitution.¹ In *Gideon*, Clarence Earl Gideon requested counsel and was promptly denied, triggering the chain of events that led to this landmark decision and ushered in a new era of publicly funded providers of appointed counsel.² In the decades following the *Gideon* decision, public defense representation in New York State was varied and inconsistent, eventually leading to a class action lawsuit and the New York Court of Appeals decision in *Hurrell-Harring v. State of New York*.³

Hurrell-Harring affirmed that the right to counsel for people facing criminal charges “attaches at arraignment” and is protected under the Sixth Amendment of the U.S. Constitution as well as Criminal Procedure Law (CPL) § 170.10(3) and § 180.10(3).⁴ The Court of Appeals held that arraignments are a “critical stage of the proceeding” requiring the availability of counsel, further noting that “...arraignments routinely, and in New York as a matter of statutory design, encompass matters affecting a defendant's liberty and ability to defend against the charges.”⁵

In 2014, the parties in *Hurrell-Harring* reached a settlement agreement which required the state to ensure that every financially eligible person charged with a crime in the five named counties (Onondaga, Ontario, Schuyler, Suffolk, and Washington) is represented by defense counsel in person at their arraignment.⁶ In 2017, the state enacted legislation extending the settlement’s mandates statewide (“statewide implementation”).⁷

Executive Law § 832(4)(a) required the Office of Indigent Legal Services (“ILS”) to develop and implement “a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel in person at his or her arraignment; provided, however, that a timely arraignment with counsel shall not be delayed pending a determination of a defendant's eligibility.” With adequate state funding, the counties were required to make good faith efforts to fully implement counsel at arraignment by April 1, 2023.⁸

Since issuing the Statewide Plan for Implementing Counsel at Arraignment (Counsel at First Appearance or “CAFA”) on December 1, 2017,⁹ ILS has worked with the 52 non-settlement counties across the state to develop individualized plans to use state funding for arraignment representation that adequately consider the specific needs of each county and provider of

¹ See *Gideon v. Wainwright*, 372 U.S. 335, 337, 83 S. Ct. 792, 792, 9 L. Ed. 2d 799 (1963).

² See *Id.* at 338.

³ See *Hurrell-Harring v. New York*, 15 N.Y. 3d 8 (2010).

⁴ *Hurrell-Harring*, 15 N.Y. 3d 8 at 21 (citing *Rothgery v. Gillespie County*, 554 U.S. 191 (2008)); see also *McNeil v. Wisconsin*, 501 U.S. 171, 180-181 (1991) (“The Sixth Amendment right to counsel attaches at the first formal proceeding against an accused”).

⁵ *Id.*

⁶ See Stipulation and Order of Settlement, *Hurrell-Harring v. New York* (approved March 2015), available at: [Hurrell-Harring Final Settlement 102114.pdf \(ny.gov\)](#).

⁷ See Executive Law § 832(4)(a).

⁸ See Executive Law § 832(4)(a)(iii).

⁹ Office of Indigent Legal Services, Statewide Plan for Implementing Counsel at Arraignment (December 1, 2017) (CAFA Plan), available at: [Microsoft Word - FINAL - CAFA Plan.docx \(ny.gov\)](#).

mandated representation.¹⁰ ILS also monitors implementation and, beginning in 2019, has published annual reports on the status of counsel at arraignment statewide that include information on successes in providing counsel at arraignment and identifying obstacles to providing quality CAFA representation.¹¹

Each CAFA report has reflected significant progress made by the counties in providing counsel at arraignment. In many counties, this progress is owed partly to implementing Centralized Arraignment Parts (“CAPs”) in accordance with Judiciary Law § 212(1)(w), i.e., centralizing arraignments to specific arraignment sessions during defined hours each day. This method has been particularly advantageous in geographically disparate or more rural counties and in those with numerous town and village courts. In each previous report, we have noted the increased number of CAPs as well as efforts made to ensure client representation at every first appearance. This year, because of newly implemented CAPs, and for the first time since statewide implementation began, we can report no gaps in arraignment representation for clients in custody.

As the presence of counsel at arraignments becomes ubiquitous across the state, in recent reports we have also explored what quality arraignment representation looks like and how it is achieved.¹² In *Hurrell-Harring*, the Court recognized that, “[t]he Constitution's guarantee of assistance of counsel cannot be satisfied by mere formal appointment”¹³ and discussed how representation at the arraignment stage can impact the rest of the case. Moreover, the Court recognized the importance of the period subsequent to the arraignment, stating, “[a]lso ‘critical’ for Sixth Amendment purposes is the period between arraignment and trial when a case must be factually developed and researched, decisions respecting grand jury testimony made, plea negotiations conducted, and pretrial motions filed.”¹⁴ The American Bar Association’s *Revised Ten Principles of a Public Defense Delivery System* further require “early and confidential access to counsel,”¹⁵ and ILS’ *Standards for Determining Financial Eligibility for Assigned Counsel* similarly require timely access to assigned counsel, including during periods where there is delay in determining financial eligibility.¹⁶ Thus, we have also focused our inquiry on the protocols in place

¹⁰ New York City was not included in the CAFA Plan as it already had a structure for providing counsel at arraignments.

¹¹ These reports are submitted in accordance with Executive Law § 832(4)(a)(iv).

¹² See *Hurrell-Harring v. State*, 15 N.Y.3d 8, 22 (2010) (“Actual representation assumes a certain basic representational relationship.”).

¹³ *Hurrell-Harring* at 23 (citing *United States v Cronin*, 466 US 648, 654-655 (1984) (internal citations omitted)).

¹⁴ *Id.* at 21,22.

¹⁵ American Bar Assn., *Revised Ten Principles of a Public Defense Delivery System*, principle 6 (2023) (stating, “Counsel should be appointed immediately after arrest, detention, or upon request. Prior to a client's first court appearance, counsel should confer with the client and prepare to address pretrial release and, if possible, probable cause. Counsel should have confidential access to the client for the full exchange of legal, procedural, and factual information. Waiver of the right to counsel and waiver of the person's right to court appearance should never be coerced or encouraged. Before a person may waive counsel, they must be provided a meaningful opportunity to confer with a defense lawyer who can explain the dangers and disadvantages of proceeding without counsel and, if relevant, the implications of pleading guilty, including the direct and collateral consequences of a conviction.”).

¹⁶ New York State Office of Indigent Legal Services, *Standards for Determining Eligibility for Assigned Counsel*, Standard III (“Counsel shall be assigned at the first court appearance or be provided immediately following the request for counsel, whichever is earlier. Eligibility determination shall be done in a timely fashion so that representation by counsel is not delayed....Counsel shall be provided for applicants whenever they have not obtained counsel prior to a

to support quality client representation at the arraignment proceeding as well as timely assignment of counsel for financially eligible people.

In preparing this report, ILS staff met with coordinators of arraignment representation (“CAFA coordinators”) in all 52 non-settlement counties.¹⁷ CAFA coordinators were asked survey questions ranging from the structure of their county’s arraignment systems to protocols and procedures in place to ensure quality client representation at the first court appearance.¹⁸ We also drew from past reports, including previous survey responses and data we compiled from each provider’s annual ILS-195 submission.

In Section A, we provide an update on the infrastructure in place for arraignment representation. We also provide updated statistics on CAFA representation, including the number of counties with CAPs in place and which courts/agencies participate, the number of providers who report gaps in representation, differing lengths of time to make financial eligibility determinations, and systems in place to identify missed arraignments. Statistics gathered on these key data points are later presented in the aggregate in Section D.

In Section B, we present statewide data regarding arraignments from trial-level public defense providers in all 57 counties (including the *Hurrell Harring* Settlement counties) and New York City.

Section C delves into how quality arraignment representation is achieved as well as continued challenges in implementation. We discuss the extent to which attorneys at arraignments can conduct pre-arraignment interviews and/or investigations. We address the availability of confidential interview space, language access services, supportive materials to assist attorneys in understanding bail reform legislation and evolving case law, and coordination with court staff to obtain necessary case paperwork.

Finally, this year’s report includes county profiles, which describe each county’s current systems to ensure representation at arraignment, as well as each county’s process for determining financial eligibility for assigned counsel.

Although the return to normal, in-person court operations continued in 2023 after the 2020 pandemic, new challenges have emerged because of changes in the criminal law, staffing shortages, and increasing caseloads. Still, the data shows that throughout New York State, people facing criminal charges are represented by defense counsel at arraignment. In this report, we will identify successes of CAFA representation as well as continued challenges and identify goals for the future of counsel at arraignment in New York State.

Definitions

ACP- Assigned Counsel Program, i.e., a program in place under County Law § 722(3)(a)(i) to oversee assigned private counsel in mandated cases.

proceeding which may result in their detention or whenever there is an unavoidable delay in the eligibility determination, subject to judicial approval once the court proceeding has begun.”).

¹⁷ A list of interviewees and interviewers is attached as Appendix A

¹⁸ The survey instrument used is attached as Appendix B.

Appearance Ticket- a written notice to appear in court as defined in CPL § 150.10. Arraignments resulting from appearance tickets are described as “non-custodial” arraignments (see below).

Arraignment- Defined in Executive Law § 832(4)(a)(i) as “. . . the first appearance by a person charged with a crime before a judge or magistrate, with the exception of an appearance where no prosecutor appears and no action occurs other than the adjournment of the criminal process and the unconditional release of the person charged (in which even ‘arraignment’ shall mean the person’s next appearance before a judge or magistrate).”

CAFA- Counsel at an individual’s first appearance in front of the judge. This term is used interchangeably with counsel at arraignment in this document.

CAFA Coordinator- The individual who arranges for CAFA representation (often the chief provider of a defense provider office). Depending on the defense structure and systems of representation, a county may have more than one CAFA Coordinator.

CD Office- Conflict Defender’s Office, i.e., an institutional public defense office in place under County Law § 722(3)(a)(ii).

Centralized Arraignment Part (“CAP”)- A plan enacted pursuant to Judiciary Law § 212(1)(w) that centralizes off-hours arraignments to be held at designated times within a county.

Custodial Arraignment- An arraignment that occurs while the person is in the custody of any law enforcement or corrections agency.

DA/PD or PD Court Sessions- Court sessions when the primary public defense provider is regularly scheduled to appear.

Full-Scope Representation- Where an attorney represents and appears on behalf of the client in all matters arising from a particular case. For purposes of this report, full-scope representation occurs when an attorney engages in the factual, legal, and practical aspects of a person’s case at the arraignment.

Gap in Representation- Any instance where there is no system in place to represent clients at arraignment.

Limited-Scope Representation- A method of providing counsel that narrows the attorney’s representation to one role or legal issue. For the purposes of this report, limited-scope representation occurs when attorneys confine their client representation to the arraignment proceeding and focus exclusively on the issue of bail.

Missed Arraignment- An arraignment that takes place without counsel, despite a system of representation being in place.

Non-Custodial Arraignment- An arraignment that occurs in response to an appearance ticket which directs the person, while at liberty, to appear in court for arraignment at a scheduled date and time.

“On-call” System- A system for providing arraignment representation where individual attorneys represent people at arraignments as they happen throughout the county, usually immediately following an arrest.

Other Court Sessions- Court sessions when the primary public defense provider is not regularly scheduled to appear.

PD Office- Public Defender’s Office, i.e., an institutional public defense office in place under County Law § 722(1).

Provider- A Public Defender’s Office, Conflict Defender’s Office, Legal Aid Society, or Assigned Counsel Program responsible for delivering constitutionally mandated representation to individuals unable to afford counsel pursuant to County Law § 722.

Provisional Assignment- When an attorney represents the client at arraignment and continues to represent the client pending determination of the client’s financial eligibility for assigned counsel, review for conflicts, or other actions leading to final assignment by the court.

A. Structure: The Existence and Sustainability of Systems to Provide Arraignment Representation

In this section, we provide an overview of the different systems of arraignment representation, information regarding the few remaining gaps in representation, and describe various systems used by provider offices to track missed arraignments. We also present information gleaned from CAFA coordinators regarding shifting attitudes towards arraignment representation and the expectation of counsel at arraignment.

Overview of Systems for Arraignment Representation

Centralized Arraignment Parts (“CAPs”)

Judiciary Law § 212(1)(w) establishes the framework for the Office of Court Administration (“OCA”) to work with counties to create and implement CAPs and is designed for the flexibility needed to develop centralized programs that are attentive to county-specific needs. Judiciary Law § 212(1)(w) was enacted as a response to the challenges of providing arraignment representation when, without a CAP, custodial arraignments occur at all times of the day and night.

Although the courts and law enforcement agencies that participate in the CAP vary by county, CAPs generally do not have jurisdiction to conduct arraignments that occur after a grand jury has convened and issued a felony indictment. These arraignments are conducted in County Court or Supreme Court during a regularly scheduled court session with advance notice to the parties. CAPs largely conduct custodial arraignments, although two counties include appearance tickets, particularly in CAP sessions that occur during regular business hours. Finally, apart from bench warrant vacatur, CAPs only conduct matters at the arraignment stage.

The number of counties with CAPs in place continues to increase. Four additional counties (Allegany, Herkimer, Lewis, and Ulster) developed and implemented CAP plans since last year’s report. Last year, we reported that Allegany County was the only county where gaps remained in ensuring counsel at custodial arraignments, due to the number of courts where arraignments might occur at any time of day or night together with the Allegany Public Defender’s Office small

number of staff. After implementing a CAP this year, Allegany County reports representation is now provided at all custodial arraignments. We also reported last year that Herkimer County was still conducting virtual arraignments, in large part because of the challenges of ensuring counsel at arraignments that were occurring any time of the day or night in a county that has a distance of approximately 134 miles north to south, with the northern part in the Adirondacks Park. Subsequently, OCA worked with Herkimer County stakeholders to develop a plan that allows for custodial arraignments to be conducted at set court sessions and that takes into account the county's unique geography, and ILS worked with the Assigned Counsel Program to ensure attorneys are available to represent people in the CAP. As a result, virtual arraignments are no longer conducted. OCA is working with several other counties on implementing CAPs, and we expect the number of implemented CAPs to continue to increase.

"On-call" systems

Counties that do not have CAPs report continued progress as well as challenges in providing arraignment representation. These counties rely on an "on-call" system whereby individual attorneys are on-call for a set period of time to represent people at arraignments that occur throughout the county any time of the day or night soon after a person is arrested.

"On-call" systems present many challenges to provider offices. These offices are generally required to have at least one attorney (and often more than one attorney) on-call 24/7 to represent people at any arraignment that may arise at any time in any part of the county. As such, CAFA coordinators generally report difficulties in staffing and recruiting for these responsibilities. One provider reported that "the demand for constant access is hard on everybody." Other providers mentioned attorneys experience "burn-out" from the prospect of needing to be constantly available to appear in court at all hours of the day and night. One provider described the system as "soul-crushing" and "oppressive." Other counties report issues arranging for "on-call" representation when they are short-staffed or when they cannot find attorneys who live in the county. Multiple providers cited winter weather and the large, geographically dispersed nature of many counties in New York that make travel to these last-minute scheduled arraignments difficult and inefficient. Two providers both reported that it could take as long as two hours to travel to certain parts of the county for what amounts to a court proceeding that can often take less than half an hour.

In Franklin County, until recently, one attorney was providing representation at most off-hour arraignments that occurred throughout the county. This system placed a significant burden on this attorney. Beginning this year, and aided by ILS funding, the Franklin County Conflict Defender's Office participates more regularly in the schedule for custodial arraignment representation, which has improved the sustainability of this county's "on-call" system for representation.

While providers generally reported that their "on-call" systems effectively provide representation at arraignments, several providers questioned whether such a system is sustainable long-term. To that end, CAFA coordinators with "on-call" systems have sought to improve the sustainability of the system by adding more attorneys into the on-call rotation, increasing the compensation to ensure participation, or working with the county to develop a CAP.

Scope of Coverage and Remaining Gaps

In the 2017 CAFA Plan, ILS identified structural challenges to achieving statewide counsel at arraignment: jurisdictional barriers, i.e. limitations on a court's ability to preside over cases arising from another city, town, or village; the availability of defense counsel; geography; population density; number of courts and law enforcement agencies; and funding sources. In subsequent reports, we assessed strategies (including changes in the law eliminating some jurisdictional barriers) implemented to address these challenges and reported on the existing structures for representation and any gaps where clients are systematically unrepresented at arraignment. Each year, we ask providers for updates as to the completeness of their CAFA coverage, including any remaining gaps in representation.¹⁹

In 2023, counties reported the following²⁰:

- **50 out of the 52 counties (96.1%)** reported full CAFA coverage during regular DA/PD or PD court sessions (when the primary provider is regularly scheduled to appear).
- **51 out of the 52 counties (98.1%)** reported full CAFA coverage for custodial arraignments.
- **37 out of the 52 counties (71.2%)** reported full CAFA coverage during other court sessions (when the primary provider is not regularly scheduled to appear).

In 2024, counties reported the following:

- **50 out of the 52 counties (96.1%)** reported full CAFA coverage during regular DA/PD or PD court sessions (when the primary provider is regularly scheduled to appear).
- **All counties (52 out of 52; 100.0%)** reported full CAFA coverage for custodial arraignments.
- **36 out of 52 counties (69.2%)** reported full CAFA coverage during other court sessions (when the primary provider is not regularly scheduled to appear).

In 2024, for the first time since we began reporting on this issue, every CAFA coordinator we surveyed reported complete arraignment representation coverage for custodial arraignments. ILS worked with providers who were reporting gaps in custodial arraignment coverage to fund additional attorneys, develop CAP plans, and troubleshoot any other systemic barriers to providing counsel at custodial arraignments. Some providers attributed the completeness of their coverage to ILS funding for additional attorneys and/or increased per diem appearance rates. Both Cayuga and Madison Counties attributed, at least in part, improved arraignment coverage to ILS funding which helped them recruit and retain CAFA attorneys. ILS also worked with Essex County to increase their annual CAFA stipends to compensate attorneys more appropriately for on-call arraignments that occur outside of business hours.

¹⁹ For the purposes of this report, we define "gaps in representation" as any instance where clients are systematically unrepresented at scheduled arraignments.

²⁰ See Fig. 1 for a comparison of data from 2021 to present.

This year’s report reflects a decrease in the number of counties (from 37 to 36) reporting full CAFA coverage during “other court sessions.” Providers are particularly challenged to ensure the presence of counsel at these noncustodial arraignments, which are scheduled by arresting agencies and may occur in any court throughout a county when court is in session (for example, at a vehicle and traffic ticket court session or civil court session). These “other court sessions” are not staffed by the primary providers, so the appearance of defense counsel is contingent on 1) an on-call system of representation existing that covers these non-custodial arraignments (which may be unlikely, particularly in counties with CAPs); and 2) a judge notifying the on-call attorney rather than arraigning the case in the absence of counsel, or adjourning a case to be arraigned at a future date when defense counsel will be present. Providers anecdotally report that they believe arraignments are rarely scheduled for other court sessions, and when they are judges frequently contact them to try to secure counsel, but absent a systematic change, this issue is likely to persist and in the absence of comprehensive systems to track non-custodial arraignments, the qualitative impact is impossible to measure.

Figure 1. Full CAFA Coverage in 52 Non-Settlement Counties Outside of New York City

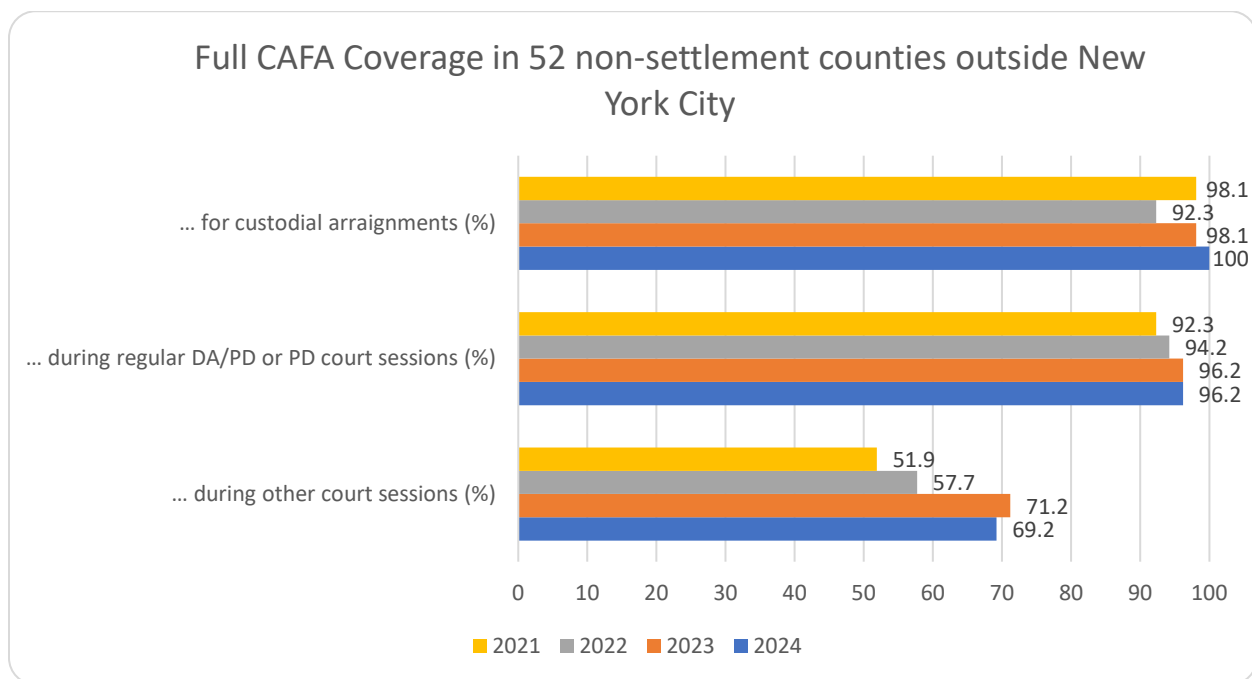
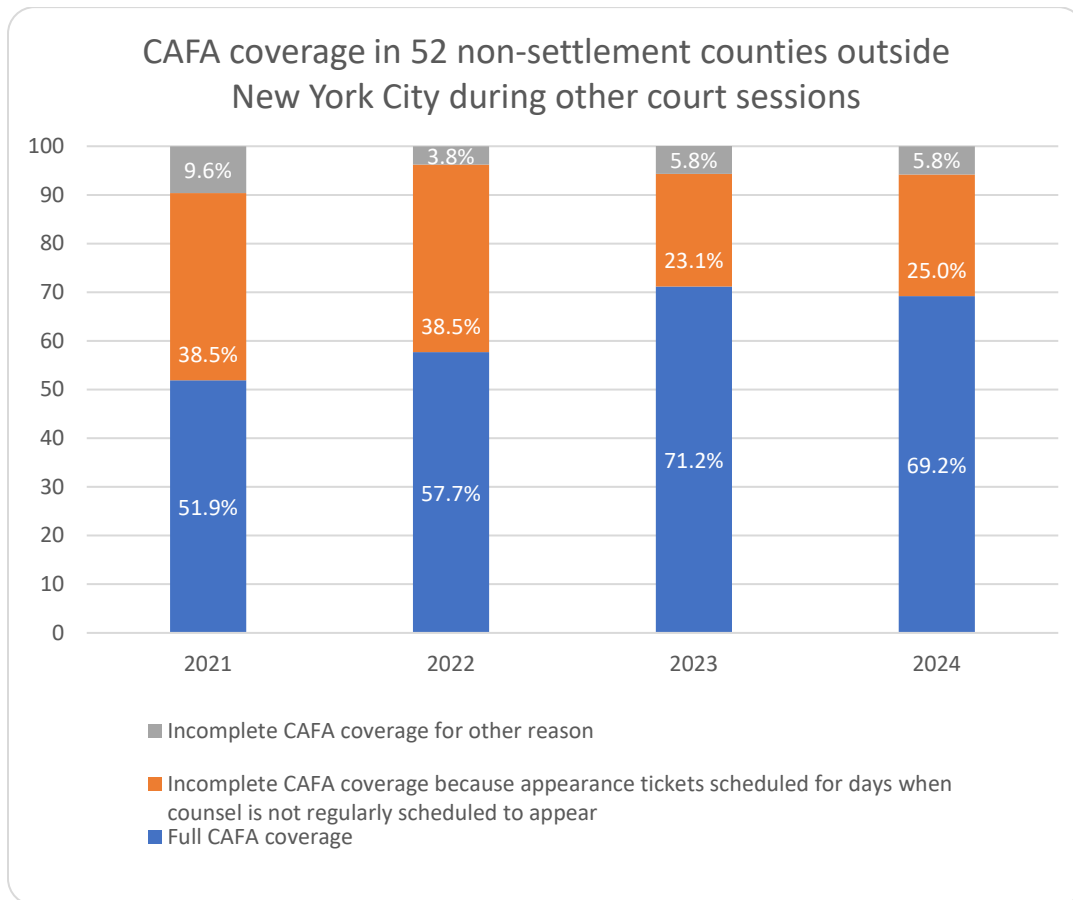


Figure 2. CAFA Coverage in 52 Non-Settlement Counties Outside of New York City During Other Court Sessions



Tracking Missed Arraignments

This year, public defense providers reported increased efforts to track missed arraignments. A “missed arraignment” is an arraignment that takes place without counsel, despite a system of representation being in place. Our definition considers the language of the *Hurrell-Harring* Settlement, which provides: “Incidental or sporadic failures of counsel to appear at Arraignments within a County shall not constitute a breach” of the settlement.²¹ ILS applies this common-sense standard in fulfilling its obligation under Executive Law § 832(4)(a)(iv) to monitor and report on the statewide implementation of the counsel at arraignment requirement.

