Report of the **Advisory Committee** on **Local Courts**

to the Chief Administrative Judge of the Courts of the State of New York

January 2020

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I. INTRODUCTION

The Local Courts Advisory Committee is one of five standing advisory committees established by the Chief Administrative Judge pursuant to Judiciary Law § 212(1)(q). The Committee advises the Chief Administrative Judge on legal and operational issues relating to the New York City Civil Court, New York City Criminal Court, District Courts on Long Island, City Courts outside New York City, and Town and Village Courts. The Committee is comprised of judges, clerks and attorneys serving and practicing in the above-named courts. It serves as a liaison with the professional associations of the judges and clerks of these courts and coordinates its actions and recommendations with other advisory committees established by the Chief Administrative Judge. In addition to its legislative program, the Committee reviews and makes recommendations concerning existing court policies, rules and forms. During 2019, the Committee again reviewed and commented on a wide range of issues affecting the local courts.

This Annual Report for 2020 contains fifteen (15) measures developed on the basis of the Committee's studies, examination of decisional law, and suggestions received from the bench and bar.

New Proposals

The Committee remains committed to submitting a streamlined, high-priority list of legislative and rulemaking measures. This year the Committee is recommending fifteen (15) measures, four (4) of which are new.

Priorities

The Committee's program for 2020 focuses on initiatives that, if enacted, would promote more effective, comprehensive adjudication, improve court efficiency, and reduce litigation cost and delay across multiple areas of practice.

The Committee continues to recommend an amendment to the Criminal Procedure Law providing that roadside service of an affidavit of service of a supporting deposition that is given concurrent with the issuing of the ticket satisfies service requirements.

In addition, the Committee proposes an amendment to the Civil Practice Law and Rules to establish parity with the Uniform Justice Court Act, so as not to require greater proof to make a prima facie case for damages in cases of lesser amounts than in cases of greater amounts.

The Committee also continues to propose amendments of the Criminal Procedure Law to allow for waiver of pre-sentence investigation reports in all local criminal courts (rather than the New York City Criminal Court only) where a negotiated sentence of imprisonment for a term of one year or less is mutually agreed upon by the parties, with the consent of the judge, and no sentence of probation is imposed; and to authorize Judicial Hearing Officers to accept certain guilty pleas.

The Committee continues to recommend the enactment of a new Criminal Procedure Law § 240.15 to require open file discovery in prosecutions of alcohol and drug related offenses under the Vehicle and Traffic Law. In addition, the Committee once again recommends a proposal relating to persons who fail without justification to appear in court to answer charges of unlawful possession of alcohol. The proposal would amend Alcoholic Beverage Control Law § 65(c) by authorizing courts to render civil default judgments for unjustified failure to appear in court on a charge of under-age possession of alcohol. This measure would promote the goal of discouraging underage drinking without requiring the harsher consequences that may flow from suspension of a driver's license under the Vehicle and Traffic Law.

In order to improve the administration of justice, address the collateral consequences of court proceedings, and promote offender accountability, the Committee recommends measures to authorize the sealing of court records in a criminal matter where the charges are dismissed on the People's motion; and, to authorize the imposition of the sentence of a fine and conditional discharge upon conviction for the offense of driving while impaired.

The Committee expresses its advance appreciation to the Legislature and the Administrative Board of the Courts for considering this Annual Report, and welcomes comments

and suggestions from the Legislature, the Judiciary, the Bar and the public concerning issues that arise in the local courts. Comments and suggestions may be addressed throughout the year to:

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II. NEW MEASURES

1. Service on the Secretary of State
(UCCA §404(e); UDCA §404(e); NYCCCA §404(e) (new))

This measure proposes to amend the Uniform City Court Act, Uniform District Court Act, and the New York City Civil Court Act to add a provision permitting service of process upon the Secretary of State in local court actions where the defendant being served is located within the county in which the local court sits.

