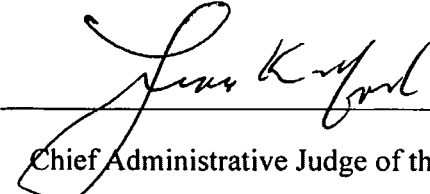


ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and upon consultation with and agreement of the Administrative Board of the Courts, I hereby adopt, effective April 14, 2020, the proposed plans for temporary centralized arraignments parts in the Fifth Judicial District (Exhibit A) and establish off- hours arraignment parts as described therein. Pursuant to Judiciary Law §212(1)(w), the off- hours arraignment parts shall be held in such courts for the conduct of arraignments and other preliminary proceedings incidental thereto, and for arrest warrant returns in criminal cases, where the use of such parts will facilitate the availability of public defenders or assigned counsel for defendants in need of legal representation at such proceedings. In response to the COVID-19 health emergency, all appearances in the parts will be virtual—by means of video conferencing as detailed in each plan. Judges and justices shall be temporarily assigned to the court on a rotating basis in accordance with a schedule to be published as soon as practicable. This order will remain in effect at least and until the public health emergency necessitating it abates, whereupon this order will be rescinded by a subsequent order.



Chief Administrative Judge of the Courts

Dated: 4-14-2020

AO/95/20

EXHIBIT A

FIFTH JUDICIAL DISTRICT PLAN FOR VIRTUAL OFF-HOURS ARRAIGNMENT PARTS

PURSUANT TO JUDICIARY LAW § 212(1)(w)

I. Background

In response to the severe public health crisis caused by the rapid spread of the COVID-19 virus in New York and consistent with the Unified Court System's efforts within the past week to adopt policies that promote virtual court appearances and thereby eliminate all personal appearances so as to optimize the benefits of social distancing and help "flatten the curve" of the spread of this deadly virus, the Fifth District intends upon establishing, upon receipt of necessary Court administrative approvals, temporary Centralized Arraignment Parts (CAP's) in Lewis, Jefferson and Herkimer Counties. These Plans shall remain in effect until further Order at the conclusion of the COVID-19 public health emergency.

The Temporary CAP shall operate as an off-hours arraignment Part in accordance with New York Judiciary Law Section 212(1)(w). The judge presiding in said Part shall have full arraignment jurisdiction over all criminal and related matters; including, but not limited to Felonies, Misdemeanors, Violations and Infractions.

II. VIRTUAL OFF-HOURS ARRAIGNMENT PLAN

The plans are identical for each County as follows:

1. HOURS OF ARRAIGNMENT AND PLAN OF COVERAGE

Effective on or before April 10, 2020, at 9:00 a.m. or sooner if administratively approved, ALL arraignments will occur remotely on a virtual, Skype for Business platform.

From 9:00 a.m. to 4:00 p.m., the scheduled County Court Judge shall be available at his or her home to preside over virtual arraignments utilizing Skype for Business, connecting with the arresting agency location or the County Jail, whichever has virtual capability.

From 4:00 p.m. to 9:00 a.m., the Town and Village Court Justices will be available, on a scheduled, rotating basis, at his or her home to preside over virtual arraignments utilizing Skype for Business, connecting with the arresting agency location or the County Jail, whichever has virtual capability. Judges from the same Court shall, if necessary, share the Laptop/Recorder on an alternating week schedule.

2. JUDICIAL STAFFING OF EACH CAP

The assignment of the Town or Village Justices will be administered and scheduled voluntarily by the local County Magistrates Association with the approval of the District Coordinating Judge or the District Administrative Judge.

3. JUDICIAL COMPENSATION

Town and Village Justices and part-time City Court Judges sitting in the CAP shall be reimbursed by the Office of Court Administration pursuant to Part 126.3 of the Rules of the Chief Administrator. Full-time state-paid judges shall not be reimbursed beyond their normal salary.

4. VIRTUAL ARRAIGNMENT PART FACILITY AND DESCRIPTION

The facility for the CAP will be determined by the on-call justice but will generally be the home of that justice. The justice will join the CAP skype meeting from home, an arresting police agency will generally join the CAP skype meeting from the County jail or their station/barracks,

and defense attorneys and prosecutors may join the CAP skype meeting from their home or place of business.

5. PLAN FOR REPRESENTATION

Representation in each county utilizing a CAP will be provided pursuant to the Assigned Counsel Plan of that county utilizing a public defender's office and/or assigned counsel. All principals arraigned in the CAP will be presumed indigent for purposes of arraignment. The County Public Defender and/or administrator of the County Assigned Counsel Plan will develop a schedule of assignments for attorneys to cover the CAP and circulate it to all law enforcement agencies in the county as well as to the Fifth Judicial District Special Counsel to the Administrative Judge for the Town and Village Courts.

6. INTERPRETING SERVICES

If the defendant requires the use of an interpreter, the Designated Judge shall contact the Language Line at: 1-856-874-3972; Client ID: 502970; Access Code: 5495027.