To identify whether a missed arraignment has occurred, public defense providers have developed various systems to ensure that they can track whether these occurrences are part of a systematic pattern. For arraignments that result in a client being held in custody, CAFA coordinators report cross-checking jail lists with arraignment records and/or calling the jail or CAP. For non-custodial arraignments, CAFA coordinators report cross-checking the court calendar against paperwork

²¹ *Hurrell-Harring* Settlement, § 11(A)(4).

received by the court and/or asking clients whether they were represented at arraignments on their intake form.

This year, 35 counties reported using a system to track missed arraignments that result in a client being held in custody, which is a significant increase from the 26 counties that reported using a system to track such arraignments in 2023. Twenty-four (24) counties reported using a system to track missed non-custodial arraignments, which is a significant increase from the 15 counties that reported using a system to track such arraignments in 2023.

While no system is foolproof, and CAFA coordinators express concern that they may not be aware of arraignments that are occurring without their presence, many CAFA coordinators report confidence that courts generally do not proceed with an arraignment in the absence of counsel (see below for further discussion of stakeholder attitudes towards counsel at arraignment). The systems that have been developed are critical to monitoring county compliance with Executive Law § 832(4)(a).

Stakeholder Attitudes toward CAFA and Continued Challenges

Most public defense providers report that county stakeholders overwhelmingly support CAFA and understand the importance of being represented by defense counsel at a person's first appearance, with many providers reporting that judges will not proceed with an arraignment without counsel. Still, challenges persist in ensuring attorney representation for all clients issued appearance tickets who are not in custody at the time of their first court appearance. The nature of custodial arraignments and reliance on detention often means that stakeholders tend to prioritize defense counsel representation at custodial arraignments, which can contribute to the challenge of ensuring counsel at noncustodial first appearances.

Many providers continue to report that law enforcement agencies schedule appearance tickets for days in which defense providers are not present, either on an occasional basis or more systematically. While providers largely report that such matters get adjourned to the next court date when defense counsel is present, responses vary as to how this is accomplished. Some courts adjourn matters administratively (or "off-calendar") so that the individual does not have to appear on the record without counsel. Other courts may adjourn the matter on the record without any further discussion of the case. Irrespective of the manner by which it is accomplished, any time a person appears in a courtroom without the aid of counsel, there is a risk of loss of "speedy trial" time, the person making incriminating statements, *ex parte* communications, and a strategic advantage for the prosecutor who may be present while defense counsel is absent.

Although most providers report that plea negotiations are seldom broached at the arraignment stage, the instances when this may occur often involve clients arraigned via appearance tickets. Many providers report that less serious cases, such as allegations of driving a motor vehicle while unlicensed (VTL § 511(1)(a)) can often be resolved with a favorable disposition at the first appearance. By ensuring that counsel is present and prepared to represent clients at all non-custodial arraignments, providers can potentially save a client from additional unnecessary court appearances which often involve taking leave from work, arranging for childcare, or expending limited resources on taxis or other forms of public transportation. Additionally, having counsel

present and prepared can guard against the unnecessary use of court resources that accompany a “wasted adjournment.”

The advances in implementing CAPs across the state have highlighted the still-existing deficiencies in non-custodial arraignment coverage. CAP plans must be developed in consultation with ILS and county stakeholders, approved by OCA and contain protocols for confidential interview space, length of detention, courtroom equipment, and training for judges and staff, etc. Conversely, non-custodial arraignments still take place in local courts, with many non-custodial arraignments occurring in town and village courts. As such, many of the previously identified challenges in CAFA representation in the local courts continue for non-custodial arraignments. As described in further detail below, some providers report a continued lack of confidential interview space for non-custodial arraignments.

Further, because incarcerated clients are generally presumed eligible for the services of a provider of public defense, they are less likely to experience a gap between arraignment and assignment of counsel than those arraigned via appearance ticket. The period in which a client is without counsel renders them at a disadvantage for time-sensitive investigations, obtaining necessary discovery, and establishing an attorney-client relationship. As a result, even though non-custodial arraignments do not involve a client who is incarcerated, these are critical stages of the proceedings that necessitate the presence of counsel and can profoundly impact the client and trajectory of the case.

As stakeholders continue to embrace the presence of counsel at arraignments, ILS will continue to work with providers to ensure that the progress made in securing representation at custodial arraignments is also extended to non-custodial arraignments.

B. Statewide Arraignment Data

To further examine the extent of arraignment representation statewide, this section includes data for calendar year 2023 from all 57 counties (including the *Hurrell-Harring* Settlement counties) and New York City.

As discussed in the 2023 CAFA Report, the updated ILS-195 report allows ILS to monitor the number of arraignments conducted and collect information about arraignment outcomes. Since 2021, public defense providers are required to report case data, including information on arraignments (Part 3).²² Because the ILS-195 report requests data not previously collected by many public defense providers, providers have had to enhance their data collection capacity and many providers continue to refine their procedures for collecting and reporting this information. As a result, there are some limitations to this data, and it is imperative that ILS continue to work with provider offices to ensure the ongoing collection of timely and accurate data for future analysis.²³

This is only the second year we have reported this information, and as with last year, because of limitations of the data, we caution against using it to draw any definitive conclusions. Nevertheless, the data is informative and illustrates the significant efforts of counties and providers in New York

²² See [ILS-195 Part 1 2 3 April 2024.pdf \(ny.gov\)](#)

²³ Limitations of the data include inconsistencies between the total number of arraignments reported on the ILS-195 and the total number of arraignments based on adding up the numbers reported at the seven arraignment outcomes.

State to provide counsel at arraignment. The extent of arraignment representation is particularly striking considering the increased number of arraignments reported this year.

Number of Arraignments and Outcomes

The ILS-195 report asks for information on the number of arraignments at which representation was provided broken out by trial level case type, i.e., violent felony, other (or non-violent) felony, and misdemeanors & violations. For 2023, 91 trial-level public defense providers outside of New York City (including the five *Hurrell-Harring* Settlement counties) reported a total of 168,844 arraignments at which representation was provided (Figure 3 below). New York City trial-level public defense providers reported 155,338 arraignments where representation was provided (Figure 4 below). In total, public defense providers reported providing representation at 324,182 arraignments statewide in 2023. This is an increase from 2022, where statewide public defense providers reported representing clients at 273,811 arraignments.

Providers also reported arraignment outcomes, i.e., whether the case was resolved with a guilty plea, adjournment in contemplation of dismissal (“ACD”), or immediate dismissal; and if a case continued past arraignment, whether bail was set or the person remanded, or if the person was released either on their own recognizance or under supervision. This data is included in Figures 3 and 4.

Though the data should be viewed in the context of its limitations, for the second year, the difference in the numbers of cases resolved at arraignment outside of New York City as compared to the number of cases resolved at arraignment in New York City is noteworthy (see Table 1 below). Interestingly, there was a slight uptick in the percentage of violent felonies (from 0.6% to 1.2%) and other felonies (from 1.3% to 2.1%) resolved at arraignment outside New York City; in New York City, the 2023 data reflected a decrease from 2022 in the percentage of violent felonies (from 0.4% to 0.2%) and other felonies (from 2.2% to 1.6%) resolved at arraignment. For the purposes of this analysis, “resolved at arraignment” includes the categories plead guilty at arraignment, dismissed at arraignment, and adjournment in contemplation of dismissal (ACD).

Table 1. Proportion of Cases Resolved at Arraignment from Total Arraignments Reported on the ILS-195.

	Violent felonies	Other felonies	Misdemeanors and Violations
Outside NYC (Rest of State)	1.2%	2.1%	17.1%
New York City	0.2%	1.6%	24.2%

Consistent with last year, the data reflects that, statewide, it is not typical to resolve serious felony matters at arraignment. The disparity in the data on misdemeanor and violation case resolutions at arraignment continues to be informative; in New York City, where full arraignment representation has been the norm since prior to Executive Law § 832(4) implementation, prosecutors regularly attend arraignments and providers have been able to develop a system of vertical representation, the proportion of arraignments resolved at arraignment was higher for misdemeanors and

violations than in those counties outside of New York City. It is common practice for public defense providers in New York City to conduct a thorough interview prior to the arraignment, negotiate with prosecutors, and engage in full-scope representation on behalf of their clients.

This year's data saw an increase in the overall number of arraignments reported, both outside New York City (from 110,003 in 2022 to 124,246 in 2023) and in New York City (from 93,117 in 2022 to 117,672 in 2023). Statistics maintained by the Division of Criminal Justice Services ("DCJS") suggests that most of this increase is associated with an increase in arrests: DCJS reported 309,052 arrests statewide in 2022 and 353,574 arrests statewide in 2023.²⁴

²⁴ See [Criminal Justice Statistics - NY DCJS](#)

Figure 3. Arraignment Totals and Outcomes Outside New York City

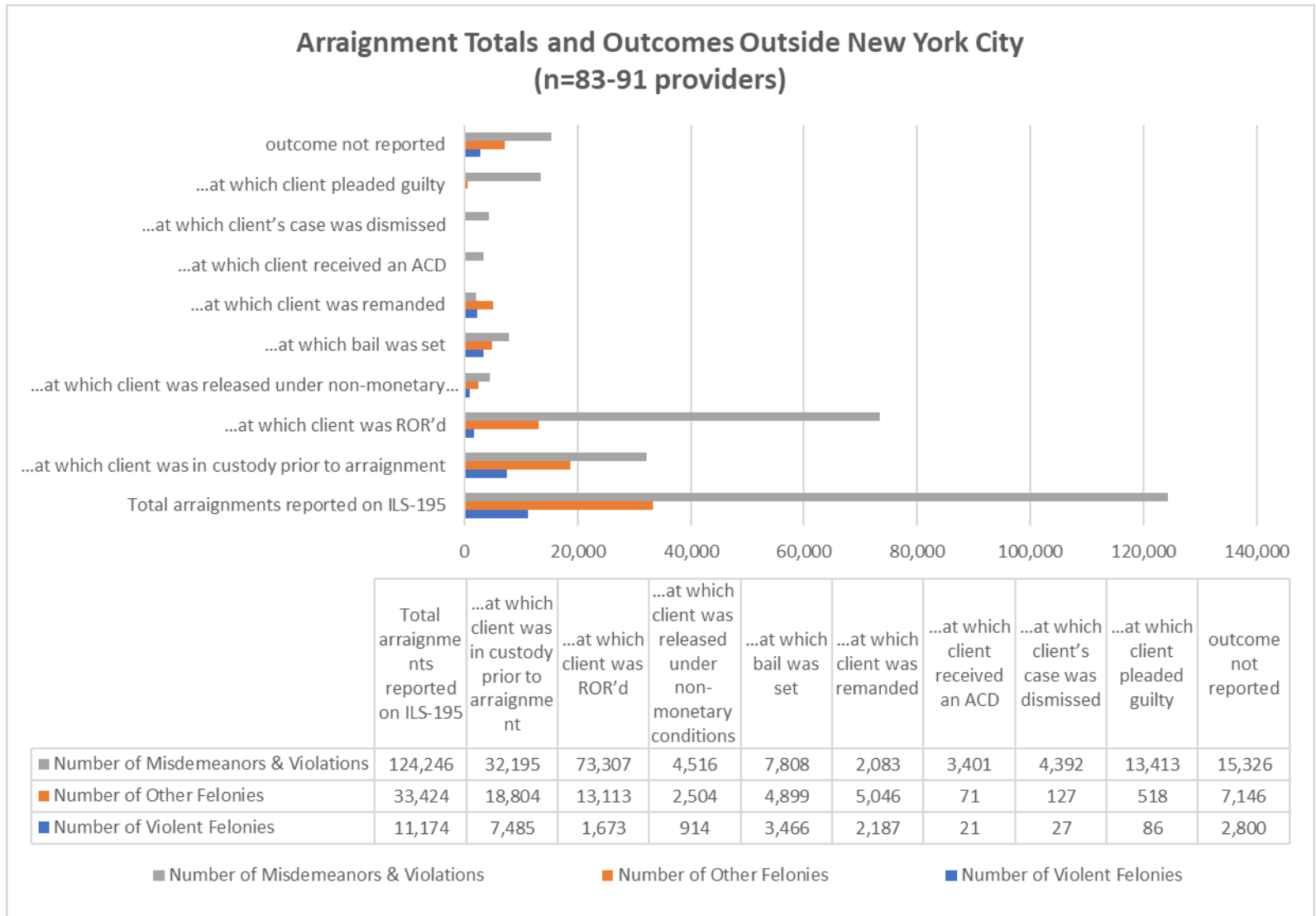
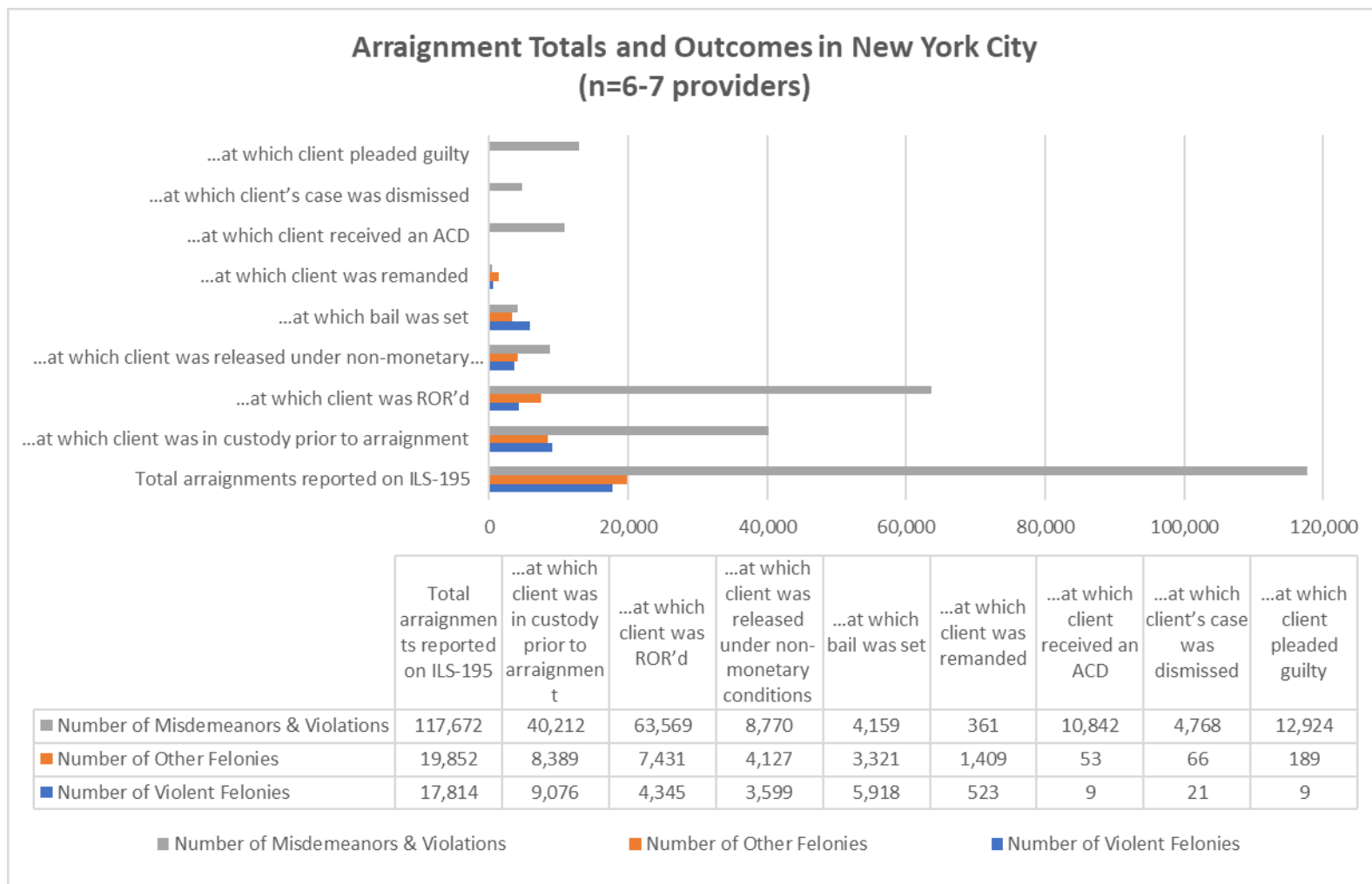


Figure 4: Arraignment Totals and Outcomes in New York City



Use of Custody

We also reviewed data about the use of custody both prior to and after arraignments. We reviewed the reported number of custodial arraignments by case type and compared the information reported by counties outside of New York City to the information reported by New York City providers (see Table 2 below).

Table 2. Proportion of Arraignments for Which Client Was in Custody Prior To Arraignment from Total Arraignments Reported on the ILS-195

	Violent felonies	Other felonies	Misdemeanors and Violations
Outside NYC (Rest of State)	67.0%	56.3%	25.9%
New York City	50.9%	42.3%	34.1%

Similar to the information reported for 2022, the proportion of custodial arraignments was higher outside of New York City for violent felonies and other felonies but higher in New York City for misdemeanors and violations.

The 2019 reforms to New York State's bail laws were intended to reduce reliance on monetary bail to detain people prior to trial. Changes to Articles 500, 510, 520 and 530 of the Criminal Procedure Law were enacted to ensure that most people charged with misdemeanors and non-violent felonies are not needlessly detained pre-trial after their arraignment.²⁵ In Table 3, we reviewed data provided on the use of pre-trial detention in New York City and in counties outside of New York City.

Table 3. Proportion of Arraignments at Which Bail Was Set from Total Arraignments Reported on the ILS-195

	Violent felonies	Other felonies	Misdemeanors and Violations
Outside NYC (Rest of State)	31.0%	14.7%	6.3%
New York City	33.2%	16.7%	3.5%

As in 2022, the 2023 data indicates that, statewide, bail is frequently still used in more serious cases where it is authorized. Outside of New York City, individuals charged with misdemeanors and violations are held on monetary bail at a higher rate.

²⁵ See CPL § 510.10(3) (presumption of release in non-qualifying offenses or "if the court finds on the record that release...will not reasonably assure the principal's return to court" for a non-qualifying offense, requiring release under non-monetary conditions.).

C. Quality Arraignment Representation

As the Court of Appeals stated in *Hurrell-Harring*, representation at arraignment requires more than “merely nominal attorney-client pairings.”²⁶ Attorneys must have the time and resources to provide quality representation at arraignments, including:

- Sufficiently preparing for the arraignment by reviewing the charging documents for any jurisdictional or legal sufficiency issues;
- Performing pre-arraignment fact investigations by contacting witnesses and preserving potential evidence;
- If applicable, contacting the client’s other attorneys in open pending matters to ascertain additional information about the client and those cases;
- Conducting a meaningful interview in a confidential space that sufficiently discusses the charges, the allegations, the client’s potential sentencing exposure, and potential collateral consequences;
- Identifying potential immigration issues for clients who are non-citizens;
- Identifying medical, mental health, substance use, and/or language access issues;
- Retaining a working knowledge of New York’s bail statute and circumstances under which a client may be detained pending trial;
- Recording prosecution notices and serving cross-notices, if applicable;
- Staying abreast of new developments in law and policy that affect arraignment representation; and
- Recording detailed notes identifying time-sensitive investigations, client needs, prosecution notices and other issues (particularly in cases that will be transferred to a different attorney post-arraignment).

As arraignment representation models continue to develop across the state, it is essential that providers ensure their attorneys have the proper support and resources to provide quality representation to individuals who cannot afford counsel. In the next sections, we discuss systemic barriers to the provision of quality representation at this early and critical stage of a case and provide examples of the types of resources that CAFA attorneys utilize to enhance the quality of their representation.

Systemic Factors Impacting the Quality of Representation at Arraignment

a. Virtual Arraignments

As in previous years, ILS surveyed providers statewide to identify instances where arraignments occur virtually (via videoconference) in violation of Executive Law § 832(4)’s requirement of in-person arraignments.²⁷ As discussed in prior reports, virtual arraignments lead to diminished

²⁶ See *Hurrell-Harring*, 15 N.Y.3d 8 at 22. (“Similarly, while variously interpretable, the numerous allegations to the effect that counsel, although appointed, were uncommunicative, made virtually no efforts on their nominal clients’ behalf during the very critical period subsequent to arraignment, and, indeed, waived important rights without authorization from their clients, may be reasonably understood to allege nonrepresentation rather than ineffective representation.”)

²⁷ See Executive Law § 832(4)(a), enacted in 2017, requiring that each person who is eligible “is represented by counsel in person at his or her arraignment[.]” (emphases added).

quality of representation – attorneys have reduced access to clients, and concerns with confidentiality of attorney-client communication and other barriers inherent to virtual meetings undermine attorneys’ ability to establish the trust and rapport necessary for an effective attorney-client relationship.²⁸ While virtual arraignments were necessary and authorized by Executive Order during the COVID-19 public health emergency, by June 2021, all counties were required to return to in-person arraignments. In this year’s interviews, CAFA coordinators reported that virtual arraignments continue in a limited capacity in three counties (St. Lawrence, Tompkins, and Westchester), which is a decrease from last year, when six counties reported the persistence of virtual arraignments. ILS continues our commitment to ensuring in-person appearances at arraignment in accordance with the *Hurrell Harring* Settlement Agreement, Criminal Procedure Law, and Executive Law.

b. Timely Assignment of Counsel

As discussed in the 2023 CAFA Report, delayed screening for financial eligibility for assigned counsel (“eligibility screening”), limited-scope arraignment representation, and post-arraignment gaps in representation all work to undermine the quality of representation at and after arraignment.²⁹ During CAFA surveys in this and prior years, many providers reported that attorneys are unlikely to conduct a thorough pre-arraignment interview before an eligibility screening and conflict check have taken place, out of concerns about eliciting sensitive information from an individual who may ultimately retain private counsel or end up being represented by a different provider office. A streamlined eligibility process that comports with ILS’ *Standards for Determining Financial Eligibility for Assigned Counsel* (“Eligibility Standards”) can facilitate swift assignment of counsel.³⁰ Indeed, counties that utilize the Eligibility Standards are well-positioned for attorneys to determine eligibility at the outset of a pre-arraignment interview. In some counties, if the arraigning attorney (or their office) is not immediately assigned to the case, the attorney is “provisionally assigned” pending the outcome of the eligibility application and conflict check. This practice ensures that individuals are not left without counsel during the critical early stage of their criminal case.

i. Eligibility

As part of this year’s CAFA surveys, and in follow up to information we learned in previous years, we asked providers when screenings for financial eligibility³¹ for assigned counsel occur.