Often, particularly in the case of defendant corporations, a process server cannot easily identify or locate the appropriate person on whom to effectuate personal service in accordance with the Civil Practice Law and Rules. This most often occurs when a corporation resides in a county but conducts its principal place of business elsewhere.

Recent cases have limited the availability of service upon the Secretary of State. *See* Marita Car Rentals, Inc. v. Ishtiaq, 2006, 11 Misc.3d 506, 810 N.Y.S.2d 869 (Buffalo City Court 2006); Electronic Devices, Inc. v. Mark Rogers Associates, 63 Misc.2d 243, 311 N.Y.S.2d 413 (App. Term 2nd Dept 1970). Such cases posit that service upon the Secretary of State occurs in Albany or New York City offices, and not in the county where the local court sits. However, under current law, the Uniform Court Acts permit service of process in the same manner as permitted in Supreme Court practice, including the optional method of service by mail as authorized by the Civil Practice Law and Rules. Such service shall be made only within the county, unless service beyond the county be authorized by law. *See* UCCA §403, NYCCCA §403, UDCAC §403, and UJCA §403. Service beyond the county that is authorized by law includes service upon the Secretary of State. *See* BCL § 306 and VTL § 253.

The purpose of this proposal is to help facilitate service by clearly stating that service upon the Secretary of State in local court actions is permitted in the same manner as is currently permitted in Supreme Court actions, but only when the party being served is a resident in the same county as the local court sits. This will ultimately help plaintiffs avoid the costs of multiple attempts at service in local court actions.

Proposal

AN ACT to amend the uniform acts, in relation to service on the secretary of state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 404 of the uniform city court act is amended to read as follows:

(e) When service of process upon the secretary of state is permitted by law in supreme court actions, service upon the secretary of state shall be permitted when the party being served is a resident of the county in which the court sits.

§2. Section 404 of the uniform district court act is amended to read as follows:

(e) When service of process upon the secretary of state is permitted by law in supreme court actions, service upon the secretary of state shall be permitted when the party being served is a resident of the county in which the court sits.

§3. Section 404 of the new york city civil court act is amended to read as follows:

(e) When service of process upon the secretary of state is permitted by law in supreme court actions, service upon the secretary of state shall be permitted when the party being served is a resident of the county in which the court sits.

§4. This act shall take effect immediately.

2. Proof of Damages
(CPLR §4533-a and UCCA §1804)

This measure proposes to raise the jurisdictional limit for prima facie proof of damages cases that are not in excess of $2,000 to $5,000. The purpose of this proposal is to harmonize two sections of the law – Civil Practice Law and Rules 4533-a and Uniform City Court Act 1804 to harmonize the quantum of proof required to make a prima facie case for damages between that which is necessary in cases involving lesser amounts with that required in cases of greater amounts.

Under current law, the standard of prima facie proof of damages for small claims cases, which are not in excess of $5,000, requires (1) an itemized bill or invoice, receipted or marked paid, or (2) two itemized estimates for services or repairs, either of which are admissible in evidence and are prima facie evidence of the reasonable value and necessity of such services and repairs. (UCCA §1804)

Yet, the standard of prima facie proof of damages for cases that are not in excess of $2,000 has a far higher standard for proof of damages, requiring that (1) prima facie evidence of the reasonable value and necessity of such services or repairs by an itemized receipt that is certified by the entity, or an agent or employee of such entity, that is charging for rendering services or making repairs, (2) a verified statement that no part of the payment received will be refunded and that the amounts itemized are the customary rates charged for such services or repairs provided, and (3) each party must be served a true copy of such itemized bill or invoice together with the notice of intention at least ten day before the trial. (CPLR Rule 4533-a)

The differing statutes mean that in small claims cases involving over $2,000 but less than the $5,000 small claims jurisdictional limit, damages can be proved by two itemized estimates, and the paid bill or invoice need not be certified, no verification of non-refundability is needed, the itemized rates need not be certified as the usual and customary rate, and no notice of intention to use the certified paid bill or invoice is needed.