7. ARRESTING AGENCIES

Upon an arrest, the arresting agency will enter fingerprint information using the ORI number of the court that has geographic jurisdiction over the offense. The arresting agency shall scan and email all the necessary court paperwork to the County District Attorney, along with the email address for the location where the defendant is being held. The County District Attorney shall then provide the police agency contact e-mail address to the Designated CAP Judge for purposes of thereafter receiving a Skype for Business meeting invitation from the Designated Judge. The arresting agency shall also provide to the Designated Judge a contact

telephone number so the scheduled Assigned Counsel/Public Defender attorney will be able to have a private, confidential telephone conference with the defendant prior to the arraignment.

8. PRE-ARRAIGNMENT HOLDING

Pre-arraignment detention pursuant to Corrections Law §500-c may be used when necessary to facilitate virtual court appearances by the defendant.

9. COURTROOM EQUIPMENT AND INVENTORY

The CAP judge may use any personal equipment that he or she has on hand and may also utilize his/her recording laptop and any other courtroom equipment which he or she may remove from the courtroom and bring home. If the Office of Court Administration is able to procure more networking supplies such supplies may be provided to CAP judges.

10. JUDICIAL TRAINING

Training in the administration of the CAP, if necessary, shall be provided by the Fifth Judicial District in conjunction with the Office of Justice Court Support.

11. TRANSFER OF CASES, DATA ENTRY, CASE ACTIVITY AND DISPOSITION REPORTING

Non-felony cases shall be transferred from the CAP to the court with trial jurisdiction pursuant to C.P.L. §100.55. Felony cases shall be transferred from the CAP to the court that has geographic jurisdiction over the situs of the offense. Should any defendant plead guilty in the CAP that case will instead be kept through final disposition by the judge who takes the guilty plea in his home court pursuant to C.P.L. §170.15(1).

All arraignment paperwork will be scanned and emailed to the court the case is to be transferred to and copied to the Fifth Judicial District Office. Data entry and CDR uploads concerning the arraignment shall be completed by the court receiving the case when the

current health crisis has ended, and normal judicial operations have resumed. All further data entry shall be completed by the court the case is transferred to.

12. ARRAIGNMENT RECORDING PROCEDURES

The Designated Town and Village Court Justice shall prepare and record the proceedings using the Liberty Recorder on the court computer.

13. COLLECTION OF BAIL AT ARRAIGNMENT

In the event that the on-call judge sets cash bail, then the County Sheriff will collect the bail and transfer the bail to the court of original jurisdiction. The on-call judge shall provide the arresting agency with the required securing order, electronically via email.

14. PAYMENT OF FINES AND SURCHARGES

Defendants who are assessed fines and/or surcharges at the CAP will be provided electronically by the court with a notice to pay such fine and/or surcharge, by a date set by the CAP judge, to the home court of the Judge who conducted the arraignment pursuant to C.P.L. §170.15(1).

15. RELEASE ON OWN RECOGNIZANCE

Defendants released on their own recognizance will be given a Notice of Adjournment with his/her next appearance date in the court of original geographical jurisdiction.

16. ORDERS OF PROTECTION

Temporary Orders of Protection shall be prepared by using WebDVS or by preparing a paper copy of the Temporary Order of Protection to be entered into WebDVS as soon as practical after completion of the arraignment. The case docket number shall be entered utilizing the arrest number indicated on the arrest report or by utilizing an alternately

designated unique number if the arrest number is unavailable. The Temporary Orders of Protection will be issued for a six (6) month period.

The Temporary Order of Protection terms and conditions shall be explained on the record to the defendant by the Designated Judge and thereafter scanned and emailed or faxed to the arresting agency location for a signature of receipt by the defendant. After signature by the defendant, the arresting agency shall scan and email or fax the signed Temporary Order of Protection back to the Designated Judge.

17. ARRAIGNMENT PROCEDURE

The County District Attorney shall, after review of the arrest papers, transmit the necessary court paperwork, along with the necessary e-mail addresses and telephone contact numbers to the Designated Judge and Designated Assigned Counsel Attorney or Public Defender, as the case may be, and contact the necessary parties with the arraignment request.

The Designated Judge shall schedule and send out Skype for Business invitations to the District Attorney, the Designated Assigned Counsel Attorney/Public Defender and the arresting agency location or the County Sheriff location depending upon the physical location of the defendant.

The District Attorney, Designated Assigned Counsel Attorney/Public Defender and the defendant shall each participate in the proceedings from a remote location using the pre-established Skype for Business link sent via the invitation received from the Designated Judge.

At the commencement of the virtual proceeding, the Designated Judge shall inquire and ensure that the defendant and his/her counsel shall have had the opportunity to consult

privately, in a confidential setting, by telephone or Skype for Business prior to the arraignment. If not, the Judge shall stop the proceeding and allow such an opportunity before proceeding.

At the conclusion of the proceeding, the Designated Judge shall transmit, by email or fax, the necessary paperwork to the necessary parties.

III. CONSULTATIONS

Hon. James P. Murphy, Administrative Judge of the Fifth Judicial District, through his staff, has reviewed these plans with the leadership of the necessary stakeholders in each County, consisting of police agencies, Sheriffs, District Attorneys, local Magistrates, Assigned Counsel Programs and Public Defenders. Due to the nature of the overwhelming health crisis, no objections have been received.