²⁸ See 2021 CAFA Report. [Statewide CAFA Report 2021.pdf \(ny.gov\)](#)

²⁹ See Statewide Plan for Implementing Counsel at Arraignment: Year Five Report. [Statewide Plan for Implementing Counsel at Arraignment: \(ny.gov\)](#)

³⁰ See Standards for Determining Financial Eligibility for Assigned Counsel, February 16, 2021 (Standard III states that, “[c]ounsel shall be assigned at the first court appearance or be provided immediately following the request for counsel, whichever is earlier. Eligibility determinations shall be done in a timely fashion so that representation by counsel is not delayed.” <https://www.ils.ny.gov/files/Eligibility%20Standards%20Final%20021621.pdf>)

³¹ ILS issued the Eligibility Standards for criminal cases in 2016 pursuant to the *Hurrell-Harring* settlement (Section VI) and Executive Law § 832(3)(c). In 2021, ILS updated the Eligibility Standards to include financial eligibility for family court mandated representation. (See Standards for Determining Financial Eligibility for Assigned Counsel, February 16, 2021. <https://www.ils.ny.gov/files/Eligibility%20Standards%20Final%20021621.pdf>) In order to streamline the eligibility determination process while fairly discerning between those who can and cannot afford counsel, the Eligibility

Forty-one (41) out of 52 counties reported that eligibility screenings may be completed prior to or on the day of arraignment (in 29 of these counties, screenings may also take place after the day of arraignment). Only 11 counties report that eligibility screenings occur exclusively after the day of arraignment. Through ILS funding initiatives, public defense providers have increased access to support staff, attorneys, and software that allows for eligibility determinations to occur without delay.

We also reviewed the applications forms counties ask applicants to complete to determine financial eligibility for assigned counsel.

Twenty-seven (27) out of 52 counties use financial eligibility forms that comport, or substantially comport, with ILS Eligibility Standards (this number includes one county where ILS Eligibility Standards are followed in most, but not all, courts). However, many counties continue to use eligibility applications that do not substantially conform to the Eligibility Standards, which state that “applicants shall not be required to attest under penalty of perjury to the truth of the information provided as part of the eligibility process” nor should they be required to obtain “unduly burdensome” documentation to supplement the answer in their application.³² Additionally, non-liquid assets, such as income received from child support or need-based public assistance, should not be considered, nor should third-party spousal or parental income be considered.³³ Some counties require that the application be notarized and sworn to under penalty of perjury. Other counties ask about spousal and parental income and/or non-liquid assets such as, in one instance, the value of a collection (stamps, coins, comics, etc.). One county’s form instructs that clients re-certify, as a matter of course, their eligibility every 90 days during the period of representation, which departs from the Eligibility Standards which state that the eligibility determination may only be re-examined in accordance with County Law § 722-d.³⁴

ILS provides a model eligibility form on our website in both English and Spanish³⁵ and many public defense providers have worked with ILS to update their eligibility forms to better comport with the Eligibility Standards. This year, Yates, Steuben, and Warren Counties worked with ILS to streamline their forms and ensure compliance, and ILS provided trainings in Warren and Steuben counties.

ii. Conflicts of Interest

Another potential barrier to prompt assignments of counsel is delays in conflict of interest determinations. “Conflict checks” are generally performed by the public defense provider to ensure that there is no ethical barrier to representing a client.

Standards utilize four criteria to presume financial eligibility for assigned counsel. Applicants are presumptively eligible for assigned counsel if they meet any one of the following four criteria: (1) net income at or below 250% of the Federal Poverty Guidelines; (2) are incarcerated, detained, or confined to a mental health institution; (3) are currently receiving, or have recently been deemed eligible pending receipt of, need-based public assistance; or (4) have been deemed eligible for assigned counsel within the past six months. Moreover, Standard III dictates that eligibility determination should be done a “timely fashion” so that representation is not delayed.

³² *Id.* at Section XIII.

³³ *See id.*

³⁴ *See id.* at Section XV

³⁵ *See* Assigned Counsel Eligibility Forms available in both English and Spanish at <https://www.ils.ny.gov/node/88/eligibility-standards-related-documents-and-resources>

Early conflict checks are generally accomplished through remote access to the provider's case management system as well as the availability of support staff who check for conflicts as soon as the arraignment paperwork is provided. In 29 out of 52 counties, conflict checks may take place prior to the date of the arraignment and/or on the day of the arraignment (they may also take place after the arraignment in 27 of these 29 counties). In 23 counties, conflict checks take place exclusively after the day of the arraignment. As we stated in last year's report, ILS will work with provider offices to ensure that conflict checks take place at the earliest possible time in a case to remove any actual or perceived barriers to quality representation. This may include funding intake staff who are available to conduct conflict checks remotely, providing attorneys with the technology needed to access case management systems for conflict checks prior to arraignment, or both.

iii. Limited-Scope Representation and Provisional Assignments

In lieu of a prompt eligibility determination, conflict check, and assignment of counsel at arraignment, some public defense providers either limit the scope of their representation at arraignments or ask that their attorneys be "provisionally assigned" to the matter until such determinations are made.

"Limited-scope representation" occurs when a CAFA attorney limits their representation to legal issues that arise during the arraignment. An attorney or judge generally remarks that the attorney is representing the client "for arraignment purposes only" and at the conclusion of the arraignment advises the client to either hire an attorney or apply for assigned counsel. As discussed more fully below, limited-scope representation can negatively impact clients and their case.

In contrast, a "provisional assignment" allows clients to benefit from continued representation while an eligibility determination is pending. A "provisional assignment" occurs when an attorney represents their client at arraignment and continues to represent them until a final assignment is made. Public defense providers commonly refer to this approach as "on until we're off."

In a limited-scope arraignment, attorneys generally confine their pre-arraignment interview to obtaining basic identifying information (address, phone number, employment, school, family members, etc.) and discussing the possibility of bail or other pre-trial release conditions. As discussed above, quality representation at the arraignment requires a full and complete factual interview with the person that adequately considers the charging documents, the criminal history reports, and a review of possible outcomes and avenues of litigation. Moreover, it follows that an attorney who retains a case after the arraignment is more likely to consider post-arraignment issues in their arraignment representation.

When representation is limited to the arraignment, urgent post-arraignment matters may not get resolved until the client is able to secure the services of counsel. Clients may go several weeks without legal advice – all while the prosecuting agency is able to prepare for and investigate their case against the client. This issue was highlighted in *Hurrell-Harring* as it was ". . . repeatedly alleged that counsel missed court appearances, and that when they did appear they were not prepared to proceed, often because they were entirely new to the case, the matters having

previously been handled by other similarly unprepared counsel.”³⁶ Since law enforcement and prosecutorial agencies generally do not provide advance notice of a pending criminal investigation, the sooner a defense attorney can begin substantive work on a client’s case, the sooner a client’s case can be resolved.

Now more than ever, people accused of crimes face several potentially consequential proceedings immediately following arraignment that require continued representation of counsel. Attorneys must now discuss with their clients whether they should seek a hearing pursuant to *Crawford v. Ally*, 197 A.D.3d 27 (2021) when an Order of Protection is issued. A person may now also be the subject of an Extreme Risk Protection order (ERPO) where a hearing may be held mere days following the arraignment.³⁷ While CPL § 180.80 has always necessitated prompt attorney attention, given the possibility the matter is presented to a Grand Jury, or a Preliminary Hearing is held, shortly after the arraignment, CPL § 245.10(1)(c) (effective January 1, 2020), now requires that any statements made by the person facing criminal charges to law enforcement (or a person acting under their direction) be shared with their attorney 48 hours prior to a Grand Jury presentment if the person intends to testify.

Continuity of representation also allows a person to quickly address adverse bail decisions made in arraignments with a bail application to a superior court pursuant to CPL § 530.30 and/or via Writ of Habeas Corpus. Indeed, this past year, a Monroe County lawyer challenged bail set by a town court justice on behalf of a client charged with a non-qualifying offense. Prior to the passage of bail reform legislation in 2019, CPL § 530.20(2)(a) prohibited local court justices in town, village, and city courts from setting bail on any individual with two prior felony convictions. The Monroe County town court judge set bail based on this provision of the law despite the fact that the client was entitled to release under the new bail laws. In challenging bail under CPL § 530.30, the County Court agreed, releasing the client, and found, “the public policy of judicial economy and the interest of justice both argue in favor of resolving this issue by finding that the ‘double predicate rule’ applies only to defendants charged with qualifying offenses.”³⁸ This important issue is currently pending appellate review and will likely impact arraignment practice statewide.

Most CAFA coordinators we surveyed reported that their attorneys are either making applications to review bail under CPL § 530.30 or filing Writs of Habeas Corpus. These applications generally occur within 24 hours of the arraignment, necessitating some involvement by the arraignment attorney. In Franklin County, for example, CAFA attorneys file these applications while the eligibility determination and conflict check are pending.

³⁶ See *Hurrell-Harring*, 15 N.Y.3d 8 at 19–20.

³⁷ See CPLR Article 63-A; see also *McMorris v. Michael W.*, 208 N.Y.S.3d 825, 827 (Sup. Ct., Dutchess Co. 2024) (citing ILS’ position endorsing the appointment of counsel for ERPO hearings).

³⁸ See *People v. Logvinsky*, 210 N.Y.S.3d 917, 920 (Co. Ct., Monroe Co. 2024)

(“A process that requires a lower court to hold and a superior court to release creates an absurd lack of judicial economy and cannot have been the intent of the Legislature when enacting bail reform. Therefore, the public policy of judicial economy and the interest of justice both argue in favor of resolving this issue by finding that the “double predicate rule” applies only to defendants charged with qualifying offenses.”)

Any delay in the assignment of counsel can implicate these time-sensitive matters. Moreover, if the matter is adjourned for an eligibility determination and/or to obtain an attorney, important procedural deadlines may be pushed back and/or waived. For example, if a client is without an assigned attorney and the matter is adjourned for such a purpose, delays ensue in receiving and reviewing discovery and filing motions to suppress critical evidence. The result is the person may have to attend additional, largely perfunctory court appearances and may suffer continued loss of employment, housing, schooling, student financial aid, and other collateral consequences associating with having an open, unresolved criminal case.

From a legal perspective, many of the important procedural deadlines that safeguard a person's constitutional rights are implicated by being unrepresented. CPL § 30.30(4)(f) provides an exception for the accumulation of speedy trial time when the client is without counsel “. . . through no fault of the court.” While this potentially excludable period is interpreted with great nuance in the associated caselaw, some providers we surveyed reported concerns with courts interpreting the period between arraignment and the assignment of trial counsel as being excludable time for speedy trial calculations under CPL § 30.30(4)(f). Moreover, some CAFA attorneys are either asked to waive speedy trial time or consent to an adjournment while the provider determines whether to make an assignment.

D. External Factors and Opportunities for Advocacy

The quality of arraignment representation is, in many respects, a function of attorneys' ability to communicate confidentially and effectively with their clients, prepare arguments based on their clients' specific circumstances and history, and advocate for their interests. In this section, we explore three fundamental prerequisites to quality representation: confidential space, language access, and the receipt of criminal history reports prior to or at arraignment. These prerequisites are largely contingent on external structures where inroads can be (and in many counties, are being actively) pursued toward quality.

a. Confidential Space

In the *Hurrell Harring* Settlement Agreement, § V(A)(3), it was stipulated that the five settlement counties shall work with ILS to ensure attorneys and their clients have access to confidential meeting spaces to conduct pre-arraignment interviews. The agreement emphasizes the importance of these spaces for attorneys to “communicate effectively with their clients.”³⁹ In our 2023 Report, we noted that 25 out of the 52 non-settlement counties generally provide confidential interview space in non-custodial arraignments while 31 out of 52 counties report general availability of confidential interview space in custodial arraignments.

In this year's survey responses, the same number of providers reported the general availability of confidential interview space in non-custodial arraignments, with 25 counties generally providing such a space during non-custodial arraignments. For custodial arraignments, the numbers increased with 36 counties reporting availability of confidential interview space.

Much of this disparity can likely be attributed to the CAPs in place for custodial arraignments. Since CAP plans must be approved by OCA and require confidential interview space to be part of

³⁹ *Id.*

the plan, any county with a CAP in place is more likely to report the existence of confidential interview space for custodial arraignments.

The lack of availability of confidential interview space for non-custodial arraignments is due, in part, to the fact that non-custodial arraignments continue to be conducted in the 1,200 local courts across the state. As noted earlier, while representation by counsel at non-custodial arraignments is now ubiquitous, the structure for non-custodial arraignment representation has not undergone a similar type of systematic change. Aside from two counties (Jefferson and Oswego) where the CAP also conducts appearance ticket arraignments, there is no CAP equivalent for non-custodial arraignments. Instead, these arraignments are generally conducted in the town, village, and city courts during these courts' regular meeting sessions. The spaces in which these local courts convene vary widely from town hall meeting spaces to dedicated courtrooms. As such, the availability of confidential interview space also varies widely.

CAFA coordinators report that town and village courts may have spaces where interviews are generally conducted, but they often lack privacy, as members of the public and court staff are able to listen to attorney-client conversations. The lack of confidential space was not just reported in town and village courts, but also larger city courts. For example, Rochester City Court also does not provide confidential interview space for attorneys.

The majority of CAFA coordinators we surveyed reported the lack of space as an issue detrimental to their client representation. As we noted in last year's report, the lack of space was cited as a reason why many CAFA attorneys have a practice of not discussing the facts of their client's case prior to the arraignment. The result is that the client's first interaction with an attorney occurs in a setting that does not provide for a confidential attorney-client communication. In *Hurrell-Harring*, the plaintiffs' trial attorneys were alleged to have ". . . conferred with them little, if at all. . ." ⁴⁰ The ability to communicate in a confidential space is crucial to the formation of the attorney-client relationship, and ILS will continue to work with stakeholders on this issue.

b. Access to Interpreters

In this year's surveys, we asked CAFA coordinators to describe systems in place for communicating with clients who speak languages other than English. The arraignment may be the first time a person has access to an interpreter and is essential to orient the client as to the nature of the proceedings as well as the charges against them.

Under the Fifth Amendment of the U.S. Constitution as well as Article 1, Section 6 of the New York State Constitution, courts are required to ensure that people who speak languages other than English have access to interpretation services at arraignments and all subsequent proceedings. ⁴¹ Attorneys also have an ethical obligation to ensure clients who speak languages other than English have access to interpreters for the duration of their representation. The American Bar

⁴⁰ See *Hurrell-Harring*, 15 N.Y.3d 8 at 22.

⁴¹ See *People v. DeArmas*, 106 A.D.2d 659, 660, (1984) (Court's restriction of defendant's use of an interpreter deprived defendant of due process); see also *People v. Rodriguez*, 145 Misc. 2d 105 at 109 (" . . . failure of a trial court to appoint a qualified interpreter for an accused or a witness once that need has been demonstrated would seem to this court to be a clear denial of due process of law.")

Association issued guidance in 2021 that Model Rules 1.4 (communication) and 1.1 (competence) apply equally in instances where the client speaks languages other than English.⁴²

The proliferation of remote language access services along with Microsoft Teams and other video conferencing software has increased access to on-demand interpretation at arraignments across the state. However, challenges persist in communicating with clients who do not speak English during pre-arraignment interviews in arraignment sessions that are conducted outside of normal business hours.

The providers we surveyed reported limited availability of in-person interpretation services at after-hours CAP sessions. Interpretation services like Language Line or Propio are used in every county across the state. While these services provide on-demand availability for language access, particularly for languages for which in-person interpretation is unavailable at the time of arraignment, some providers reported that Language Line services arranged by the court are not always available for use by attorneys in pre-arraignment interviews. In Oswego County, for example, the court provides in-person interpreters who are only available to attorneys on the record during the arraignment proceeding. As such, attorneys are required to arrange for their own interpretation services if they wish to communicate with their client prior to the arraignment.

Only 12 out of 52 counties surveyed reported having access to live, in-person interpreters provided by the court at arraignment. Nine out of 52 counties surveyed reported having access to live, in-person interpreters arranged through their provider offices at this stage. Fourteen (14) out of 52 counties surveyed reported relying on family members or friends when interpretation services are not available at the time of the arraignment. All providers reported some use of remote language access services such as Language Line, Propio, Google Translate, or individual interpreters appearing by video or phone.

c. Access to Rap Sheets

In order for an attorney to provide full-scope, quality representation at the time of arraignment, a “rap sheet” detailing a client’s criminal history is also essential. This document, maintained by the Division of Criminal Justice Services (DCJS), is necessary for an attorney to determine their client’s possible sentencing exposure and/or adequately advise as to potential plea bargains. Moreover, these documents contain critical information regarding a client’s open, pending matters which courts may now rely on to set monetary bail pursuant to CPL § 510.10(4)(t).⁴³ Simply put, an attorney cannot answer one of the most common client questions at arraignment (“What am I facing?”) without a rap sheet.

We have consistently identified that failure to provide defense counsel a rap sheet at arraignments is an issue. Copies of rap sheets were historically not provided at arraignments in many counties in

⁴² See “ABA issues guidance focusing on client language differences” (2021).

<https://www.americanbar.org/news/abanews/aba-news-archives/2021/10/model-rule-formal-opinion/>

⁴³ We asked CAFA coordinators how they are notified when a client is re-arrested and charged in another case. The majority of CAFA coordinators reported that either the client or court will inform them. As the town and village courts generally do not make their court calendars available online (in contrast to City and County/Supreme Courts), the rap sheet is the most accurate and effective way to ascertain a client’s pending, open matters without placing the burden on the client or relying on prompt notification from the various justice courts.

the state. Attorneys traditionally had to wait until the prosecutors turned over discovery, which, under the now-repealed CPL § 240.20, could have happened at any point before the commencement of trial. In certain instances, courts receive a name-based, “unofficial” client rap sheet where an official rap sheet generated pursuant to a fingerprint response is unavailable⁴⁴ Despite clear directive from DCJS to the contrary, many courts developed a practice of only allowing attorneys to view the rap sheet from the bench or outright refusing to allow them to view it prior to the arraignment.⁴⁵

The CAFA coordinators we surveyed reported positive changes in this practice, largely aided by the CAPs in place where attorneys are emailed court paperwork, including the rap sheet, in advance of an arraignment. However, the timing of receipt of these critical documents often varies widely, and can be dependent on the court, custodial status of the client, and the seriousness of the charges. Anecdotally, many CAFA coordinators report that attorneys are less likely to receive rap sheets prior to non-custodial misdemeanor arraignments, and many providers reported that they first see their client’s criminal history when discovery is provided post-arraignment.

One CAFA coordinator stated that they do not receive rap sheets, even when bail is discussed, resulting in a “disadvantage” as the defense attorney is the only party in the courtroom without a full working knowledge of their client’s criminal history, despite needing that information to make an effective bail application.

ILS will continue to work with providers and other stakeholders to ensure that public defense attorneys are receiving rap sheets prior to the arraignment. Whether the arraignment involves a client who is incarcerated or at liberty, the attorney must receive the rap sheet and have sufficient time to review it prior to an arraignment in order to effectively counsel their client and provide quality, full-scope representation. Although CPL § 245.20, which took effect on January 1, 2020, has resulted in more consistent and timely dissemination of discovery materials, CAFA attorneys should not be forced to rely on prosecutors to provide discovery at a later date to receive essential information about their client that is often available to the court and included in the court file at arraignment.

Resources

Public Defense providers can enhance the quality of representation at arraignment through a wide array of resources which can be supported by ILS funding. In this year’s surveys, we focused on two areas: training and access to investigators. We asked providers what type of supportive materials and/or trainings they arrange for their attorneys to assist them in navigating recent developments in New York criminal law that affect pre-trial release, and also invited providers to describe their offices’ arraignment-related investigative practices.

The series of changes to CPL §§ 510, 520, and 530, collectively referred to as “bail reform,” took effect on January 1, 2020, and have been subsequently amended three times since first enacted in 2019. Therefore, training on the new law, changes made since enactment, and evolving caselaw

⁴⁴ See February 1, 2022 DCJS Memorandum, “Providing Criminal History Information at Arraignment.”

⁴⁵ See *Id.* (“It is DCJS position that a hard copy of either form of criminal history report (fingerprint or name search based) should be provided to the defense counsel or, if unrepresented, the defendant at arraignment. There is no requirement that the report be returned to the court at the conclusion of the arraignment.”)

is critical to quality representation. In response to our survey questions, most providers reported having some formal system in place for such training, including in-house trainings, attendance at CLEs, “cheat sheets,” and/or reference guides. With ILS funding, providers can support such trainings and develop reference materials to assist attorneys in staying abreast of this technical and complex field of law.

In addition to the amendments to New York’s bail statutes, several other important developments in caselaw have resulted in substantive changes to arraignment practice. Recent decisions from the Court of Appeals have implicated issues related to Orders of Protection (*Crawford v. Ally*, 197 A.D.3d 27 (2021)), pre-trial detention for competency exams (*People ex rel. Molinaro v. Warden, Rikers Island*, 39 N.Y.3d 120, 122 (2022)), and hearings to determine modification of pre-trial release conditions (*People ex rel. Rankin v. Brann*, 41 N.Y.3d 436, 235 N.E.3d 343 (2024)).

ILS will continue to work with CAFA coordinators to ensure adequate funding for attendance at CLEs, trainings, and other convenings so that attorneys may stay abreast of the latest updates in law and policy related to arraignment representation. ILS also continues to work with assigned counsel providers to develop policies and protocols for mentorship opportunities that allow panel members to learn from more experienced attorneys.

Investigation is also required for competent defense representation.⁴⁶ The duty to investigate “. . . should commence promptly . . . ”⁴⁷ If feasible, attorneys can and should engage investigators before or immediately after the arraignment to avoid spoliation of evidence and potential witnesses. Among the offices surveyed, 20 providers reported having the ability to engage on-call investigative services prior to, during, or immediately after the arraignment. In Wayne and Seneca Counties, the Public Defender’s Offices reported that on-call investigative services became possible due to ILS funding. The Monroe County Conflict Defender’s Office reported utilizing an investigator for post-arraignment issues that require a quick turnaround, such as proceedings conducted pursuant to *Crawford v. Ally*, 197 A.D.3d 27 (2021) which requires a prompt hearing after an Order of Protection is issued under circumstances where a significant liberty or property interest is raised. Other counties reported a desire to engage with on-call investigative services but expressed concerns about forging an attorney-client relationship prior to an eligibility determination.

E. Counsel at Arraignment by the Numbers

The data below summarizes the information yielded from interviews with CAFA coordinators in each of the non-settlement counties outside of New York City about counsel at arraignment program types, providers, and coverage.⁴⁸

CAFA Program Types and Providers

Custodial arraignments

⁴⁶ See ABA Standard 4-4.1(a) Duty to Investigate and Engage Investigators (“Defense counsel has a duty to investigate in all cases, and to determine whether there is a sufficient factual basis for criminal charges.”)

⁴⁷ See ABA Standard 4-4.1(c)

⁴⁸ The list of interviewees and interviewers is attached as Appendix A. The interviews were conducted in June and July of 2024.

Arrest program type:

- **30 out of 52 counties (57.7%)** conduct custodial arraignments through a Centralized Arrest Part (CAP).
 - In **2 out of these 30 counties**, the CAP also includes **non-custodial arraignments**.
- **1 county** (Nassau; 1.9%) has a District Court which centralizes arraignments and other court functions for certain cases in the county. Nassau also established a CAP for two of their City Courts.
- **21 out of 52 counties (40.4%)** do not have a CAP and use an on-call system.

Custodial arrest providers:

- In **29 out of 52 counties (55.8%)**, representation at custodial arraignments is provided by a **single provider**.
 - For **23 of these counties (44.2%)**, custodial arrest representation is provided by the **Institutional Primary Provider** (“IPP”; i.e., Public Defender or Legal Aid Society), for **6 (11.5%)** by the **Assigned Counsel Program** (ACP), and for **0 (0.0%)** by the **Institutional Conflict Provider** (“ICP”; Conflict Defender).
- In **23 out of 52 counties (44.2%)**, custodial arrest representation is provided by **two or more providers**.
 - For **13 of these counties (25.0%)**, custodial arrest representation is provided by both the IPP and the ACP, for **6 counties (11.5%)** representation is provided by the IPP and ICP, and for **4 (7.7%)** by all three providers (IPP, ICP, and ACP).