This measure seeks to remedy such inequity by raising the jurisdictional limit under CPLR 4533-a from $2,000 to $5,000, the jurisdictional maximum in small claims court, and exempting the use of the higher standard of proof in small claims actions.

Proposal

AN ACT to amend the civil practice law and rules, in relation to prima facie proof of damages

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Rule 4533-a of the civil practice law and rules as amended by chapter 249 of the laws of 1988, is amended to read as follows:

Rule 4533-a. Prima facie proof of damages. [An] Except in small claims actions as defined by section 1801 of the New York City civil court act, section 1801 of the uniform city court act, section 1801 of the uniform district court act and section 1801 of the uniform justice court act, an itemized bill or invoice, receipted or marked paid, for services or repairs of an amount not in excess of [two] five thousand dollars is admissible in evidence and is prima facie evidence of the reasonable value and necessity of such services or repairs itemized therein in any civil action provided it bears a certification by the person, firm or corporation, or an authorized agent or employee thereof, rendering such services or making such repairs and charging for the same, and contains a verified statement that no part of the payment received therefor will be refunded to the debtor, and that the amounts itemized therein are the usual and customary rates charged for such services or repairs by the affiant or his or her employer; and provided further that a true copy of such itemized bill or invoice together with a notice of intention to introduce such bill or invoice into evidence pursuant to this rule is served upon each party at least ten days before the trial. No more than one bill or invoice from the same person, firm or corporation to the same debtor shall be admissible in evidence under this rule in the same action.

§2. This act shall take effect immediately.

3. LLCs to Appear by Member Manager
(UCCA §1809-A; UDCA §1809-A; UJCA §1809-A; NYCCCA §1809)

This measure proposes to amend the Uniform City Court Act, Uniform District Court Act, Uniform Justice Court Act and the New York City Civil Court Act to allow Limited Liability Corporations (LLCs) to appear by a member or manager instead of by an attorney in small claims.

Under current law, there is an exception for corporations to appear without an attorney in small claims, however no such exception is expressed for LLCs. This issue has come up in cases regarding whether an LLC must appear by attorney in an action other than a small claims action. *See* Richard G. *Roseetti, LLC v Werther*, 6 Misc. 3d 1040 (NY City Ct 2005). The Civil Practice Law and Rules (CPLR) specifically states that a corporation or voluntary association must appear by an attorney, unless otherwise proved by sections 1809 and 1809-a of the uniform acts. *See* CPLR §321(a).

The current statute is silent as to LLCs, and therefore corporations are permitted to appear by member manager in small claims matters while LLCs are not, even though they are both treated as similar legal entities under the law. This proposal seeks to treat LLCs the same as corporations in small claims matter and allow them equal access to small claims court without incurring the costs of hiring an attorney.

Proposal

AN ACT to amend the uniform city court act, the uniform district court act, the uniform justice court act, and the new york city civil court act in relation to LLCs appearing by member manager in a small claims action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (d) of section 1809-A of the uniform city court act is amended to read as follows:

(d) A corporation or limited liability corporation may appear as a party in any action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial.

§2. Subdivision (d) of section 1809-A of the uniform district court act is amended to read as follows:

(d) A corporation or limited liability corporation may appear as a party in any action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial.

§3. Subdivision (2) of section 1809-A of the uniform justice court act is amended to read as follows:

(2) A corporation or limited liability corporation may appear in the defense of any small claim action brought pursuant to this article by an attorney as well as by any authorized officer,

director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial. The court or arbitrator may make reasonable inquiry to determine the authority of any person who appears for the corporation in defense of a small claims court case.