Non-custodial arraignments

Non-custodial arrest providers:

- In **38 counties (73.1%)**, non-custodial arrest representation is provided by **one single provider**.
 - For **33 of these counties (63.5%)**, non-custodial arrest representation is provided by the IPP, for **5 (9.6%)** by the ACP, and for **0 (0.0%)** by the ICP.
- In **14 counties (26.9%)**, non-custodial arrest representation is provided by **two or more providers** of mandated criminal representation.
 - For **6 of these counties (11.5%)**, non-custodial arrest representation is provided by both the IPP and the ACP, for **7 counties (13.5%)** representation is provided by the IPP and ICP, and for **1 county (1.9%)** by all three providers.

For more details on CAFA program types and providers for each of the 52 non-Settlement counties outside of New York City, please see Appendix C and County Profiles.

Extent of CAFA coverage

Custodial arraignment coverage:

- **All counties (52 out of 52; 100.0%)** indicated that they have legal representation at **all custodial arraignments**.

Gaps in coverage:

“Gaps in coverage” describe situations where no program is in place to provide defense representation at arraignment.

- **36 out of 52 counties (69.2%)** indicated that there are **no gaps** in coverage, **0 counties (0.0%)** indicated that there are **gaps in coverage for custodial arraignments**, **0 counties (0.0%)** indicated that there are gaps in coverage **during regular PD/DA or PD court sessions only**,⁴⁹ and **14 counties (26.9%)** indicated that there are **gaps in coverage during other court sessions only**.⁵⁰
 - **The remaining 2 out of 52 counties (3.8%)** indicate that there are gaps in coverage during **regular PD/DA or PD court sessions *and* other court sessions**.
- Of the **16 counties** that indicated that there are **gaps during other court sessions** (either as the sole option or one of the checked options), **14 counties** specifically mentioned that these gaps included **appearance tickets scheduled for days when counsel are not regularly scheduled to appear**. In these situations, justices often – but not always – adjourn the matter without conducting an arraignment until the next regular court session where counsel is present to conduct the arraignment.⁵¹

Systems to identify missed arraignments:

- **35 out of 52 counties (67.3%)** indicated that they have a system in place to **identify missed arraignments that result in a client being held in custody**; the other 16 counties (30.8%) do not have such a system.
- **Similarly, 24 out of 52 counties (46.2%)** indicated that they have a system in place to **identify missed *non-custodial* arraignments**; 28 counties (53.8%) do not have such a system.
- **Systems to identify missed arraignments include** the use of **jail lists** (lists of incarcerated individuals generated by custodial authorities) to identify any missed arraignments that result in a client being held in custody, **receiving notification from the court** where the

⁴⁹ These are court sessions when the IPP/ICP/ACP is regularly scheduled to appear for criminal cases.

⁵⁰ These are court sessions when the IPP/ICP/ACP is not regularly scheduled to appear for criminal cases.

⁵¹ Although the definition of an “arraignment” in the *Hurrell-Harring* Settlement technically excludes “appearances where no prosecutor appears, and no action occurs other than the adjournment of the criminal process and the unconditional release of the person charged,” in this scenario, a person charged with a crime has made their first appearance in court without the benefit of representation. This results in an unnecessary adjournment, an additional court appearance (with associated missed employment, childcare issues, and other hardships borne by the client), lengthens the amount of time that a charged individual has an open criminal case pending against them, and disadvantages time-sensitive investigations. For these reasons, ILS documents these as “gaps” in representation.

missed arraignment occurred, and reviewing providers' internal records when a new assignment comes in (i.e., checking for each assignment if there is an arraignment sheet or not).

For more details on CAFA coverage for each of the 52 non-Settlement counties outside of New York City, please see Appendix D.

*Virtual and in-person arraignments*⁵²

- At the time of the interview (June-July 2024), **most counties (i.e., 49 out of 52 counties; 94.2%)** conducted all arraignments **in-person**. **Three out of 52 counties (5.8%)** still conducted some arraignments **virtually**.

Eligibility screening and conflict checks

Adherence to ILS Eligibility Standards:

- **In 27 out of 52 counties (51.9%),** financial eligibility applications currently in use **conform or largely conform** with ILS Eligibility Standards.⁵³

Timing of eligibility screening:

- **In 12 out of 52 counties (23.1%),** criminal court eligibility screenings take place **without delay**, occurring either prior to or on the day of the arraignment, or both, but never after the day of the arraignment.
- **In 11 out of 52 counties (21.2%),** criminal court eligibility screenings take place **exclusively after the day of the arraignment**.
- **In 20 out of 52 counties (38.5%),** criminal court eligibility screenings take place **either on or after the day of the arraignment**, and in **9 counties (17.3%)** these take place at **all three moments** (before, on, and after the day of arraignment).

Timing of conflict checks:

- **In 2 out of 52 counties (3.8%),** criminal court conflict checks take place either **prior to or on the day of the arraignment, or both**, but never after the day of the arraignment.
- **In 23 out of 52 counties (44.2%),** criminal court conflict checks take place **exclusively after the day of the arraignment**.
- **In 17 out of 52 counties (32.7%),** criminal court conflict checks take place **either on or after the day of the arraignment**, and in **10 counties (19.2%)** these take place at **all three moments** (before, on, and after the day of arraignment).

Time gaps between arraignment and assignment of counsel:

⁵² As per Executive Order 210, issued on June 24, 2021, Executive Orders authorizing electronic court appearances were rescinded (i.e., EO 202 through 202.11). As of then, counties were mandated to return to in-person court operations.

⁵³ This number includes one county where most (but not all) courts use a form that conforms with ILS Eligibility Standards.

- **24 out of 52 counties (46.2%)** reported that there are no time gaps between the arraignment and the assignment of counsel in criminal cases. This number includes counties where counsel is provisionally assigned at arraignment.

Confidential meeting space

- Prior to **non-custodial arraignments**, **confidential space** is generally provided for attorney interviews in **25 out of 52 counties (48.1%)**.
- Prior to **custodial arraignments**, **confidential space** is generally provided for attorney interviews in **36 out of 52 counties (69.2%)**.

Interpretation services

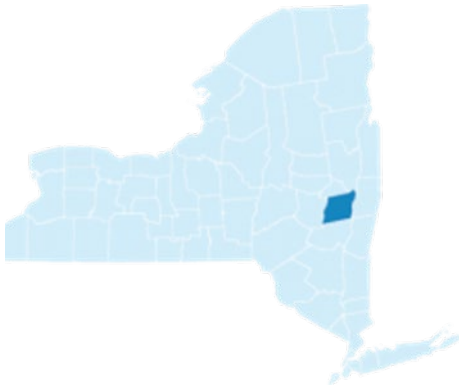
- **In 12 out of 52 counties**, live, in-person interpreters are provided by the court.
- **In 9 out of 52 counties**, live, in-person interpreters are arranged through the provider offices.
- **In 14 out of 52 counties**, client family members or friends are relied upon when interpretation services are not available.
- **In 52 out of 52 counties**, remote language access services are used such as Language Line, Propio, Google Translate, or individual interpreters appearing by video or phone.

Conclusion

This year, public defense providers took a significant step forward in their efforts to provide counsel at arraignments. As has been outlined in this report, more CAFA coordinators are reporting no systematic gaps in arraignment representation. For the first time since we began reporting, every CAFA coordinator reported the existence of sound systems for representation at custodial arraignments. After a concerted effort by public defense providers and ILS to develop plans using state funding for attorneys to provide representation at more non-custodial arraignments, more counties are reporting no gaps in representation during arraignments where providers are not regularly scheduled to appear. CAP parts have been implemented in four more counties and the financial eligibility process is becoming more streamlined in the growing number of counties that work with ILS to bring their applications and processes in line with our standards. As ILS continues to work with counties to improve arraignment representation, more stakeholders are recognizing that the right to counsel is indispensable at the arraignment stage, and the results outlined in this report reflect this consensus viewpoint.

ILS will continue to monitor progress in arraignment representation to ensure compliance with Executive Law § 832(4)(a)(iii) and will continue to work with public defense providers to ensure quality representation at arraignments, including client access to language services, attorney resources for new developments in law and policy, and access to confidential interview space

ALBANY COUNTY



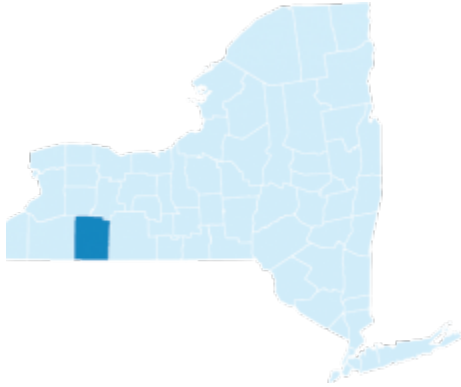
Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Albany has an on-call program staffed by attorneys from the Public Defender and Alternate Public Defender Offices who provide representation on a rotational basis. The Public Defender’s Office provides representation for all Albany City Court arraignments except for conflicts, in which case the Alternate Public Defender’s Office appears. Custodial arraignments that

occur during regular court sessions are represented by the attorney that is assigned to that court session.

Non-custodial arraignments: Arraignments take place in the various local courts during court sessions that are staffed by the Public Defender and Alternate Public Defender Offices. The attorney assigned to that court provides arraignment representation. In the unlikely event that someone charged with an appearance ticket appears during a court session when an attorney is not present, the court either uses the on-call system to ensure representation or reschedules the arraignment to a date when an attorney will be in court. This situation typically arises a few times per year.

Determining financial eligibility for assigned counsel: Clients in custody are presumed eligible and assigned attorneys at arraignment. Attorneys from the Public Defender’s Office interview clients prior to non-custodial arraignments and make a recommendation of eligibility to the court, which is usually followed. Attorneys are therefore assigned at arraignment, but these initial intakes are also reviewed to confirm eligibility when the case is returned to the Public Defender’s Office. The application largely conforms to ILS Eligibility Standards.

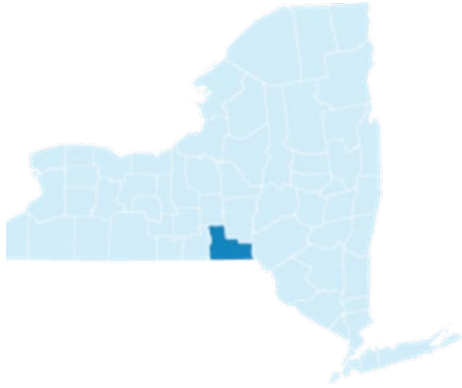


Arrestment Representation Overview

Custodial arrestments: Custodial arrestments take place at the CAP located at the Allegany County Jail in Belmont, which holds sessions twice per day (as needed) at 8:00 AM and 6:00 PM. The CAP was implemented in July 2024; prior to the creation of a CAP, the Public Defender and First Assistant Public Defender provided countywide on-call representation at all evening and weekend arrestments, placing a significant burden on those two individuals. Now, a full-time PD Office attorney provides representation at arrestments that take place at designated times in the CAP.

Non-custodial arrestments: Arrestments generally take place in local courts during court sessions that are staffed by the Public Defender’s Office. The attorney assigned to that court provides arrestment representation. Sometimes law enforcement issues an appearance ticket that is returnable during a court session when the PD Office is not already scheduled to appear. In these cases, the court adjourns the case to the next court date when a public defender will be present to represent the person at the arrestment.

Determining financial eligibility for assigned counsel: The PD Office screens for eligibility using a form that comports with ILS Eligibility Standards. Attorneys complete the form with their client at arrestment and the Public Defender’s Office determines eligibility within 24 hours.



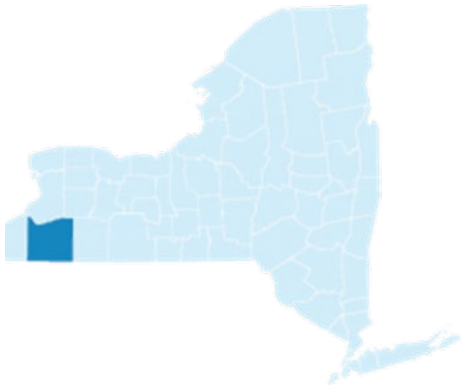
Arrest Representation Overview

Custodial arraignments: Custodial arraignments generally take place at the CAP located at the Broome County Public Safety Facility in Binghamton, which holds sessions two times per day (8:00 AM and 8:00 PM). Clients who are arrested by the Binghamton City Police are arraigned in Binghamton City Court, which conducts arraignments at designated times (two times per day on weekdays and once each day on weekends), though in limited circumstances such as medical necessity, arraignments are conducted outside of these times.

Representation at the CAP and in Binghamton City Court is provided by a rotation of attorneys from the Public Defender’s Office.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The PD Office screens clients for financial eligibility, and the procedure varies depending on the location of the arraignment. At the CAP, clients who are in custody after their arraignment meet with the PD Office intake staff the morning after their arraignment to complete an eligibility application and conflict check. Clients who are not in custody are directed to contact the PD Office within 24 hours to schedule an intake appointment where eligibility is determined. When possible, the office accepts walk-in appointments, otherwise appointments are scheduled as soon as practicable after the arraignment. In Binghamton City Court and some of the busier town and village courts, the PD Office intake staff determines eligibility at the time of the arraignment. In the smaller town and village courts, Assistant Public Defenders (APDs) bring eligibility forms to arraignments for clients to complete, then the APDs bring the completed forms to the office to expedite the eligibility assessment. Contrary to ILS’ Eligibility Standards, the eligibility form requires applicants to provide information regarding third party (parent/guardian if under 21 and spousal) financial information and considers needs-based assistance and child support as income.

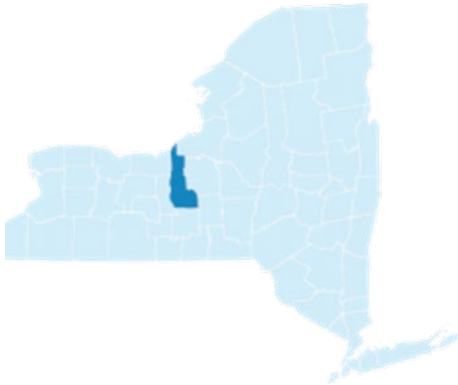


Arrestment Representation Overview

Custodial arrestments: Arrestments take place in courts throughout the county immediately following arrest. Representation is provided on an on-call basis by the Public Defender’s Office. Staff attorneys participate in rotations to provide representation at arrestments that occur during daytime business hours, weekday nights, and weekends.

Non-custodial arrestments: Arrestments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arrestment representation.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility for assignment of counsel. If a client is in custody after their arrestment, a formal screening is done immediately following the arrestment or the following day. For people who are not in custody, the PD Office contacts the client the day after their arrestment to determine eligibility. The PD Office continues to provide representation on a provisional basis until eligibility is determined. The eligibility application comports with ILS Eligibility Standards.



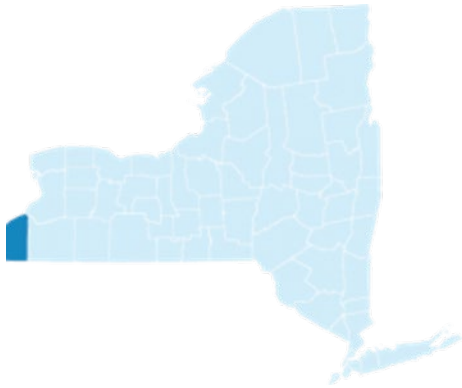
Arrest Representation Overview

Custodial arraignments: Arraignments generally take place at the CAP located at the Cayuga County Public Safety Building in Auburn, which holds sessions two times per day (7:00 AM and 7:00 PM). Custodial arraignments may also take place immediately following arrest in Auburn City Court between 9:00 AM and 3:00 PM (outside of those hours, arresting agencies use the CAP). Representation in the CAP and in Auburn City Court is provided by attorneys from the Assigned

Counsel Program (the sole provider of mandated representation in Cayuga County) on a rotational basis. Notably, the CAP has pre-arrest detention capacity for four people. If more than four people are detained and awaiting arraignment at the CAP, the Jail Custody Supervisor contacts the ACP Administrator, who notifies a judge and contacts a panel attorney to provide immediate representation.

Non-custodial arraignments: Arraignments generally take place in local courts during regular court sessions. The court notifies the ACP in advance of a court date to ensure that representation is provided. In the unlikely event that a panel attorney is not available, or the ACP is not notified in advance to appear, the case is adjourned to a day when an attorney can be present.

Determining financial eligibility for assigned counsel: In Auburn City Court, the court determines eligibility at the arraignment, and if found eligible, an order of assignment is entered immediately. In the CAP and town and village courts, clients complete an application with their attorney at the arraignment and the ACP determines eligibility within 24 hours. The eligibility application comports with ILS Eligibility Standards.



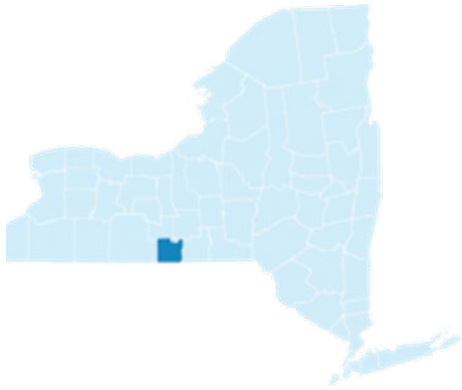
Arrest Representation Overview

Custodial arraignments: Arraignments for all arrests that occur outside the cities of Dunkirk and Jamestown take place at the CAP located at the Chautauqua County Jail in Mayville, which holds sessions two times per day (8:30 AM and 7:30 PM). Custodial arraignments for arrests that occur in the cities of Dunkirk and Jamestown take place at designated times in each of those city courts. The Public Defender’s Office provides representation at all arraignments; attorneys

participate in a rotation to ensure representation at arraignments that occur during off-hours. Two contract attorneys assist the PD Office in providing representation at the CAP.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The Public Defender’s Office screens all clients for financial eligibility. In Jamestown, Dunkirk, and the CAP, eligibility screenings are conducted on the same day as the arraignment. In Jamestown, which is the busiest court, PD Office investigators conduct immediate screenings and conflict checks; they may also be assisted by a case manager and paralegal to ensure prompt screenings take place. In the town courts, clients are provided with an application at the time of their arraignment and instructed to contact the PD Office to apply for counsel. Contrary to ILS Eligibility Standards, the eligibility application requires applicants to provide gross (pre-tax) income, considers spousal assets, and requires a parent or guardian signature if the client is under 18 years old.

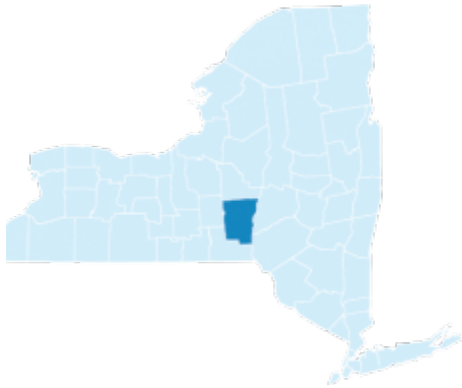


Arraignment Representation Overview

Custodial arraignments: Arraignments generally take place in courts throughout the county immediately following arrest; clients arrested in the jurisdiction of Elmira City Court (which has a holding cell) may be detained overnight and arraigned in the morning. On-call arraignment representation is provided by a rotation of attorneys from the Public Defender’s Office, the Public Advocate’s Office (PA Office; a conflict defender’s office), and the Assigned Counsel Program.

Non-custodial arraignments: In Elmira City Court, non-custodial arraignments take place during regular court sessions that are staffed by an attorney from the PD Office or PA Office. In the town and village courts, non-custodial arraignments generally take place during court sessions that are staffed by the PD Office or PA Office, and arraignment representation is provided by the attorney assigned to that court. However, non-custodial arraignments may also be scheduled for court sessions when the PD Office or PA Office are not already scheduled to appear. In these cases, the PD Office or PA Office are contacted to provide representation if the court intends to take some action other than the unconditional release of a client (such as issue an Order of Protection). Otherwise, people are arraigned, and their cases are adjourned to the next court session when an attorney will be present.

Determining financial eligibility for assigned counsel: Judges screen for financial eligibility during the arraignment, whether it be a scheduled appearance ticket arraignment or a custodial arraignment. Courts do not generally use written eligibility application forms. The screening process occurs on the record; judges inquire about employment, weekly or monthly salary, assets, and dependents that the applicant is obligated to support.

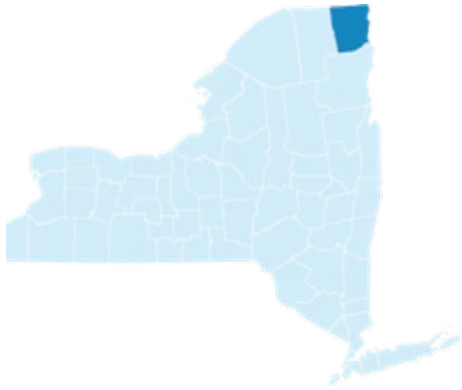


Arrest Representation Overview

Custodial arraignments: Custodial arraignments take place at the CAP located at the Chenango County Correctional Facility in Norwich, which holds sessions two times per day (8:30 AM and 8:30 PM). Representation is provided by a rotation of attorneys from the Public Defender’s Office and the Assigned Counsel Program.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office, and the attorney assigned to that court provides representation. Occasionally, local courts contact the ACP Administrator in advance if they are aware that the PD Office has a conflict of interest for an upcoming arraignment, and the ACP sends a panel attorney to represent the person at the arraignment.

Determining financial eligibility for assigned counsel: Financial eligibility for assigned counsel is determined by the ACP. Clients are provided with an application at the time of their arraignment and instructed to return it to the ACP office. The ACP staff reviews applications and determines eligibility. Applications are usually reviewed within 24 hours of an arraignment. Contrary to ILS Eligibility Standards, the form requires applicants to provide information regarding third party (spousal) income and sign the application under penalty of perjury.

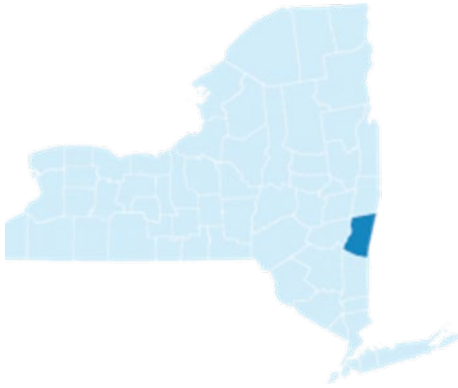


Arraignment Representation Overview

Custodial arraignments: The Public Defender’s Office provides representation at all custodial arraignments that take place between 8:00 AM and 5:00 PM and during regularly scheduled court sessions (which may occur during evening hours). Panel attorneys from the Assigned Counsel Program provide on-call representation at off-hour custodial arraignments on a rotational basis.

Non-custodial arraignments: Arraignments take place during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation. Occasionally law enforcement will mistakenly schedule an appearance ticket for a session when the PD Office is not scheduled to appear; in those circumstances, judges provide the client with an application for assignment of counsel and instruct them to return to court on the next date that the PD Office will be present.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility using an application that comports with ILS Eligibility Standards. The eligibility form is completed by the attorney with their client at the arraignment. If a panel attorney provides representation at arraignment, they send the completed application to the PD Office the following day. The PD Office is assigned provisionally to all cases, pending the outcome of the financial eligibility determination and conflict check.

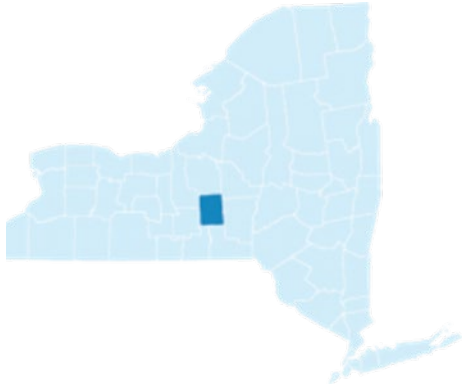


Arraignment Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Attorneys in the Public Defender’s Office represent clients at arraignments occurring during business hours. Columbia County contracts with attorneys to provide representation at off-hour custodial arraignments. Two contract attorneys are scheduled each week with one attorney serving in a backup capacity.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation. The PD Office receives court calendars before the scheduled court session and checks for arraignments; if an arraignment is scheduled for a session that an attorney would not normally attend, the PD Office sends an attorney to provide representation.

Determining financial eligibility for assigned counsel: All clients must complete an application for assigned counsel. The Public Defender’s Office screens the applications the same day they are returned to the office and determines eligibility. CAFA attorneys provide the application to the person being arraigned with the instruction to send the completed application to the PD Office, which screens for financial eligibility and follows up with applicants as needed to ensure the screening is done by the next court appearance. Contrary to ILS Eligibility Standards, the application instructs clients to recertify their eligibility every 90 days during the period of representation.



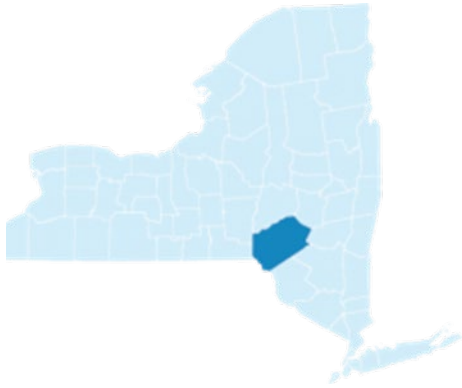
Arraignment Representation Overview

Custodial arraignments: Custodial arraignments generally take place pursuant to a CAP Plan. Cortland City Court conducts custodial arraignments during business hours and the City Court morning session incorporates the morning session of the CAP (held at 10:00 AM). City Court also holds an afternoon arraignment session (3:30 PM) for custodial City Court cases only and occasionally arraigns people immediately following arrest at any hour of the day. Otherwise, the evening, weekend, and holiday CAP sessions are held at the Cortland

County Public Safety Building in Cortland. Evening sessions are at 8:00 PM and weekend mornings are at 8:00 AM. The PD Office staffs weekday CAP sessions, the ACP staffs weekend (including Friday evening) and holiday CAP sessions. The PD Office also staffs on-call attorneys for City Court arraignments occurring outside of these sessions.

Non-custodial arraignments: Arraignments generally take place during court sessions that are staffed by the PD Office. In Cortland City Court, an ACP attorney is also present to represent clients on conflict cases. In the town and village courts, non-custodial arraignments generally take place during sessions when an attorney from the PD Office is assigned to appear. Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the judge arraigns the person without counsel.

Determining financial eligibility for assigned counsel: The ACP screens for financial eligibility. The arraiving attorney provides clients with an application at the time of their arraignment and instructs them to return it to the ACP. The application can also be completed and submitted online. Clients who are in custody after their arraignment receive provisional counsel pending the outcome of the eligibility application. ACP staff review all applications received and determine eligibility. The application comports with ILS Eligibility Standards.

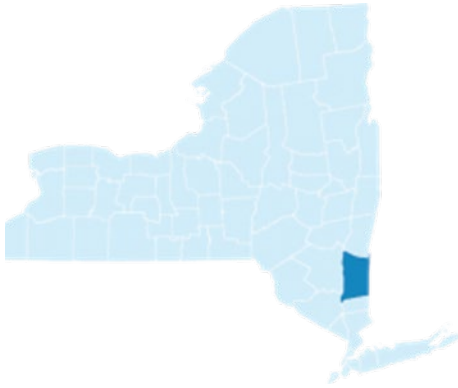


Arrest Representation Overview

Custodial arraignments: Custodial arraignments take place at the CAP located at the Delaware County Correctional Facility in Delhi, which holds sessions two times per day (8:00 AM and 8:00 PM). Representation is provided by a rotation of attorneys from the Public Defender’s Office and the Assigned Counsel Program.

Non-custodial arraignments: Arraignments generally occur in local courts during court sessions that are staffed by the PD Office, and the attorney assigned to that court provides representation. Non-custodial arraignments may also be scheduled for court sessions when an attorney from the PD Office is not present. In these cases, the PD Office is contacted to provide representation if the court intends to take some action other than the unconditional release of a client (such as issue an Order of Protection). Otherwise, clients are either arraigned without counsel, or their cases are adjourned for arraignment at the next court session when an attorney will be present.

Determining financial eligibility for assigned counsel: Clients fill out an eligibility form prior to their arraignment and are screened for financial eligibility by the court during the arraignment. The form comports with ILS Eligibility Standards.



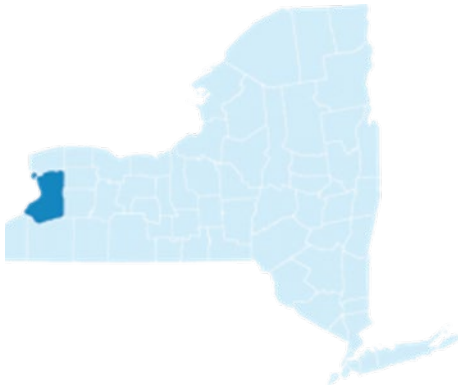
Arraignment Representation Overview

Custodial arraignments: Arraignments generally take place in courts throughout the county immediately following arrest. Three jurisdictions (the City of Poughkeepsie, Town of Poughkeepsie, and City of Beacon), have capacity for pre-arraignment detention which may be used depending on the time of arrest, day of the week, and judge’s availability. The Public Defender’s Office provides representation at all custodial arraignments on an “on-call” basis. One designated

attorney provides representation at all arraignments that take place during weekday business hours, and other attorneys from the PD Office provide representation during nights and weekends on a rotational basis.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the PD Office, though in some courts they may also be scheduled during court sessions that are not staffed by the PD Office, such as sessions dedicated to traffic matters. The PD Office provides representation for appearance ticket arraignments if they are already in court; otherwise, the court either adjourns the case to the next date when the PD Office will be present, or the PD Office provides representation on an “on-call” basis.

Determining financial eligibility for assigned counsel: The PD Office screens for eligibility. If a client is in custody after the arraignment, they are presumed eligible for assignment of counsel. If a client is out of custody, they are instructed to contact the PD Office to apply. Contrary to the ILS Eligibility Standards, the PD Office considers third party (spousal/family) income in determining eligibility.



Arrestment Representation Overview

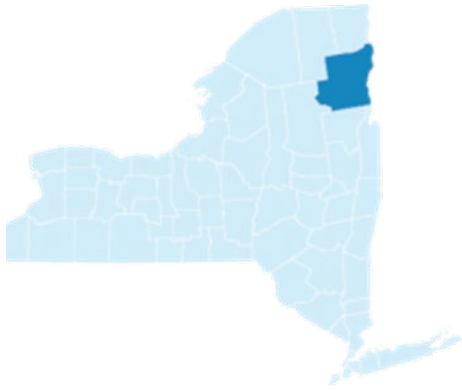
Custodial arraignments: In Buffalo City Court, custodial arraignments occur twice every weekday (9:30 AM and 2:00 PM), and at 9:00 AM on Saturdays and Sundays.

Representation in Buffalo City Court is provided by The Legal Aid Bureau of Buffalo (LABB). In the towns, villages, and two other cities in Erie County, custodial arraignments either occur during regularly scheduled court sessions or, where the relevant court is not in session, then as close to the time of

arrest as possible. In larger courts, the Assigned Counsel Program provides arraignment representation utilizing an “Attorney of the Day” (AOD). In the smaller courts, the ACP provides arraignment representation using an “Attorney on Call” (AOC) available if an arraignment is required during a regular court session. The teams of AOCs are divided by geographical region for the off-hour arraignments.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by either the LABB (in Buffalo City Court) or the ACP (in all other courts). In Buffalo City Court, the LABB attorney assigned to that court provides arraignment representation. The ACP enacted a program of “pre-arraignment assignments” in all town and village courts and the two other City Courts in Erie County, save for two (Cheektowaga Town Court and one judicial part in the Town of Lancaster). In this program, the ACP is notified of arraignments in advance of the court date and assigns an attorney prior to arraignment to represent the person at the arraignment. In the event an attorney has not been assigned pre-arraignment, either the assigned AOD or an AOC provides arraignment prior to assignment of counsel.

Determining financial eligibility for assigned counsel: The ACP and LABB screen for financial eligibility for their respective clients. In Buffalo City Court, the attorney completes the application form with the client and eligibility is generally determined prior to the arraignment. In all town and village courts and the two other city courts in Erie County, the assigned attorney completes an ACP eligibility form with the client either prior to or at arraignment and then submits it to the ACP for final eligibility determination. Both providers use forms that substantially comply with ILS Eligibility Standards.

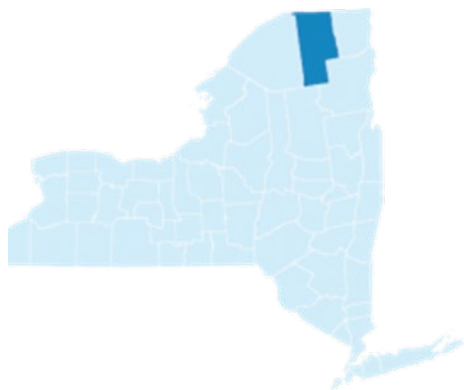


Arrest Representation Overview

Custodial arraignments: Arraignments take place on-call in courts throughout the county immediately following a person’s arrest every day between 8:00 AM and 8:00 PM. If an arrest happens after 8:00 PM, the person is detained until the following morning. The Public Defender’s Office provides representation at all custodial arraignments that take place on weekdays, and a rotation of attorneys from the PD Office and Assigned Counsel Program provide representation on weekends.

Non-custodial arraignments: Arraignments generally take place during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation. Arraignments are sometimes scheduled during a court session when the PD Office is not present. If the PD Office is notified in advance, they try to arrange for an attorney to appear and represent the person. If no attorneys are available, the judge instructs the person to return to court on the next “PD day.”

Determining financial eligibility for assigned counsel: In most cases the court determines eligibility during the arraignment and assigns the PD Office at the time of the arraignment. If the client is not presumptively eligible, they are instructed to complete an application, submit it to the PD Office and return to court on the next scheduled PD day. The application used comports with ILS Eligibility Standards.



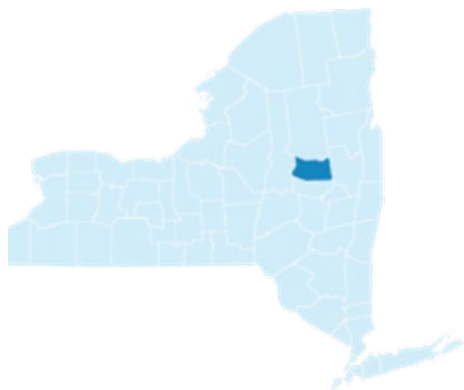
Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Up until 2024, the Chief Public Defender provided representation at most of the off-hour arraignments. This system placed a significant burden on this one individual and recently has been improved to include more attorneys who provide representation during off-hours. Presently, representation is provided on an on-call basis by a rotation of attorneys from both the Public Defender’s Office and the Conflict Defender’s

Office.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by either the PD Office or the CD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The Assigned Counsel Program determines financial eligibility. The attorney who represents a client at arraignment generally completes the application with the client at the arraignment, and the attorney sends the application to the ACP Administrator, who conducts a conflict check and determines eligibility. The county is currently updating its application to conform with ILS Eligibility Standards. The conflict check, eligibility determination and assignment usually take a few days but may be up to a week in cases where both institutional offices have a conflict of interest. The arraigning attorney is provisionally assigned in the meantime to ensure continuity of representation.



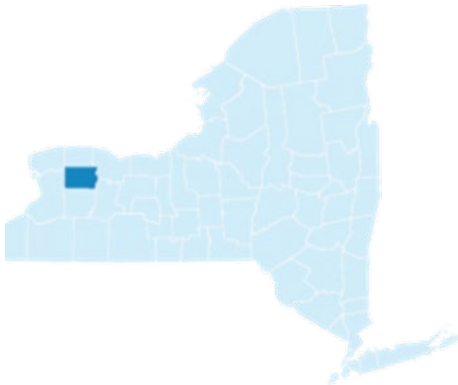
Arrest Representation Overview

Custodial arraignments: Arraignments generally take place at the CAP located at the Fulton County Jail in Johnstown, which holds sessions two times per day (7:00 AM and 7:00 PM). Custodial arraignments may also take place immediately following arrest in Groversville and Johnstown City Courts between approximately 8:00 AM and 11:00 PM (outside of those hours, arresting agencies use the CAP). Representation in the CAP and in Groversville and Johnstown City Courts is provided by attorneys from the Public Defender's Office on a

rotational basis.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: Financial eligibility for assigned counsel is determined by the courts, most of which use the ILS model application though some courts use their own application and it is unknown whether these court-specific applications comport with ILS Eligibility Standards. For custodial arraignments that take place at the CAP, the client completes an application for assigned counsel at the first post-arraignment appearance in the court of jurisdiction. For custodial arraignments that take place in Groversville and Johnstown City Courts, the court provides an application to the client at the arraignment and instructs them to complete it and bring it to the next court appearance. For non-custodial arraignments, the court clerk provides an application to the client, and they complete it immediately prior to the arraignment. If financial eligibility is not determined at the arraignment, the PD Office is provisionally assigned to the case pending the outcome of the eligibility determination.

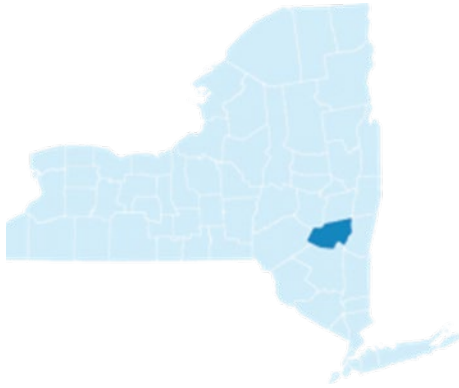


Arraignment Representation Overview

Custodial arraignments: Arraignments take place at the CAP, which holds sessions from 9:00 AM to 11:00 AM and from 7:00 PM to 9:30 PM every day. On weekday mornings, the CAP operates at Batavia City Court. On weekday evenings, weekends and holidays, the CAP operates at the Genesee County Jail in Batavia. The Public Defender’s Office provides representation on a rotational basis at all CAP arraignments.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation. Once or twice per month, arraignments are scheduled during court sessions that are not staffed by the PD Office; in those situations, the arraignment is adjourned for the next date that an attorney from the PD Office will be present.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility for all clients. If a client is in custody after their arraignment, they are deemed eligible and no further formal screening is done. Otherwise, clients are provided with the eligibility application at arraignment and advised to submit it to the PD Office. The application can be submitted through the PD Office’s website. The PD Office continues represent the person in the interim, regardless of when the completed application is received. They provide representation on all cases unless and until a conflict is discovered and the case is transferred to an ACP panel attorney, or a private attorney is retained. The eligibility application comports with ILS Eligibility Standards.

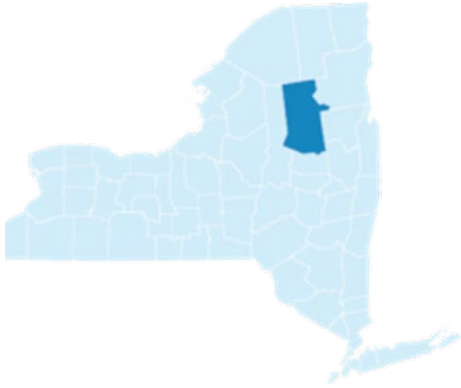


Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Representation at custodial arraignments during business hours is provided by an attorney in the Public Defender’s Office or an on-call Assigned Counsel Program panel attorney, depending on availability. Attorneys from the PD Office and ACP panel provide representation on an on-call basis for off-hour arraignments.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation. Attorneys attend every court session; if an attorney does not have cases scheduled during a session, the office reviews the court calendar for any scheduled arraignments. If an arraignment is scheduled, the attorney appears and provides representation.

Determining financial eligibility for assigned counsel: Eligibility is presumed for incarcerated clients and the PD Office is assigned. If the client has qualified for representation in the last six months, no application is required. Otherwise, clients must complete an application and return it to the PD Office. Investigators in the PD Office then interview the applicant (either telephonically or in person) to verify the information on the application. This process generally takes place prior to the first post-arraignment court date. The application form used comports with ILS Eligibility Standards.

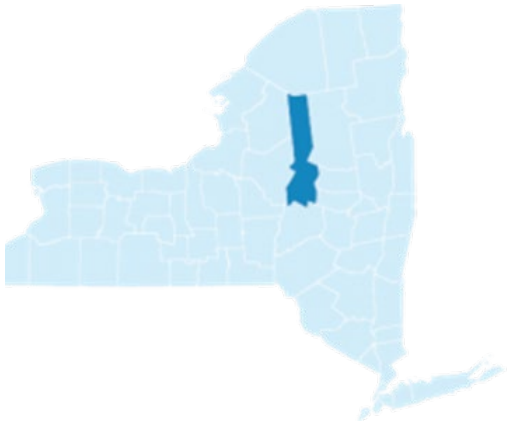


Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest, and representation is provided on an on-call basis by attorneys from the Public Defender’s Office.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation. On rare occasions in the smaller courts, law enforcement schedules an appearance ticket for arraignment on a date when the PD Office is not already scheduled to appear. If this occurs, the court contacts the PD Office in advance of the arraignment date, and the PD sends an attorney to represent the individual at their arraignment.

Determining financial eligibility for assigned counsel: The PD Office screens all clients for financial eligibility at the time of the arraignment. Contrary to ILS Eligibility Standards, the financial affidavit used to determine eligibility requires applicants to provide information regarding third party (spousal) income and assets and requires applicants to sign the form under penalty of perjury with a notary or witness.



Arrestment Representation Overview

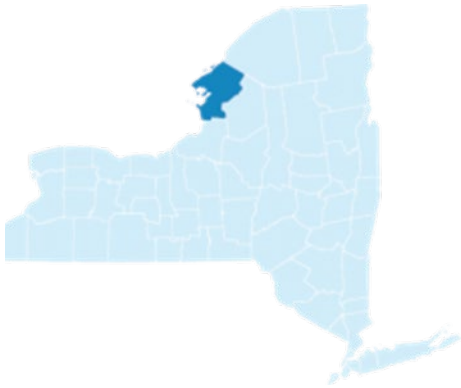
Custodial arrestments: Arrestments take place at the CAP which holds sessions two times per day (weekdays, 9:00 AM and 4:00 PM; weekends/holidays, 7:00 AM and 4:00 PM). Morning sessions are held either at the Little Falls City Court or Herkimer County Court. Evening sessions are held either at the German Flatts Town Court or Herkimer Town Court. Representation at all arrestments is provided on a rotational basis by the Assigned Counsel Program, which is the sole provider of mandated

representation in Herkimer County.

Non-custodial arrestments: Arrestments take place in the various local courts during regularly scheduled court sessions. If the court notifies the ACP in advance of an arrestment, the ACP sends an attorney to court to provide representation. However, courts often do not notify the ACP in advance of a scheduled arrestment. In those instances, if a panel attorney is not present at the court session to represent the person, the court provides an application for assignment of counsel and adjourns the case for arrestment. If the application is submitted and approved, the ACP assigns counsel, and the assigned attorney appears at the new arrestment date with their client.

Determining financial eligibility for assigned counsel: Applicants complete a financial eligibility application that comports with ILS Eligibility Standards at the time of their arrestment. Attorneys are assigned to presumptively eligible clients at the time of the arrestment. If a person is not presumptively eligible, the court refers them to the ACP Administrator to determine eligibility with further financial documentation. Applicants may also submit applications directly to the ACP Administrator in advance of their arrestment date.

A separate document entitled "Affidavit of Financial Status of Indigent Person" must be submitted with the attorney voucher at the end of a case. Contrary to ILS Eligibility Standards, this document is not confidential, requires clients to provide spousal income and assets, parental income and assets (if under 21), contact information for their employer and landlord, considers public assistance as income, and requires applicants to sign under penalty of perjury and have the document notarized.



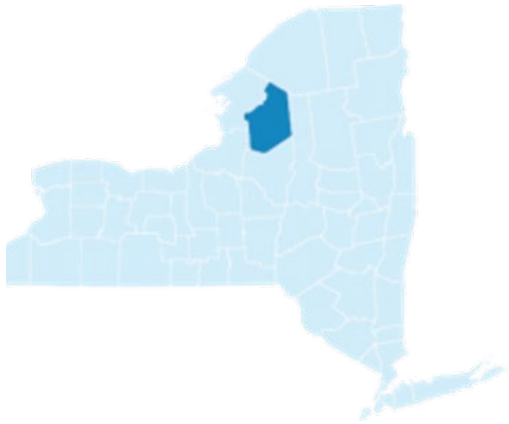
Arrest Representation Overview

Custodial arraignments: Custodial arraignments take place at the CAP, which holds sessions two times per day. Weekday morning sessions are held at Watertown City Court, and weekday evening, weekend and holiday sessions are held at the Metro-Jefferson Public Safety Building in Watertown. Representation is provided by the Public Defender’s Office. A full-time staff attorney is designated to provide representation at weekday CAP sessions. PD Office attorneys provide representation at weekend and holiday CAP sessions on a rotational basis.

Non-custodial arraignments: Arraignments take place at the CAP. Representation is provided by the Public Defender’s Office. If an individual does not appear for their first scheduled court date, the judge presumptively assigns the PD Office and adjourns the case to the court of jurisdiction for the arraignment. The PD Office and the court will notify the individual via letter about the new appearance date with instructions to contact the PD Office about the next court date. The PD Office appears at the new court date to represent the person at their arraignment.

Determining financial eligibility for assigned counsel: The PD Office determines eligibility and makes a recommendation for assignment to the court. The attorney completes the financial affidavit with their client in court prior to the arraignment. Contrary to ILS Eligibility Standards, the financial affidavit requires clients to provide information regarding income and assets for all members of their household, and considers public benefits, including child support, as part of the household income that is used to determine eligibility. It is not confidential and acts as a release authorizing the Public Defender’s Office to contact any person requesting information regarding the applicant. It also requires parent/guardian signature for clients who are under 18 or under 21 and living with a parent/guardian.

Following the arraignment, the PD Office’s in-house investigator reviews the financial affidavit and checks for conflicts. The PD Office makes an eligibility recommendation to the court, which is generally followed.

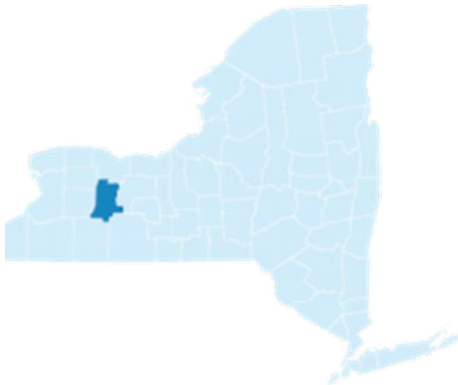


Arraignment Representation Overview

Custodial arraignments: Arraignments take place at the CAP, which operates at the County Court building in Lowville from 9:00 AM to 4:00 PM, and at local courts on a scheduled, rotating basis from 4:00 PM to 9:00 AM. Representation at all County Court CAP arraignments is provided by Lewis Defenders, or if there is a conflict, the Conflict Defender's Office. Representation at all local court arraignments is provided by Lewis Defenders on a rotational, on-call basis.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by Lewis Defenders. Occasionally, an arresting agency schedules a non-custodial arraignment for a court session that is not staffed by Lewis Defenders; in those circumstances, the court notifies Lewis Defenders in advance so they can ensure that an attorney appears. If no attorney is available, the court adjourns the case without arraigning the client. If possible, the court will adjourn the matter prior to the client's scheduled appearance.

Determining financial eligibility for assigned counsel: Financial eligibility for assigned counsel is determined by the court. Clients who are incarcerated following the arraignment are deemed presumptively eligible. Out-of-custody clients complete an application immediately following their arraignment, which they submit to the court for review. Contrary to ILS Eligibility Standards, the application requires clients to provide information about third party assets (spousal, parental if under 21, and household income), and must be notarized. The court determines eligibility and assigns an attorney within a day.