§4. Subdivision (2) of section 1809 of the new york city civil court act is amended to read as follows:

(2) A corporation <u>or limited liability corporation</u> may appear in the defense of any small claim action brought pursuant to this article by an attorney as well as by any authorized officer, director or employee of the corporation provided that the appearance by a non-lawyer on behalf of a corporation shall be deemed to constitute the requisite authority to bind the corporation in a settlement or trial. The court or arbitrator may make reasonable inquiry to determine the authority of any person who appears for the corporation in defense of a small claims court case.

§5. This act shall take effect immediately.

III. PREVIOUSLY ENDORSED MEASURES

1. Service of Supporting Depositions
(CPL § 100.25(2))

The purpose of this proposal is to amend the Criminal Procedure Law to establish that roadside service of an affidavit of service of a supporting deposition, that is concurrent with the issuance of the ticket, satisfies service requirements.

Under current law, CPL §100.25(2) requires filing an affidavit of service of the supporting deposition. However, modern technology has supplanted the handwritten "simplified traffic information", with computer generated "simplified traffic information" and a computer-generated supporting deposition. These computer-generated instruments are handed to the motorist on the road and transmitted electronically to the court, which is treated as satisfying the service of a supporting deposition requirement.

Yet, in the recent decision in People v. Wagschal, 2018 Slip Op 28051 (App. Term, 2d Dep't, Feb. 15, 2018), the court found that roadside service of a supporting deposition alone does not satisfy the service requirements. This determination was made based on the fact that the defendant demanded service of a supporting deposition, asserting that roadside service did not did not satisfy service under the law. The court determined that failure to file an affidavit of service of a supporting deposition requires dismissal, even though the instrument was handed to the defendant on the road.

This decision creates disparity in how ticketed motorists are treated under the law. Courts will have inconsistent outcomes regarding what constitutes service of a supporting deposition. This proposal simplifies procedure and makes it clear that when a supporting deposition is served roadside concurrent with the issuance of the ticket, it satisfies notice requirements under the Criminal Procedure Law. If service is not effectuated roadside, the motorist retains his or her right to demand such service of a supporting deposition.

Proposal

AN ACT to amend the criminal procedure law, in relation to defendant's right to a supporting deposition

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of 100.25 of the criminal procedure law is amended to read as follows:

2. [A] Unless delivered to the defendant with the simplified information, a defendant charged by a simplified information is, upon a timely request, entitled as a matter of right to have filed with the court and served upon him or her, or if he or she is represented by an attorney, upon his or her attorney, a supporting deposition of the complainant police officer or public servant, containing allegations of fact, based either upon personal knowledge or upon information and belief, providing reasonable cause to believe that the defendant committed the offense or offenses charged. To be timely, such a request must, except as otherwise provided herein and in subdivision three of this section, be made before entry of a plea of guilty to the charge specified and before commencement of a trial thereon, but not later than thirty days after the date the defendant is directed to appear in court as such date appears upon the simplified information and upon the appearance ticket issued pursuant thereto. If the defendant's request is mailed to the court, the request must be mailed within such thirty day period. [Upon] Unless a supporting deposition was delivered to the defendant with the simplified information and thereafter filed with the court, upon such a request, the court must order the complainant police officer or public servant to serve a copy of such supporting deposition upon the defendant or his or her attorney, within thirty days of the date such request is received by the court, or at least five days before trial, whichever is earlier, and to file such supporting deposition with the court together with

proof of service thereof. The filing of a simplified information indicating that a supporting deposition was provided with the simplified information shall be prima facie proof that the supporting deposition was served upon the defendant with the simplified information. Notwithstanding any provision to the contrary, where a defendant is issued an appearance ticket in conjunction with the offense charged in the simplified information and the appearance ticket fails to conform with the requirements of subdivision two of section 150.10, a request is timely when made not later than thirty days after (a) entry of the defendant's plea of not guilty when he or she has been arraigned in person, or (b) written notice to the defendant of his or her right to receive a supporting deposition when a plea of not guilty has been submitted by mail.

2. Requiring Open File Discovery in Prosecutions of Alcohol and Drug Related Offenses under the Vehicle & Traffic Law (CPL § 240.15 [new])

The Committee recommends adoption of a new Criminal Procedure Law provision requiring open file discovery strictly limited to prosecutions of alcohol and drug related offenses under Article 31 of the Vehicle and Traffic Law. The new statute would require that the offense of DWI be the highest offense charged. This measure would require exchange without demand of all material and written information in the possession of either the defendant or prosecutor not otherwise protected or privileged under rule, statute or other law within 30 days of the commencement of a criminal action. Materials received after the 30 days have expired would be required to be exchanged within 5 days of receipt.

It has been brought to the attention of the Committee that open file discovery for cases commenced charging offenses under Article 31, where now informally instituted, is working well today in practice in counties of diverse size and population across the state, including Nassau, Kings, Suffolk and Wyoming Counties. In these counties, demonstrable benefits in stimulating plea agreements and eliminating delays have been achieved. Improvements in standards and goals are achieved for the court system. The Committee believes that statewide mandate of such practice is now appropriate and timely. The Committee urges adoption of this measure to expand upon the improvements available from limited open file, reciprocal discovery to defendants, prosecutors and the court system alike.

Proposal

AN ACT to amend the criminal procedure law, in relation to discovery in alcohol and drug related offenses under the vehicle and traffic law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new section 240.15 to read as follows:

§ 240.15. Discovery: open file, limited to prosecutions of alcohol and drug related offenses under the vehicle and traffic law. Within 30 days of the commencement of a criminal action charging a defendant with an offense or offenses the most serious being an offense under article 31 of the vehicle and traffic law, all material or written reports or documents that bear upon the defendant's case in the possession of either the defendant or the prosecutor not privileged or otherwise protected by rule, statute or other law, shall be exchanged between the defendant and the prosecutor without demand therefore. Such material or written reports or documents received after the expiration of the 30 day period shall be exchanged within 5 days of receipt. Such material or written reports or documents shall include but are not limited to any written report or testimony of a police officer, statements of a defendant, statements, names and addresses of witnesses, any physical examination, scientific tests or experiments, results of laboratory reports or testing reports or any portion thereof that bear upon the defendant's case.

§ 2. This act shall take effect 90 days after the date on which it shall have become law and shall apply to criminal actions commenced on or after that date.

3. Authorizing Courts to Render Default Judgments for Failure to Appear in Court on Charge of Unlawful possession of an Alcoholic Beverage with the Intent to Consume by Persons under the Age of Twenty-One Years. (ABC § 65-c)

This measure would amend the Alcoholic Beverage Control Law to authorize a court outside a city with a population of over one million to render a default judgment of a fine against a person who does not appear in court within the specified time to answer a charge of underage possession of alcohol. This measure supplants the Committee's previous recommendation of an amendment of the Vehicle and Traffic Law authorizing courts to order suspension of a driver's license under the same conditions.

Years of experience in the judicial, law enforcement and child-welfare communities demonstrate that a charge of under-age possession of alcohol may be the first and best opportunity to avert more serious and potentially life-threatening alcohol-related offenses. When defendants less than age 21 are charged with under-age possession of alcohol with intent to consume under Alcoholic Beverage Control Law section 65-c, authorized sentences of completing alcohol awareness programs and community service offer potential judicial remedies to help deter drunk driving and other more serious offenses.

Unfortunately, many of these young defendants ignore their appearance tickets or, if convicted, ignore the very sentences calculated to discourage more serious offenses. Under current law, there is no practical redress or other remedy besides contempt, a resource-intensive path that may lead to incarceration inapposite for these offenders. For that reason, large numbers of under-age defendants flaunt the law: many do so precisely because they know there is no negative consequence for ignoring the charge or sentence. This, in turn, compounds their disrespect for the law and encourages further offenses. The Internet is rife with advice for teens concerning the lack of negative consequences for ignoring appearance tickets or court-imposed penalties for under-age drinking. Given these dynamics, it is little surprise that in some courts, the scoff rate on under-age alcohol possession exceeds 30%. These dynamics are particularly evident after proms, concerts, festivals and other large gatherings of teens, which expose teens not only to alcohol but also to the risk of drunk driving. Remedies for alcohol-possession violations are sorely needed in order to deter drunk driving and prevent injuries and deaths.