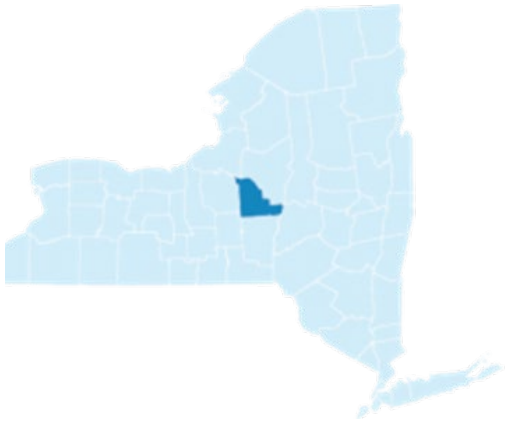


Arrest Representation Overview

Custodial arraignments: Custodial arraignments take place at the CAP located at the Livingston County Jail in Geneseo, which holds sessions two times per day (7:00 AM and 7:00 PM). Representation in the CAP is provided by attorneys from the Public Defender’s Office on a rotational basis, though attorneys from the Conflict Defender’s Office are also able to volunteer for shifts.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the PD Office. The Assistant Public Defender assigned to that court provides arraignment representation. Occasionally (approximately once or twice per month) an arraignment is scheduled during a court session when the PD Office is not scheduled to appear. In these circumstances, the judge adjourns the case to the next date that the PD Office is scheduled to appear.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility using an application that largely comports with ILS Eligibility Standards. Attorneys complete the application with the client at the time of the arraignment and eligibility is determined post-arraignment. Applications may also be submitted online.



Arrest Representation Overview

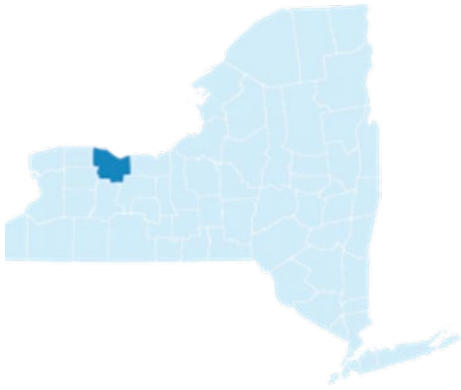
Custodial arraignments: Arraignments generally take place at the CAP located at the Madison County Jail in Wampsville, which holds sessions two times per day (8:00 to 11:00 AM and 8:00 to 11:00 PM). Custodial arraignments may also take place at Oneida City Court during regular court hours.

Representation at all custodial arraignments is provided on a rotational basis by the Assigned Counsel Program, which is the sole provider of mandated representation in Madison County.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by ACP attorneys. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The ACP determines financial eligibility for assigned counsel. At both custodial and non-custodial arraignments, defense counsel completes a financial affidavit with the client during the pre-arraignment interview. The financial affidavit, which largely follows ILS Eligibility Standards, is provided, along with the arraignment paperwork, to ACP staff. If the arraignment occurs during business hours (Monday through Friday, 9:00 AM to 5:00 PM), ACP staff review the financial affidavit and determine eligibility during the same business day. If the arraignment occurs outside of business hours, the financial affidavit is reviewed the next business day.

If an applicant is deemed eligible, an attorney is assigned immediately. If an applicant is deemed ineligible, ACP staff notifies the applicant that they must retain counsel. The arraigning attorney remains assigned to the case until retained counsel appears at court with the client, with the ACP Administrator monitoring the case in the event of any emergencies. During the time between arraignment and assignment, the case is monitored by the ACP Administrator, who provides representation if any emergency court appearances are required.



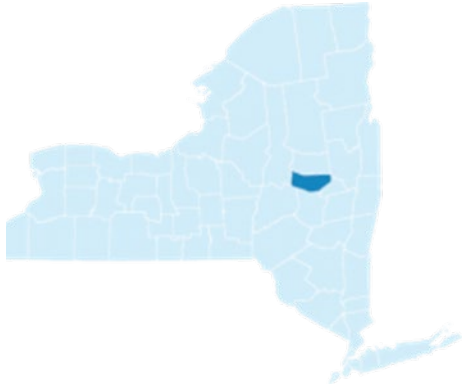
Arrest Representation Overview

Custodial Arraignments: Arraignments in town, village, and Raise the Age courts take place immediately following arrest . The Public Defender’s Office provides on-call arraignment representation in these courts. In Rochester City Court, all arrests from the preceding 24 hours are arraigned at a session that commences at 9:30 AM each morning, with the Conflict Defender’s Office acting as primary provider of representation at arraignment on misdemeanor cases. On weekdays in

Rochester City Court, the PD Office provides arraignment representation for felony cases and misdemeanors where the CD Office has a conflict. On the weekends and holidays, the CD Office represents people at all arraignments for misdemeanor and felony arrests that occur within the City of Rochester.

Non-custodial arraignments: Arraignments take place in the various local courts during regular court sessions that are staffed by the PD and CD Offices. The attorney assigned to that court provides arraignment representation. If a person appears for arraignment outside of regularly scheduled sessions, the PD Office is notified, and the on-call attorney provides representation.

Determining financial eligibility for assigned counsel: The PD and CD Offices screen for eligibility at the time of arraignment. Eligibility paperwork is completed by a paralegal in advance of the arraignment. If the arraignment occurs outside of a regularly scheduled court session, the attorney completes the eligibility form with the client. The forms are reviewed by the respective office (either the PD or CD Office, depending on which office provided arraignment representation) the next business day. Contrary to ILS Eligibility Standards, the eligibility form requires clients to provide information regarding spousal income/assets, parental income/assets (if under 21), and considers child support as income.

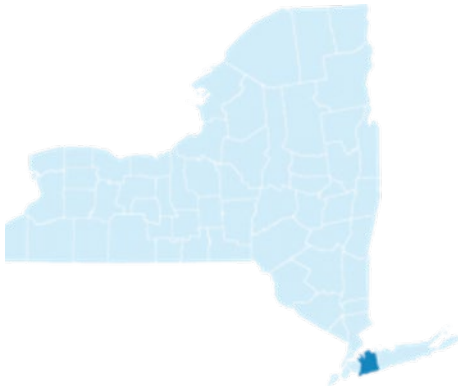


Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Amsterdam City Court has a holding cell and typically, clients who are arrested after 11:00 PM are detained at the court and arraigned the next morning. Representation is provided on an on-call basis by the Public Defender’s Office.

Non-custodial arraignments: Approximately 70-80% of arraignments take place in local courts during court sessions that are staffed by the PD Office. The Assistant Public Defender assigned to that court provides arraignment representation. Approximately 20-30% of arraignments are returnable during a court session when the PD Office is not already scheduled to appear. In these cases, the PD Office is notified in advance of the court date so that they can arrange to provide representation.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility. If the application is completed in court, the judge may determine eligibility for assigned counsel immediately during the arraignment, but the PD Office still screens for conflict before the case is assigned; otherwise, the client is instructed to return the completed form to the PD Office, at which point they determine eligibility, check for conflicts of interest, and assign the case to an attorney. The PD Office recently updated the eligibility form to comport with ILS Standards.



Arraignment Representation Overview

Custodial arraignments: Arraignments generally take place at a centralized District Court located in Hempstead, which operates from 9:00 AM – 4:30 PM, seven days a week. From Monday to Friday, custodial arraignments also take place in the two City Courts of Glen Cove and Long Beach (on weekends and holidays, City Court cases are arraigned in the District Court). The Nassau County Legal Aid Society (NCLAS) is the primary provider of representation for custodial arraignments in

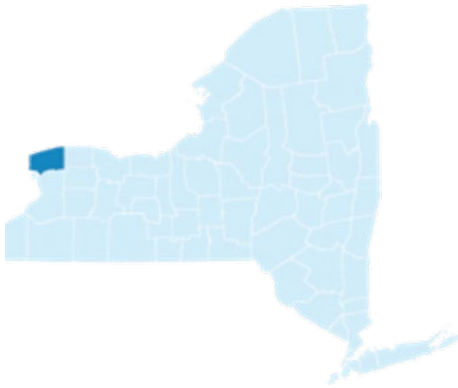
the District Court, and the Assigned Counsel Program provides representation at arraignment when a conflict of interest exists, when there is a multiple defendant case, and in some homicide cases. The ACP provides representation for all custodial arraignments that take place during the week in the City Courts of Glen Cove and Long Beach.

Custodial arraignments do not normally take place in the village courts (Nassau County does not have town courts); however, if there is a unique circumstance such as a return on warrant, the court contacts a local ACP attorney to represent the individual at the arraignment.

Non-custodial arraignments: Arraignments take place during regular court sessions in the District Court and City Courts of Glen Cove and Long Beach. The ACP provides representation for these arraignments.

Non-custodial arraignments do not normally take place in the village courts; however, if there is a unique circumstance such as a local law violation where the arresting agency schedules the arraignment in a village court, the court contacts a local ACP attorney to represent the individual at the arraignment.

Determining financial eligibility for assigned counsel: Judges screen for financial eligibility during the arraignment, whether it be a scheduled appearance ticket arraignment or a custodial arraignment. Judges do not use a standard, written eligibility application form. The screening process occurs on the record, after attorneys apply for assignment of counsel. The court places the client under oath and asks questions, which vary among the judges. Generally, judges ask about employment, weekly or monthly salary, and dependents that the client is obligated to support.

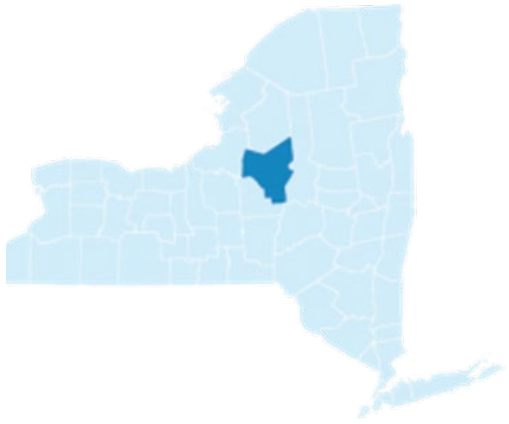


Arrest Representation Overview

Custodial arraignments: Niagara County has a CAP, located at the Niagara County Jail in Lockport, for all arrests that occur outside the cities of Niagara Falls, Lockport, and North Tonawanda. The CAP holds sessions on an as needed basis, up to twice per day (9:00 AM – 12:00 PM and 5:00 PM – 8:00 PM). In the City Courts of Niagara Falls, North Tonawanda, and Lockport, arraignments take place at designated times every day. Representation at the CAP and in the City Courts is provided by attorneys from the Public Defender’s Office on a rotational basis.

Non-custodial arraignments: Arraignments take place in the local courts during court sessions that are staffed by the PD Office, and the attorney assigned to that court provides representation.

Determining financial eligibility for assigned counsel: The Public Defender’s Office screens all clients for eligibility using an application that comports with ILS Eligibility Standards. Clients are provided with the application during their arraignment and encouraged to complete it at that time. Attorneys bring the form to the office and eligibility is determined within one day.



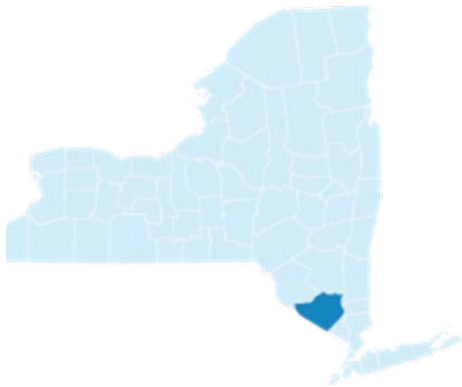
Arraignment Representation Overview

Custodial arraignments: Arraignments generally take place at the CAP located at the Oneida County Jail in Oriskany, which holds two sessions on weekdays (9:00 AM to 11:00 AM and 5:30 PM to 10:00 PM) and two sessions on weekends and holidays (7:30 AM to 10:00 AM and 5:30 PM to 10:00 PM). During weekdays, clients may also be arraigned at Utica City Court and Rome City Court during the morning and afternoon sessions. Arresting agencies may also bring clients to a regularly scheduled court

session for arraignment. The Public Defender’s Office provides representation at all arraignments. A rotational on-call system ensures attorneys are present at weekday evenings, weekends and holidays at the CAP, and Assistant Public Defenders staff the city, town and village court sessions and provide representation for any arraignment occurring while those courts are in session.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the PD Office, and occasionally take place at the CAP. The Assistant Public Defender assigned to that court (or CAP session) provides representation at these arraignments. Rarely, arraignments are scheduled during a court session when the PD Office is not already scheduled to appear. In those circumstances, the judge adjourns the case for arraignment.

Determining financial eligibility for assigned counsel: The Public Defender’s Office screens for financial eligibility. Assistant Public Defenders complete a financial eligibility screening form that comports with ILS Eligibility Standards during the pre-arraignment interview, and the PD Office is assigned to presumptively eligible clients at the time of the arraignment. If a client is not presumptively eligible, the PD Office is assigned on a provisional basis until retained counsel appears or until eligibility can be determined with further financial documentation.



Arrestment Representation Overview

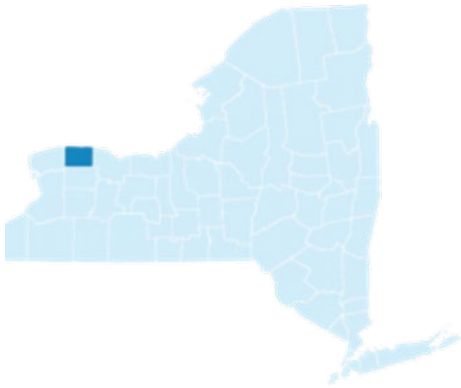
Custodial arraignments: Arraignments take place pursuant to a CAP Plan. During weekday business hours, the CAP operates at the City Courts (Newburgh, Middletown, and Port Jervis). The City of Newburgh and Middletown courts are available to conduct arraignments five days a week, from approximately 8:30 AM until 3:30 PM. The Port Jervis City Court is available for arraignments on Monday afternoons (from 1:00 PM to 3:00 PM) and Wednesday mornings (from 9:00 AM to 12:00 PM).

The arresting agency brings the client to the closest available court in session for arraignment. Representation at business hour weekday custodial arraignments is generally provided by The Legal Aid Society of Orange County (LAS), though a contract attorney may also provide representation if a conflict of interest with LAS exists. On weekday evenings, weekends and holidays, the CAP operates at the Orange County Jail. Weekday evening sessions take place from 8:00 PM to 10:30 PM, and weekend/holiday sessions take place from 6:00 to 7:30 AM and 7:00 to 10:30 PM. Representation at weekday evening, weekend and holiday CAP arraignments is provided by contract attorneys who are coordinated by the Assigned Counsel Program Administrator.

Additionally, a “satellite court program” is in effect in town and village courts during LAS scheduled criminal calendars on weekdays. Pursuant to this program, arresting agencies have the option of taking clients to any local court that is in session, rather than transporting clients to a City Court CAP on weekdays during the day or waiting for the evening weekday CAP session. Representation at these arraignments is provided by LAS, since an attorney is present during all criminal court calendars.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by LAS. The attorney assigned to that court generally provides arraignment representation, though a contract attorney from the ACP may provide representation if a conflict of interest with LAS exists.

Determining financial eligibility for assigned counsel: LAS screens for financial eligibility for assigned counsel. Clients who are in custody after their arraignment are presumed eligible. Clients who are not in custody after their arraignment are instructed to contact LAS, and eligibility is determined based on an intake interview that is generally conducted by telephone. The screening tool is a financial affidavit that, contrary to ILS Eligibility Standards, requires applicants to provide information regarding third-party income (spousal and parental if under 21) and a notarized signature under penalty of perjury.

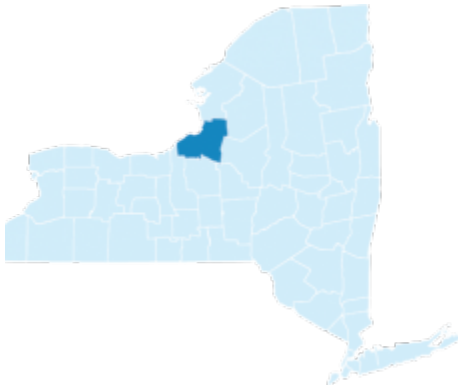


Arrest Representation Overview

Custodial arraignments: Arraignments take place at the CAP located at the Orleans County Jail in Albion, which holds sessions two times per day (8:30 AM and 7:30 PM). The Public Defender’s Office provides representation at all arraignments on a rotational basis, assisted by a contract attorney from the Assigned Counsel Program panel.

Non-custodial arraignments: Arraignments are held during regular court sessions that are staffed by the PD Office and/or a contract attorney from the ACP panel. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The PD Office screens for eligibility in criminal cases using an eligibility form that comports with ILS Eligibility Standards. Eligibility applications are given to clients at their arraignment and may be completed immediately following the arraignment or later after the arraignment and either sent to the PD Office or submitted to the PD Office on the next court date.



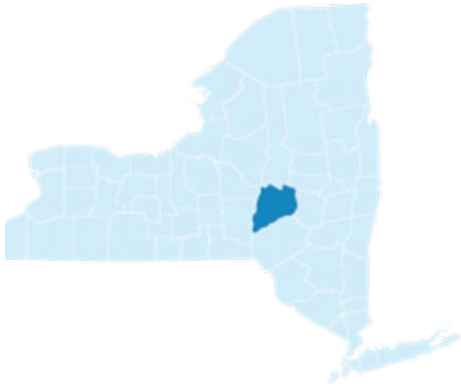
Arraignment Representation Overview

Custodial arraignments: Arraignments take place in three locations – Fulton City Court, Oswego City Court, and the CAP located at the Oswego County Public Safety Center in the City of Oswego. Weekday morning arraignments occur at either Fulton or Oswego City Court on a rotating basis and are heard starting at 9:00 AM. Weekday evening, weekend, and holiday arraignments are heard at the CAP. The Public Defender’s Office provides representation at all weekday and weekend

morning sessions, and all holiday sessions. The Assigned Counsel Program provides representation at all weekday and weekend evening sessions, including holiday evening sessions.

Non-custodial arraignments: Arraignments arising from town and village courts generally take place at the CAP and representation is provided by either the PD Office or the ACP; if clients do not appear for their original arraignment date in the CAP, counsel is presumptively assigned and the case is adjourned to the court of jurisdiction for arraignment. Arraignments arising from Oswego and Fulton City Court jurisdictions take place in the City Courts and representation is provided by the PD Office.

Determining financial eligibility for assigned counsel: The court presumptively assigns counsel on all cases unless the client states an intention to retain private counsel. While they are not a prerequisite to assignment, financial affidavits are required for all clients who are represented by the ACP and may be required for clients represented by the PD Office. The financial affidavit form largely follows ILS Eligibility Standards. The ACP and the PD Office review financial affidavits in their respective cases and notify the court if a client is not eligible for assigned counsel.



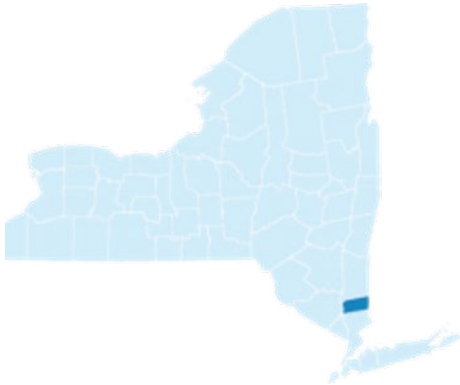
Arrest Representation Overview

Custodial arraignments: Arraignments generally take place at the CAP located at the Otsego County Jail in Cooperstown, which holds sessions two times per day (8:00 AM and 8:00 PM). Custodial arraignments may also take place immediately following arrest during business hours in Oneonta City Court. Representation at the CAP is provided by a rotation of Public Defender’s Office attorneys on weekday mornings and Assigned Counsel Program attorneys on weeknights and weekends. Representation in Oneonta City Court is provided

by Public Defender’s Office attorneys or Assigned Counsel Program attorneys depending on availability.

Non-custodial arraignments: Arraignments take place in local court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: Financial eligibility for assigned counsel is determined by the courts at the time of arraignment, regardless of whether the arraignment is custodial or non-custodial. The form the courts use to determine eligibility comports with ILS’ Eligibility Standards.



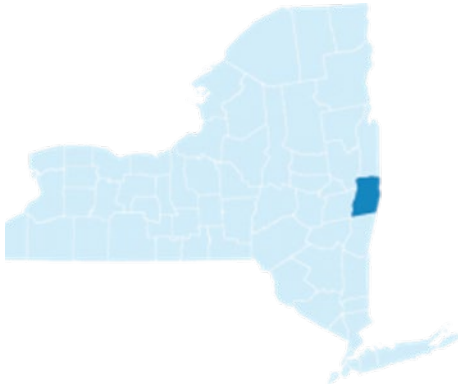
Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. The Putnam County Legal Aid Society (PCLAS) provides representation at all custodial arraignments. During business hours, courts email a dedicated PCLAS email address with notice of new custodial arraignments, and a staff attorney provides representation. Representation at off-hour arraignments is provided on an on-call basis by a rotation of

attorneys.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by PCLAS. The attorney assigned to that court provides arraignment representation. With the exception of one jurisdiction (the Town of Philipstown), Penal Law violations and Vehicle and Traffic Law violations and misdemeanors are prosecuted by town and village court prosecutors. These cases may be arraigned during sessions that are not staffed by PCLAS. Unless PCLAS is notified in advance of the arraignment or is already present, these arraignments occur without counsel.

Determining financial eligibility for assigned counsel: PCLAS screens for eligibility for assigned counsel. Clients who are in custody after their arraignment are presumed eligible. Clients who are not in custody after their arraignment are instructed to contact PCLAS, and eligibility is determined based on an intake interview that is generally conducted by telephone. The eligibility inquiry follows ILS Eligibility Standards.

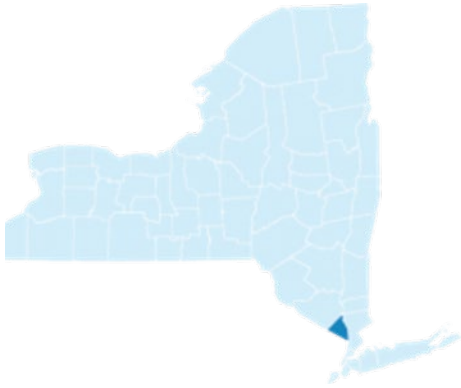


Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Rensselaer County provides representation at arraignments through an on-call system staffed by attorneys from the Public Defender’s Office and Conflict Defender’s Office on a rotational basis.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD and CD Offices. The attorney assigned to that court provides arraignment representation. If someone charged with an appearance ticket appears during a court session when a PD or CD Office attorney is not present, the court either reschedules the arraignment to a session staffed by a PD or CD Office attorney or contacts the on-call attorney to provide representation. This occurs a few times a month, on average.

Determining financial eligibility for assigned counsel: Clients complete an application and return it to the court at the arraignment, at which time the court determines eligibility and assigns the case to the PD Office or CD Office. The application comports with ILS Eligibility Standards. The PD Office also reviews applications when opening a case, conducts a conflict check, and ensures the application is fully completed.



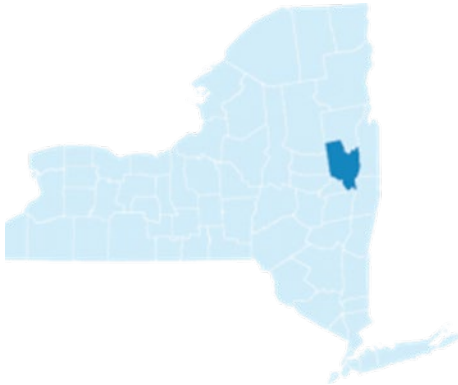
Arrest Representation Overview

Custodial arraignments: Arraignments take place on-call in courts throughout the county immediately following notification of an arrest seven days a week between approximately 9:00 AM and 9:00 PM. If an arraignment cannot be completed by 9:00 PM, the individual may be provided with an appearance ticket or held and arraigned the following morning at 9:00 AM. Homicide cases, hospital arraignments, and other exceptional circumstances may cause a deviation from the above

schedule. The Public Defender’s Office provides representation on a rotational basis for all custodial arraignments that take place during business hours as well as those occurring outside of business hours (on weekends from 9:00 AM to 9:00 PM and weekdays from 5:00 PM to 9:00 PM). Within the last year, the PD Office has contracted with the Assigned Counsel Program to provide representation for arraignments that take place on certain holidays.

Non-custodial arraignments: Arraignments take place in local justice courts during calendar sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility. If a client is in custody post-arraignment, the PD Office is provisionally assigned to the case, pending the outcome of the eligibility application and conflict check. An investigator from the PD Office interviews clients who are in custody to determine eligibility. Otherwise, attorneys provide their clients with verbal and written instructions on how to apply for eligibility (by phone, in person, or online). Contrary to ILS’ Eligibility Standards, the eligibility application requires clients to provide information about third party (spousal) income, considers public assistance and child support as income, and requires clients to attest to the accuracy of the information provided.



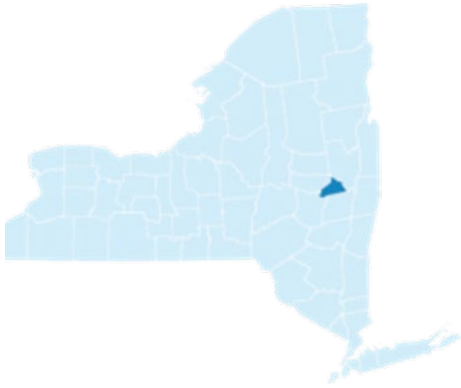
Arrestment Representation Overview

Custodial arrestments: Arrestments take place in courts throughout the county immediately following arrest. Saratoga County provides arrestment representation through an on-call system. The PD Office represents people at arrestments that occur during business hours. For those occurring outside of business hours (off-hours), arrestment representation is provided by attorneys from all three offices (PD Office, CD Office, and ACP) who are on-call based on a rotation

developed and coordinated by the ACP Administrator.

Non-custodial arrestments: Arrestments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arrestment representation. In the unlikely event that someone issued an appearance ticket appears during a court session when the PD Office is not present, the court reschedules the arrestment to a date when a PD Office attorney will be in court.

Determining financial eligibility for assigned counsel: Incarcerated clients are presumed eligible. All other clients (including clients who are in custody after their arrestment but subsequently post bail) are provided an application for counsel at their arrestment and advised to complete it and return it to the PD Office. All applications are screened by the Public Defender, who determines eligibility. Contrary to ILS Eligibility Standards, the application requires applicants to sign under penalty of perjury, to provide information regarding spousal and parental (if under 21) assets and income, and takes needs-based Federal and State benefits into consideration.



Arrest Representation Overview

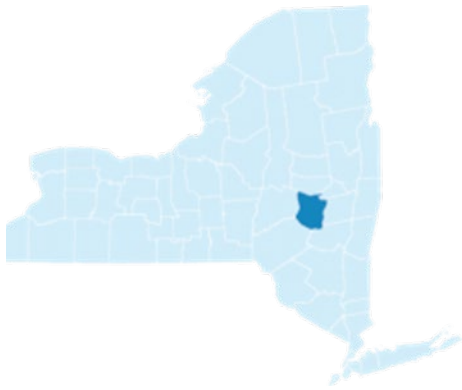
Custodial arraignments: Schenectady County has a CAP which holds sessions two times per day (8:30 AM and 5:30 PM). All custodial arraignments are held at the CAP located at the Schenectady County Jail in the City of Schenectady, except those that take place in Schenectady City Court between 9:00 AM and 5:00 PM. Representation is provided by the Public Defender’s Office and Conflict Defender’s Office. The PD Office schedules teams of two attorneys each, who

are on call for the week. The CD Office schedules one attorney per week to represent people at arraignments involving co-defendants and conflict cases.

Non-custodial arraignments: Arraignments take place in the various local courts during court sessions that are staffed by the PD and CD Offices. The attorney assigned to that court provides representation at arraignments with the exception of Glenville Town Court. There, the PD Office attorney assigned to provide CAP representation also represents people at Glenville Town Court arraignments.

Determining financial eligibility for assigned counsel: Courts determine eligibility at arraignments. At CAP sessions and non-custodial arraignments, the PD or CD Office attorney performs an initial eligibility screening by asking questions about client employment and income. The attorney makes a recommendation to the judge regarding eligibility, which is generally followed. Investigators or paralegals from the PD Office screen clients for eligibility during Schenectady City Court, Rotterdam Town Court, and Niskayuna Town Court sessions, asking basic questions regarding employment, income, debts, dependents, savings, and home ownership. This information is provided to the attorney, who then makes a recommendation to the judge regarding eligibility, which is generally followed.

SCHOHARIE COUNTY



Arrest Representation Overview

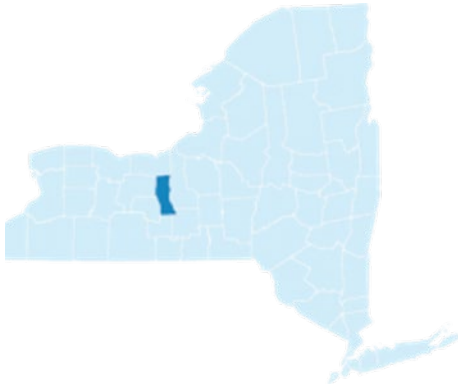
Custodial arraignments: Schoharie County has a CAP located at the Schoharie County jail in Howe's Cave, which holds sessions two times per day (6:00 AM – 8:30 AM and 6:00 PM - 8:30 PM), every day as needed. Panel attorneys sign up with the Assigned Counsel Program, which is the sole provider of mandated representation in the county, to be on call for sessions. If there is need for a custodial arraignment and a local court is in session, law enforcement can also contact the

court to request arraignment. If a defense attorney is present, the court will ask the attorney to provide representation. If no attorneys are at court, or if the attorney is unable to stay for the arraignment, the person is detained for arraignment at the next CAP session.

Non-custodial arraignments: Each local court determines how to ensure representation at arraignments. Most courts provide the ACP with their calendars in advance of "Penal Law nights." The ACP reviews the calendars and, if there are arraignments scheduled, the ACP contacts the court and offers to find attorneys to provide representation. Some courts ask the ACP to arrange for attorneys to be present; some courts ask attorneys already present to provide representation. Courts that do not provide a calendar in advance may schedule arraignments on a night an attorney is present or may call the ACP and ask for an attorney to appear to provide representation. Cobleskill Town Court has a dedicated arraignment part that has one or two ACP attorneys assigned to represent people at all arraignments.

In the unusual event that someone charged with an appearance ticket appears during a court session when arraignments are not usually scheduled, the court either asks an attorney present to represent the person or contacts the ACP Administrator to send an attorney. If an attorney is not available, the court adjourns the case and provides the person with an application for assigned counsel and the telephone number for the ACP.

Determining financial eligibility for assigned counsel: The ACP screens applicants for eligibility. Clients complete an application for counsel at their arraignment and either the client or the attorney returns it to the ACP office. Upon receiving an appearance ticket, some clients proactively contact the ACP to ask how to get an attorney before their first appearance. Within one to two business days of receipt of an application and conducting an intake interview, the ACP staff determine eligibility, and make a preliminary check for conflicts (the assigned attorney is ultimately responsible for completing a thorough conflict check). The intake interview is an opportunity for the ACP staff to develop rapport with clients. The ACP recently updated its application to more closely align with ILS Eligibility Standards. However, the application warns that offering a false instrument for filing is punishable as a misdemeanor or felony, which departs from ILS Eligibility Standards.

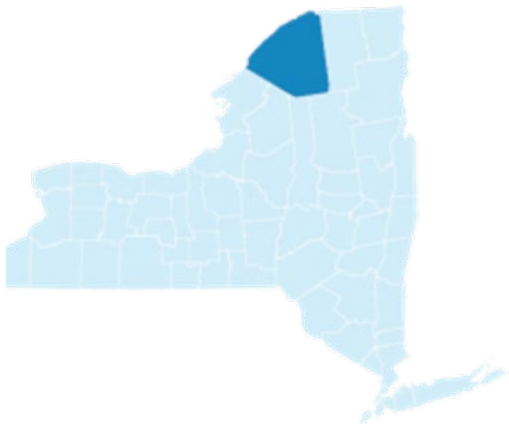


Arraignment Representation Overview

Custodial arraignments: Arraignments take place at the CAP located at the Law Enforcement Center in Romulus, which holds sessions two times per day (8:00 AM and 7:00 PM). Representation in the CAP is provided by Assigned Counsel Program panel attorneys.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the Public Defender's Office. In the unlikely event that an arraignment is not scheduled for a staffed session (PD day), the court reschedules the arraignment to a PD day in advance of the client's court appearance.

Determining financial eligibility for assigned counsel: The PD Office screens for eligibility using an application that largely comports with ILS Eligibility Standards. During arraignments, judges provide these eligibility applications to the arraignment attorney after completing the first page, which includes information about the arrest date and charges, judge, name of court, names of any co-defendants, bail, and next scheduled court date. The client completes the subsequent three pages and returns the application to the PD Office for the eligibility determination.

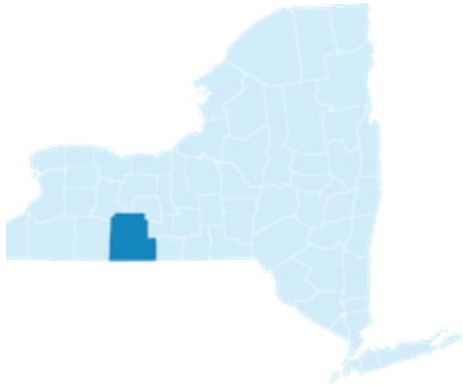


Arraignment Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the count immediately following arrest. The Public Defender’s Office, Conflict Defender’s Office, and Assigned Counsel Program provide representation on an on-call basis. To the extent possible, conflicts are identified prior to an arraignment to ensure the appropriate office provides representation. PD and CD Office attorneys participate in a rotation and provide representation county-wide. If both institutional offices identify conflicts of interest, judges contact an ACP attorney to provide representation for the person being arraigned.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation unless a conflict is identified prior to the arraignment, in which case the CD Office (or, if no one from the CD Office is available, an ACP attorney) provides representation. If an arraignment is scheduled for a court session when the PD Office is not scheduled to appear, in most cases the court contacts the PD Office so that they can arrange for representation. Rarely, the non-custodial case is adjourned for arraignment at the next court session that is staffed by the PD Office.

Determining financial eligibility for assigned counsel: Financial eligibility for assigned counsel is determined by the court or by the St. Lawrence Office of Indigent Defense (OID). Clients incarcerated following their arraignment are deemed presumptively eligible. The PD Office may also screen clients for eligibility during the pre-arraignment interview and request assignment from the court during the arraignment. Out-of-custody clients are generally required to complete a financial affidavit following their arraignment, which they submit to the OID for review and eligibility determination. Contrary to ILS’ Eligibility Standards, the financial affidavit requires applicants to submit proof of income or public assistance (or a notarized statement indicating the source of housing/financial support) and provide information regarding spousal income.



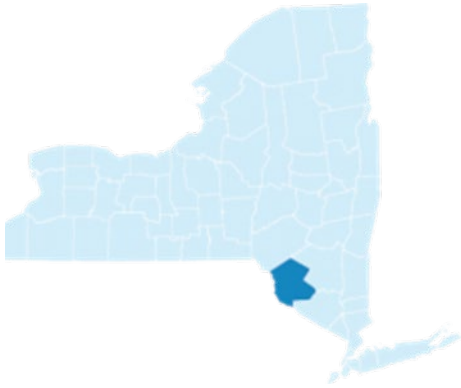
Arrestment Representation Overview

Custodial arrestments: Custodial arrestments take place at the CAP located at the Steuben County Jail in Bath, which holds sessions two times per day (8:00 AM and 5:30 PM). Representation is provided by attorneys from the Public Defender’s Office on a rotational basis.

Non-custodial arrestments: Arrestments take place in local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arrestment

representation.

Determining financial eligibility for assigned counsel: The PD Office determines financial eligibility using a form that was developed in consultation with ILS and follows ILS Eligibility Standards. Clients complete the eligibility form with their attorney at the time of the arrestment, and the arrestment attorney returns the form to the PD Office so that staff may determine eligibility.



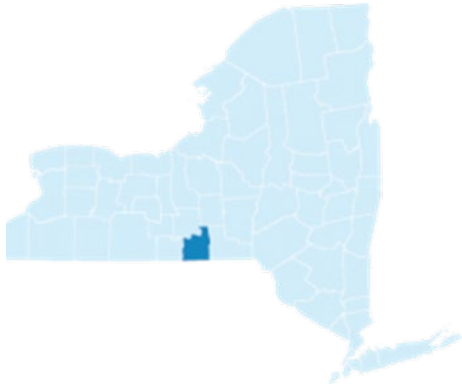
Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Representation is provided for daytime and off-hour arraignments on an “on-call” basis by a rotation of contracted attorneys from the Legal Aid Panel, Conflict Legal Aid Bureau, and Assigned Counsel Program. If a custodial arraignment occurs during a regular court session when an attorney from the Legal Aid Panel is already present, that attorney represents

the client (rather than the on-call attorney).

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the Legal Aid Panel. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The attorney providing arraignment representation (whether from the Legal Aid Panel, Conflict Legal Aid Bureau, or Assigned Counsel Panel) typically screens clients for eligibility at the time of arraignment by asking questions about income and dependents. Most clients are deemed eligible without needing to complete a written application. If eligibility is not determined at arraignment, the person is asked to complete the application form and submit it to the Legal Aid Panel; the Legal Aid Panel is provisionally assigned pending the outcome of the eligibility application and conflict check. Contrary to ILS’ Eligibility Standards, the application form requires applicants to provide the gross income of their household, list assets transferred during the course of their marriage or previous three years and submit documentation regarding their income.

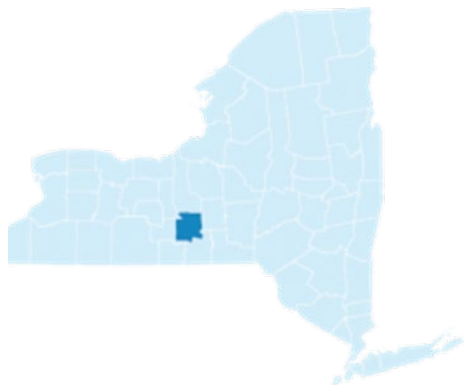


Arrest Representation Overview

Custodial arraignments: Custodial arraignments generally take place at the CAP located at the Tioga County Jail in Owego, which holds sessions two times per day (8:00 AM and 8:00 PM). Arraignments may also take place at a local court when court is in session and defense counsel is present. Representation at all custodial arraignments is provided by attorneys from the Public Defender's Office on a rotational basis.

Non-custodial arraignments: Arraignments occur during regular court sessions in local courts that are staffed by attorneys from the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: The Public Defender's Office screens clients for financial eligibility, using a form that comports with ILS Eligibility Standards. Attorneys bring copies of the form to each arraignment. Clients are provided with an opportunity to complete the eligibility form prior to their arraignment, and the arraigning attorney determines eligibility at the time of the arraignment.



Arrest Representation Overview

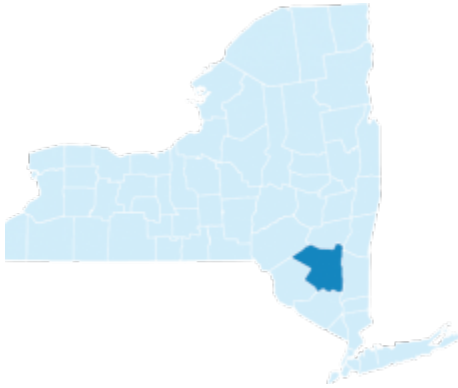
Custodial arraignments: Arraignments generally take place at the CAP located at the Tompkins County Public Safety Building in Ithaca, which holds sessions two times per day (8:00-10:30 AM and 8:00-10:30 PM). Arraignments also take place at Ithaca City Court between 7:00 AM and 12:00 AM.

Occasionally, due to staffing issues with the Ithaca Police Department, arraignments also take place between 12:00 AM and 7:00 AM in Ithaca City Court. Representation in the CAP

and in Ithaca City Court is provided Assigned Counsel Program attorneys (the sole provider of mandated representation in Tompkins County) on a rotational basis.

Non-custodial arraignments: Arraignments take place in local courts during regular court sessions. The court notifies the ACP in advance of a court date to ensure that representation is provided.

Determining financial eligibility for assigned counsel: Eligibility is determined by the ACP. Clients are provided with an application at arraignment and can either send the completed application to the ACP or submit it online. The application requires clients to provide proof of household income, and contrary to ILS' Eligibility Standards, considers spousal income/assets in determining eligibility, requires clients to provide the value of any collections (such as stamps, coins, comics, baseball cards, antiques, jewelry, etc), requires clients to sign under penalty of perjury and have their signature notarized, and acts as a release for the court to verify the information contained therein and for banks and other lending institutions to provide information to the ACP.



Arraignment Representation Overview

Custodial arraignments: Custodial arraignments take place at the CAP located at the Ulster County Law Enforcement Center in Kingston, which holds sessions twice per day (from 6:00 AM to 8:00 AM and 6:00 PM to 8:00 PM). The CAP was implemented in June 2024; prior to the creation of a CAP, the Public Defender’s Office and Assigned Counsel Program provided representation on an “on-call” basis countywide. However, this system placed a significant burden on the

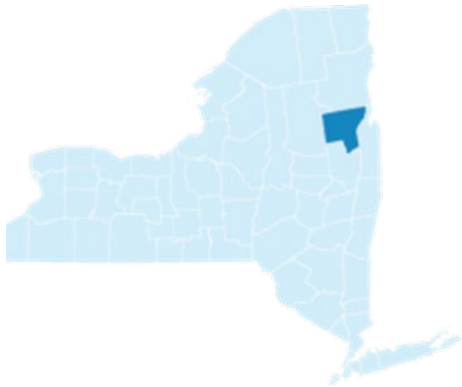
provider offices, with multiple attorneys required to be on call around the clock. Now, an attorney from the PD Office is assigned to each CAP shift, with a predictable schedule and sustainable rotation.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD’s Office. The attorney assigned to that court provides representation at these arraignments.

Determining financial eligibility for assigned counsel: Generally, either the court or the PD Office screens for financial eligibility on the date of arraignment using a form that is provided to the client at their arraignment. The PD Office is provisionally assigned at arraignment pending the outcome of the eligibility determination and a conflict check. Contrary to ILS’ Eligibility Standards, the eligibility application form requires clients to provide information regarding third party (spousal) income.

The PD Office also screens for eligibility prior to arraignment for any individual who has been issued an appearance ticket. After a person is found eligible, the PD Office screens for conflicts. When no conflict is identified, the PD Office is assigned in advance of the arraignment with notice to the courts.

WARREN COUNTY

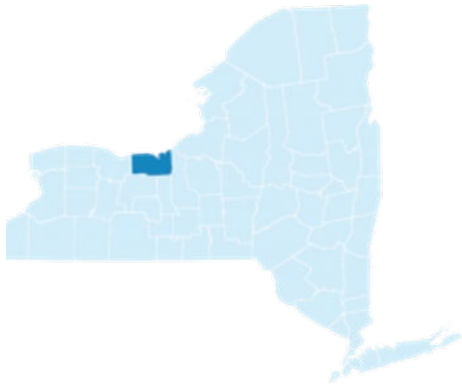


Arrest Representation Overview

Custodial arraignments: Warren County has a CAP, located at the Warren County Municipal Center in Lake George, which holds sessions two times per day (8:30 AM and 5:30 PM). Custodial arraignments may be held in the court of jurisdiction if it is currently in session; otherwise, they are held at the CAP. Representation at all arraignments is provided by a rotation of attorneys from the Public Defender's Office.

Non-custodial arraignments: Arraignments take place in the various local courts during court sessions that are staffed by the PD Office. The attorney assigned to that court provides arraignment representation.

Determining financial eligibility for assigned counsel: ILS recently worked with Warren County to update and streamline the application process and conducted a training on the Eligibility Standards that was attended by both the Assigned Counsel Program and PD Offices. The arraignment attorney determines whether a client is presumptively eligible for counsel pursuant to ILS Eligibility Standards during the pre-arraignment interview. If a client is not presumptively eligible for assigned counsel, the PD Office is provisionally assigned, and the client is asked for more comprehensive information regarding their finances so that a final determination can be made.

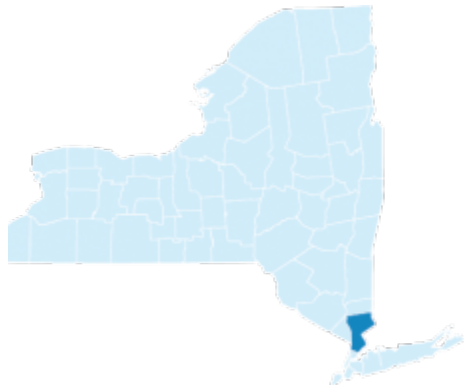


Arrest Representation Overview

Custodial arraignments: Wayne County has a CAP, located at the Wayne County Correctional Facility in Lyons, which holds sessions as needed two times per day (7:00 AM and 7:00 PM). All custodial arraignments arising from justice courts are held at the CAP. Representation is provided by a rotation of attorneys from the Public Defender's Office.

Non-custodial arraignments: Arraignments take place in local courts and County Court during court sessions that are staffed by the PD Office and the attorney assigned to each court provides representation. At times, arraignments in the local courts are scheduled for days when the PD Office is not present. If this occurs, the case is adjourned to a date when an attorney from the PD Office will be present. Based on staffing and availability, the PD Office attempts to provide representation at all local court calendars.

Determining financial eligibility for assigned counsel: The PD Office recently updated its screening process to determine eligibility at arraignments, which addressed gaps between arraignment and assignment of counsel. Moreover, the PD Office requests the court to provisionally assign them to non-custodial matters when no attorney from the PD Office is present at the client's first appearance. The PD Office utilizes the presumption of eligibility to streamline the assignment process, and the application comports with ILS Eligibility Standards.

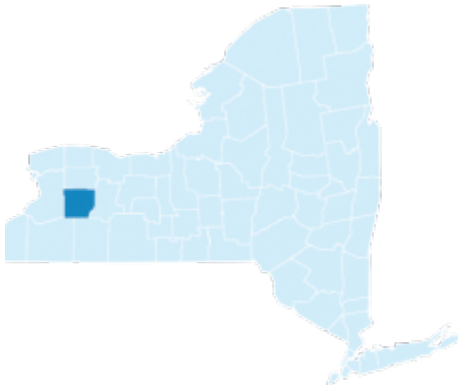


Arraignment Representation Overview

Custodial arraignments: During the week, arraignments take place in courts throughout the county within a few hours of arrest. On weekends and holidays, custodial arraignments for arrests in the six cities in Westchester County are centralized in the Westchester County Court building in White Plains, which is open from 8:00 AM to 2:00 PM; custodial arraignments for arrests in town and village jurisdictions take place within a few hours of arrest. The two County Courtrooms open on weekend and holidays for city arrests are staffed by The Legal Aid Society of Westchester County (LASW) for all felonies and for misdemeanors if an Assigned Counsel Program attorney is not available. LASW also has a rotation of attorneys on call, and courts maintain a list of ACP panel attorneys who are available for daytime and off-hour arraignments. In general, LASW provides representation at felony arraignments and off hour misdemeanor arraignments in the justice courts, and the ACP provides representation at misdemeanor arraignments when available.

Non-custodial arraignments: Arraignments generally take place at regularly scheduled court sessions when defense counsel is present. LASW provides representation at felony arraignments, and the ACP provides representation at misdemeanor arraignments, though LASW may also provide representation at misdemeanor arraignments, depending on ACP availability.

Determining financial eligibility for assigned counsel: LASW determines financial eligibility for clients who are charged with felonies, though clients may also be assigned counsel by the court without a formal eligibility process. Contrary to ILS' Eligibility Standards, the application requires information regarding third party (spousal/relatives and/or other interested persons) income and requires a sworn statement that "there is no one in [their] immediate family legally responsible for [their] support who has funds or resources sufficient to enable him/her to retain counsel on [their] behalf." The court determines financial eligibility for clients who are charged with misdemeanors. Attorneys from LASW or the ACP are provisionally assigned to cases at arraignment, pending the outcome of the eligibility application and/or conflict check.



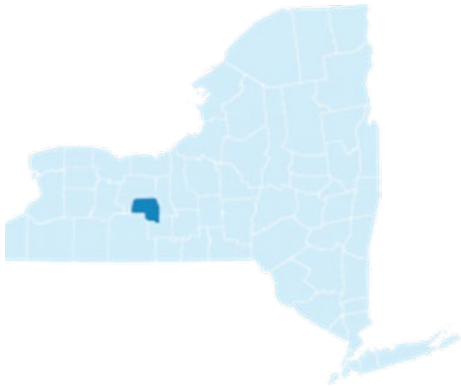
Arrest Representation Overview

Custodial arraignments: Arraignments take place in courts throughout the county immediately following arrest. Representation is provided on an on-call basis by the Public Defender's Office.

Non-custodial arraignments: Arraignments generally take place in local courts during court sessions that are staffed by the PD Office, and the attorney assigned to that court provides representation. Arraignments may also be scheduled for a date when the PD Office is not scheduled to be present (this occurs in courts that meet less frequently, such as once every two months). When this occurs, the judge adjourns the arraignment to the next date that the PD Office is scheduled to appear.

Determining financial eligibility for assigned counsel: The PD Office screens for financial eligibility. If a client is in custody after their arraignment, they are presumptively eligible for counsel. Clients who are not in custody and want assigned counsel must submit an application to the PD Office after their arraignment (this can be completed online). The PD Office represents the person provisionally pending an eligibility determination and attends the next court date following arraignment, whether or not they have received the application. Contrary to ILS' Eligibility Standards, the eligibility application requires that applicants provide proof of income and considers supplemental security income (SSI), public assistance benefits, and child support as income.

YATES COUNTY



Arrest Representation Overview

Custodial arraignments: Arraignments generally take place at the CAP located at the Yates County Jail in Penn Yan, which holds sessions two times per day (8:00 AM and 8:00 PM). Arraignments may also take place at any court that is currently in session where the Public Defender's Office is present. Representation at the CAP is provided by a rotation of attorneys from the PD Office.

Non-custodial arraignments: Arraignments take place in local courts during court sessions that are staffed by the PD Office. The PD Office provides representation at these arraignments unless the client is already represented by a member of the ACP panel, in which case a panel attorney represents their client at the arraignment.

Determining financial eligibility for assignment counsel: The PD Office conducts the eligibility screening using an application based on ILS' model form and Eligibility Standards. ILS recently worked with Yates County to develop a one-page eligibility form that is intended to streamline the application process. The eligibility screening is done the same day as the arraignment, and the attorney completes the form at the arraignment. The PD Office then reviews the application, conducts a conflict check, and assigns the case to an attorney.

Appendix A

Appendix A: Interviewees and Interviewers per County

County	CAFA coordinator(s) interviewed	ILS attorney conducting the interview
Albany	Stephen Herrick, Public Defender Tina Sodhi, Conflict Defender	Claire Knittel
Allegany	J.R. Carter, Public Defender	Andrew Fiske
Broome	Mike Baker, Public Defender	Kathryn Murray
Cattaraugus	Darryl Bloom, Public Defender	Andrew Fiske
Cayuga	Lloyd Hoskins, ACP Administrator, John Price, ACP Supervising Attorney	Enrico Purita
Chautauqua	Nathaniel “Ned” Barone, Public Defender	Andrew Fiske
Chemung	John Brennan, Public Advocate	Kathryn Murray
Chenango	Aaron Dean, Public Defender & Karri Beckwith, Public Defender’s Confidential Secretary	Kathryn Murray
Clinton	Jamie Martineau, Public Defender Justin Meyer, ACP Administrator	Claire Zartarian
Columbia	Shane Zoni, Public Defender Derek Andrews, Contract Attorney	Claire Knittel
Cortland	Michael Cardinale, ACP Administrator & Ellen Webb, Data Officer and Grants Manager	Kathryn Murray
Delaware	Joseph Ermeti, Public Defender	Kathryn Murray
Dutchess	Margaret Walker, Public Defender	Brendan Keller
Erie	Michelle Parker, ACP Administrator, Kevin Stadelmaier, ACP First Deputy Director, Sarah Ryan, Chief Attorney of Legal Aid Bureau of Buffalo & Michael Deal, Legal Director of Legal Aid Bureau of Buffalo	Andrew Fiske
Essex	Emily Evatt, Public Defender & Justin Meyer, ACP Supervising Attorney	Claire Zartarian
Franklin	Paul Ryan, Public Defender, Jonathan Miller, Conflict Defender, Donna Kissane, County Manager, Jill Dyer-Jock, ACP Administrator, Hannah Fleury, ACP Supervising Attorney	Claire Zartarian

Appendix A: Interviewees and Interviewers per County

County	CAFA coordinator(s) interviewed	ILS attorney conducting the interview
Fulton	Roger Paul, Public Defender	Claire Zartarian
Genesee	Jerry Ader, Public Defender	Andrew Fiske
Greene	Angelo Scaturro, Public Defender	Claire Knittel
Hamilton	Sterling Goodspeed, Public Defender & ACP Administrator	Claire Zartarian
Herkimer	Keith Bowers, ACP Administrator & Jim Smith, Office Manager	Madeline Smith
Jefferson	Julie Hutchins, Public Defender	Madeline Smith
Lewis	Michael Young, Public Defender	Madeline Smith
Livingston	Lindsay Quintilone, Public Defender	Andrew Fiske
Madison	David DeSantis, ACP Administrator	Madeline Smith
Monroe	Julia Cianca, Public Defender, Jean Caputo, Special Assistant Public Defender, Sarah Holt, Conflict Defender, Joe Crimi, Special Assistant Conflict Defender	Enrico Purita
Montgomery	Bill Martuscello, Public Defender	Claire Zartarian
Nassau	N. Scott Banks, Chief Attorney, Nassau County Legal Aid Society, Bob Nigro, ACP Administrator & Lindsay Boorman, ACP Deputy Administrator	Ketienne Telemaque & Claire Zartarian
Niagara	Nicholas Robinson, Public Defender	Andrew Fiske
Oneida	Tina Hartwell, Public Defender	Madeline Smith
Orange	Michael Davis, Chief Attorney, The Legal Aid Society of Orange County, Maria Patrizio, Assistant Chief Attorney, The Legal Aid Society of Orange County & Andrew Greher, Managing Attorney, The Legal Aid Society of Orange County	Brendan Keller
Orleans	Joanne Best, Public Defender	Andrew Fiske
Oswego	Bradley Janson, Interim Public Defender & Rachael Dator, ACP Administrator	Madeline Smith

Appendix A: Interviewees and Interviewers per County

County	CAFA coordinator(s) interviewed	ILS attorney conducting the interview
Otsego	Susan Lettis, Public Defender	Kathryn Murray
Putnam	Elizabeth Costello, Chief Attorney, Putnam County Legal Aid Society	Brendan Keller
Rensselaer	John Turi, Public Defender & Sandra McCarthy, Conflict Defender	Claire Knittel
Rockland	Marissa Licata, Senior Assistant Public Defender & Clare Cincotta, Assistant Public Defender	Brendan Keller
Saratoga	Andrew Blumenberg, Public Defender, Matthew Maiello, Conflict Defender, Dawn Phillips, ACP Administrator	Claire Knittel
Schenectady	Stephen Signore, Public Defender & Tracey Chance, Conflict Defender	Claire Knittel
Schoharie	Suzanne Graulich, ACP Administrator	Claire Knittel
Seneca	Michael Mirras, Public Defender	Enrico Purita
St. Lawrence	James McGahan, Public Defender, Scott Goldie, ACP Administrator, Amy Dona, Conflict Defender, Faith Demers-St. Hilaire, Office of Indigent Defense Legal Secretary	Madeline Smith
Steuben	Shaun Sauro, Public Defender	Kathryn Murray
Sullivan	Tim Havas, Chief Legal Aid Panel Attorney	Brendan Keller
Tioga	Thomas Cline, Public Defender	Kathryn Murray
Tompkins	Lance Salisbury, ACP Administrator	Enrico Purita
Ulster	Elizabeth Corrado, Public Defender	Brendan Keller
Warren	Greg Canale, Public Defender & Erin Brothers, Data Officer at Public Defender's Office	Claire Zartarian
Wayne	Andrew Correia, Public Defender	Enrico Purita
Westchester	Clare Degnan, Executive Director, Westchester Legal Aid Society &	Brendan Keller

Appendix A: Interviewees and Interviewers per County

County	CAFA coordinator(s) interviewed	ILS attorney conducting the interview
	Sherry Levin Wallach, Deputy Director, Westchester Legal Aid Society	
Wyoming	Leah Nowotarski, Public Defender	Andrew Fiske
Yates	Steve Hampsey, Public Defender	Enrico Purita
52 Counties	85 individuals interviewed	Interviews conducted by 7 ILS attorneys

Appendix B

STRUCTURE

CONFIRM INFORMATION IN PROFILE, APPENDIX 1 AND APPENDIX 2

For counties without an OCA-approved CAP:

1. How is the system for representation working? Is it sustainable, long-term?

For counties with an OCA-approved CAP:

1. Are there any courts and/or arresting agencies that do not use the CAP?
 - a. How does your office cover arraignments in courts that do not use the CAP?
 - b. What is the practice for non-participating arresting agencies?

Probes: Do these arresting agencies prefer to write appearance tickets? Do they bring defendants in custody to different courts?

For all counties:

2. Have you encountered any challenges providing representation at all town and village arraignments (those that occur during regular court sessions and those that do not?)
3. Are arraignments scheduled for regularly scheduled court sessions when arraignment attorneys are not scheduled to appear? ¹ If so, what happens (i.e., does the court arraign the person without counsel? Or does the court adjourn the matter for another session when defense counsel is scheduled to appear?
 - a. What is the best estimate for the number of times this happens?
4. What is your office's system for tracking the number of arraignments that occur without representation by counsel?

Probes: Do you check through jail lists to see if in-custody defendants were represented at their arraignment? Can you match arraignment documents with eligibility applications? Do judges call your office when they arraign a defendant without counsel? Are you able to cross-check OCA records with your office's records to identify City Court arraignments that occurred without counsel?
5. Is your office notified when an existing client is arrested on a new charge? If so, how? Is your office notified when a client is incarcerated on a new charge? If so, how? Do you represent the client at the arraignment if possible? If not, when do you receive the case?

¹ If appearance tickets are scheduled during court sessions when the PD is not normally scheduled to appear and the cases are adjourned for a regular PD court session "for the arraignment," with no representation being provided at the initial appearance, this should be considered a **gap in coverage** and recorded as such in Appendix 2.

DETERMINING ELIGIBILITY FOR ASSIGNMENT OF COUNSEL AND ASSIGNING COUNSEL

CONFIRM INFORMATION IN PROFILE AND APPENDIX 3

1. After an arraignment, how long does it typically take to determine financial eligibility for assignment of counsel and then to assign an attorney to a client?
2. How is a client's case handled while their financial eligibility for assignment of counsel is determined?
Probe: Are they "on until they're off"?
3. For clients who speak languages other than English, how is the process for determining financial eligibility for assignment of counsel handled?
Probe: Is their eligibility form available in another language? If not, are interpreters available to assist these clients with completing the form?

CULTURE AND VALUES

1. How do county stakeholders or court actors currently view having clients represented by defense counsel at the first appearance?
Probe: How do judges feel about counsel at first appearance? What opinions does the defense community have about counsel at first appearance? Is the District Attorney's Office opposed to counsel at arraignment or are they supportive?
2. Are these opinions about representation by counsel at first appearance similar to previous stakeholder/court actor sentiments? Or has there been a shift in sentiment since CAFA initiatives began?
Probe: Has the judicial opinion of counsel at first appearance changed over time? Defense community opinion? County prosecutor's office opinion?

Pre-Arraignment Interviews and Investigations

3. For clients who speak languages other than English, how is the pre-arraignment interview handled?
4. If confidential space is available, do you know how often it is used (for custodial and non-custodial arraignments)?
5. Have attorneys experienced pressure to conduct arraignments without conducting a meaningful interview regarding the facts of a case and circumstances of their client's arrest?
6. If pre-arraignment investigation (either prior to a custodial or non-custodial arraignment) is possible, what does it look like in your office?

Probes: Are attorneys able to call complaining witnesses prior to the arraignment? Call the defendant's family? Talk with other witnesses?

- a. [IF NEEDED] Are investigators available for pre-arraignment investigation?
- b. [IF NEEDED] Are social workers available to assist clients with immediate needs after the arraignment?

Arraignment Procedures

7. When are prosecutors present at arraignments?

Probes: Are prosecutors present at CAP sessions? At City Court arraignments? At all local court arraignments? At only some arraignments?

- a. What is the county's practice regarding plea offers or negotiations at arraignment?
- 8. What agency oversees the Pre-Trial Supervision program in your county?**
- a. What is the procedure for a client to obtain pre-trial supervision?
 - b. Are there clients ever deemed ineligible for pre-trial supervision? What happens to these clients?
- 9. When do attorneys receive rap sheets?**
- Probe: Does the attorney receive the rap sheet before arraignments? During the process of determining the client's financial eligibility for counsel? Sometime later in the case, during discovery?*

Bail Advocacy

10. What supports does your office provide attorneys to ensure that they are up-to-speed on bail law, particularly given the series of changes to the law in since bail reform was first enacted in 2019? (supports include training, materials, handbooks, etc.)

11. If judges in your county have set bail on non-qualifying offenses, what steps did your office take to address this?

12. Does your office file applications challenging illegal or excessive bail? Writs of Habeas Corpus?

Probe: Define the CPL § 530.30 statute.

13. What is your office's standard practice when revocation of bail is being considered under CPL § 530.60?

Probe: Define the CPL § 530.60 statute.

CPL § 730 Practice

14. Are requests for 730 exams common at arraignment? If requested, are clients typically ROR'd pending the exam if charged with a non-qualifying offense?

CAFA Attorney Follow-up (optional – if interviewee is unable to answer questions related to arraignment practice)

15. Can ILS speak to an arraignment attorney in your office about their arraignment practice?

Appendix C

Appendix C. CAFA Program Types and Providers in the 52 Non-Settlement Counties

County	Custodial Arraignments: Program Type		Custodial Arraignments: Provider(s)			Non-custodial Arraignments: Provider(s)		
	Centralized Arraignment Program (CAP)	On-call system / No CAP	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program
Albany		✓	✓	✓		✓	✓	
Allegany	✓		✓			✓		
Broome	✓		✓			✓		
Cattaraugus		✓	✓			✓		
Cayuga	✓				✓			✓
Chautauqua	✓		✓ ¹			✓		
Chemung		✓	✓	✓	✓	✓	✓	
Chenango	✓		✓		✓	✓		
Clinton		✓	✓		✓	✓		
Columbia		✓	✓ ²			✓		
Cortland	✓		✓		✓	✓		

¹ In Chautauqua, the PD Office and contract attorneys provide representation at custodial arraignments.

² In Columbia, the PD Office and contract attorneys provide representation at custodial arraignments.

County	Custodial Arraignments: Program Type		Custodial Arraignments: Provider(s)			Non-custodial Arraignments: Provider(s)		
	Centralized Arraignment Program (CAP)	On-call system / No CAP	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program
Delaware	✓		✓		✓	✓		
Dutchess		✓	✓			✓		
Erie		✓	✓		✓	✓		✓
Essex		✓	✓		✓	✓	✓	
Franklin		✓	✓	✓		✓	✓	
Fulton	✓		✓			✓		
Genesee	✓		✓			✓		
Greene		✓	✓			✓		
Hamilton		✓	✓			✓		
Herkimer	✓				✓			✓
Jefferson	✓ ³		✓			✓		
Lewis	✓		✓	✓		✓		

³ In Jefferson, non-custodial arraignments are also conducted in the CAP.

County	Custodial Arraignments: Program Type		Custodial Arraignments: Provider(s)			Non-custodial Arraignments: Provider(s)		
	Centralized Arraignment Program (CAP)	On-call system / No CAP	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program
Livingston	✓		✓			✓		
Madison	✓				✓			✓
Monroe		✓	✓	✓		✓	✓	
Montgomery		✓	✓			✓		
Nassau	✓ ⁴		✓		✓	✓		✓
Niagara	✓		✓			✓		
Oneida	✓		✓			✓		
Orange	✓		✓		✓	✓		✓
Orleans	✓		✓		✓	✓		✓
Oswego	✓ ⁵		✓		✓	✓		✓
Otsego	✓		✓		✓	✓		

⁴ Nassau has a District Court which centralizes custodial and non-custodial arraignments and other court functions for town and village courts in the county. Nassau also established a CAP for two of their City Courts.

⁵ In Oswego, non-custodial arraignments are also conducted in the CAP.

County	Custodial Arraignments: Program Type		Custodial Arraignments: Provider(s)			Non-custodial Arraignments: Provider(s)		
	Centralized Arraignment Program (CAP)	On-call system / No CAP	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program
Putnam		✓	✓			✓		
Rensselaer		✓	✓	✓		✓	✓	
Rockland		✓	✓		✓	✓		
Saratoga		✓	✓	✓	✓	✓		
Schenectady	✓		✓	✓		✓	✓	
Schoharie	✓				✓			✓
Seneca	✓				✓	✓		
St Lawrence		✓	✓	✓	✓	✓	✓	✓
Steuben	✓		✓			✓		
Sullivan		✓	✓	✓	✓	✓		
Tioga	✓		✓			✓		
Tompkins	✓				✓			✓

County	Custodial Arraignments: Program Type		Custodial Arraignments: Provider(s)			Non-custodial Arraignments: Provider(s)		
	Centralized Arraignment Program (CAP)	On-call system / No CAP	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program	Institutional Primary Provider (PD / LAS)	Institutional Conflict Provider (CD / LAS)	Assigned Counsel Program
Ulster	✓		✓			✓		
Warren	✓		✓			✓		
Wayne	✓		✓			✓		
Westchester		✓	✓		✓	✓		✓
Wyoming		✓	✓			✓		
Yates	✓		✓ ⁶			✓		
TOTAL # OF ✓ COUNTIES	31	21	46	10	23	47	8	12

⁶ In Yates, the PD Office contracts with two attorneys to provide representation at CAP sessions.

Appendix D

Appendix D. Counsel at Arraignment Coverage in the 52 Non-Settlement Counties Outside New York City.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Albany	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD and CD Offices check new assignments against their arraignment records.
Allegany	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the arraignment is typically adjourned to a PD night.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with the office's arraignment records.
Broome	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office enters all cases into their case management system, which allows them to review to determine if there are cases which do not have a record of an attorney appearing at the arraignment.
Cattaraugus	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records. The PD Office checks new assignments against their arraignment records.

¹ Note: The systems described do not necessarily capture all instances of missed arraignments (i.e., checking a jail list will identify missed arraignments that result in clients being held in on bail or remanded, but not those that result in clients that were not detained after arraignment).

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Cayuga	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	If an appearance ticket is scheduled for a court session when a panel attorney is not available or the ACP has not been notified in advance to appear, the case is adjourned to a day when an attorney can be present.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The ACP cross-checks jail lists against arraignment records.
Chautauqua	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	PD Office attorneys call the jail to determine if there are people being detained awaiting arraignment. They also cross-check jail lists with the office's arraignment records.
Chemung	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	If appearance tickets are scheduled for court sessions when the PD Office has not been notified in advance to appear, judges arraign clients without counsel.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Chenango	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records.
Clinton	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, either an ACP attorney provides arraignment representation (if one is present) or the case is adjourned to the next PD session for arraignment.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Columbia	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records and also checks new assignments against their arraignment records.
Cortland	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the judge arraigns the person without counsel.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Delaware	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Due to staffing limitations, the PD Office provides representation at non-custodial arraignments only if the court intends to take some action other than the unconditional release of a client (such as issue an Order of Protection). Otherwise, clients are either arraigned without counsel, or their cases are adjourned for arraignment at the next court session when an attorney will be present.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records.
Dutchess	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Erie	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Both the ACP and the Legal Aid Bureau check new assignments against their arraignment records.
Essex	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	In the unlikely event that a court arraigns someone without counsel, they fax a form to the PD Office informing them of the missed arraignment. The PD Office then notes this in their case management system.
Franklin	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records. The PD Office also ask clients during intake if they were represented at their arraignment.
Fulton	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Genesee	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are still scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the case is adjourned to the next PD session for arraignment.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The court notifies the PD Office about missed custodial arraignments. The PD Office asks clients during intake if they were represented at their arraignment.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Greene	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office checks the jail list daily and also checks new assignments against their arraignment records.
Hamilton	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Upon assignment, the PD Office cross-checks case information with their arraignment records.
Herkimer	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	If an appearance ticket is scheduled for a court session when a panel attorney is not available or the ACP has not been notified in advance to appear, the case is adjourned for a day when an attorney can be present.		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The ACP checks the jail list regularly and cross-checks case information with their arraignment records.
Jefferson	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Lewis	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Courts notify the provider if an arraignment occurred without counsel.
Livingston	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with their arraignment records.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Madison	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The ACP checks new assignments against their arraignment records.
Monroe	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Montgomery	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Upon assignment, the PD Office cross-checks case information with their arraignment records.
Nassau	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Most arraignments occur in District Court or one of two City Courts, where there are no gaps in arraignment representation. Representation in the village courts is only provided if a court notifies the ACP or a panel attorney in advance of the arraignment. The ACP Administrator and the Supervising Judge for Nassau County Village Courts report that judges try to have a defense attorney represent people at criminal case arraignments, and it is infrequent that an arraignment occurs without counsel.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Niagara	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Oneida	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks case information with their arraignment records.
Orange	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Orleans	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the case is adjourned to the next PD session for arraignment.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	PD Office cross-checks jail list with their arraignment records daily.
Oswego	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Each provider office cross-checks case information with their arraignment records.
Otsego	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the judge adjourns the case to the next court session when the PD Office is scheduled to appear.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Putnam	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	With the exception of one jurisdiction (the Town of Philipstown), Penal Law violations and Vehicle and Traffic Law violations and misdemeanors are prosecuted by town and village prosecutors. These cases may be arraigned during sessions that are not staffed by PCLAS. Unless PCLAS is notified in advance of the arraignment or is already present in the courtroom, these arraignments take place without counsel.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Rensselaer	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD and CD Offices check new assignments against their arraignment records.
Rockland	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Saratoga	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Schenectady	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD and CD Offices check new assignments against their arraignment records.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Schoharie	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	When the ACP receives a voucher for payment from an attorney, the ACP Administrator cross-checks the voucher against the ACP's arraignment records.
Seneca	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with their arraignment records.
St. Lawrence	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, if there is no conflict that would require contacting the CD or ACP and if the PD Office is unavailable to appear, the case is adjourned to the next PD session for arraignment.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with their arraignment records. For appearance tickets, if the PD Office did not represent the person at arraignment, they ask the person if they were represented at arraignment.
Steuben	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists and receives all court calendars in advance of the arraignment date. The PD Office also can review eligibility applications with arraignment records.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Sullivan	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The Sullivan County Legal Aid panel cross-checks jail lists with their arraignment records. During case intake, they also ask clients if they were represented by counsel at their arraignment.
Tioga	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Tompkins	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when an ACP attorney is not scheduled to appear. In those situations, courts either: 1) notify the ACP in advance and request that counsel appear; or 2) adjourn the case for an ACP attorney to appear for arraignment.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Ulster	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records.
Warren	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office checks jail lists.

County	Custodial Arraignments: Degree of Coverage by Counsel				Counsel at Arraignment Coverage: Any Gaps?					Custodial (C) and Non-Custodial (NC) Arraignments: Any System to Identify Missed Arraignments ¹ ?		
	All	Most	Some	None	No	Yes, gaps for custodial arraignments	Yes, gaps during regular PD / DA or PD court sessions	Yes, gaps during other court sessions	If yes, describe	C: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	NC: Yes <input checked="" type="checkbox"/> or no <input checked="" type="checkbox"/>	If yes, describe
Wayne	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes, appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those instances, the matter is adjourned to a date at which the PD Office is present.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Westchester	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Wyoming	<input checked="" type="checkbox"/>							<input checked="" type="checkbox"/>	Sometimes appearance tickets are scheduled for court sessions when the PD Office is not scheduled to appear. In those situations, the case is adjourned to the next PD court session for arraignment.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The PD Office cross-checks jail lists with arraignment records. The application form asks if applicant was represented by counsel at arraignment.
Yates	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
TOTAL # OF <input checked="" type="checkbox"/> COUNTIES	52	0	0	0	37	0	2	16		35	24	