While fully cognizant that under-age offenders are minors for whom our law must take an especially measured approach, New York State must ensure that courts have effective

remedies at their disposal when persons charged with under-age possession of alcohol fail to appear or complete court-ordered sentences. By doing so, the Legislature would promote respect for the law and the courts generally, and help prevent more serious offenses and concomitant risk to life.

Accordingly, this measure would authorize a court to render a civil default judgment against a defendant who fails to answer a charge of under-age possession of alcohol with intent to consume under ABC Law §65-c, or who is convicted and fails to timely satisfy his or her sentence. This limited approach seeks only to bring these defendants before the court to answer charges and honor sentences that are calculated to educate them and prevent potentially life-threatening behaviors.

Proposal

AN ACT to amend the alcoholic beverage control law, in relation to authorizing courts to render default judgments in cases of failure to answer for unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of twenty-one years

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Section 65-c of the alcoholic beverage control law is amended by adding three new subdivisions 7, 8 and 9 to read as follows:

7. In the event a person charged with a violation of this section does not answer within the time specified, the court having jurisdiction, other than a court in a city over one million in population may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment in an amount to be determined by the court within the amount authorized by law. Any such default judgment shall be civil in nature. However, at least thirty days after the expiration of the original date prescribed for entering a plea and before a plea of guilty and a default judgment may be rendered, the clerk of the court shall notify the defendant by certified mail: (a) of the violation charged; (b) of the impending pleas of guilty and default judgment; (c) that such judgment will be filed with the county clerk of the court in which the operator or registrant is located; and (d) that a default or plea of guilty may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in a manner prescribed in the notice. In no case shall a default judgment and plea of guilty be rendered more than two years after the expiration of the time prescribed for originally entering a plea. When a person has entered a plea of not guilty and has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to

the holding of the hearing which shall be scheduled by the court within thirty days of such demand.

8. The filing of the default judgment with the county clerk shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record and such default judgment shall remain in full force and effect for eight years notwithstanding any other provision of law.

9. Notwithstanding the provisions of subdivision seven of this section, the clerk of the court, shall have two years from the effective date of this subdivision to serve notice of the impending plea of guilty and default judgment upon the person charged with a violation of this section who has not answered within the time specified and prior to the effective date of this subdivision.

§ 2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law and shall apply where the acts constituting unlawful possession of an alcoholic beverage with intent to consume for the offense of which the person is convicted occurred on or after such effective date.

4. Extending to Probation Departments and Courts Outside New York City Waiver of Pre-sentence Investigations and Reports in Certain Cases. (CPL § 390.20)

This measure would amend the Criminal Procedure Law, as amended by chapter 556 of the Laws of 2013, to eliminate, outside New York City, the requirement of pre-sentence investigations ("PSIs") and reports upon consent of the judge, where a negotiated sentence of imprisonment for a term of 365 days or less is mutually agreed upon by the parties, and no sentence of probation will be imposed.

Prior to enactment of chapter 556, probation departments throughout the state were required to conduct PSIs and prepare written reports for all defendants convicted in felony cases, and in misdemeanor cases where a sentence of imprisonment was imposed for a term in excess of 180 days. CPL 390.20. Section 6 of chapter 556 amended section 390.20 to establish an exception to these requirements where a negotiated sentence of imprisonment for a term of 365 days or less has been reached as a result of a conviction or revocation of a probation sentence, and where probation will not be imposed under either scenario. However, this exception was limited to "any city having a population of one million or more." The present measure would broaden that exception to encompass any probation department or court outside New York City without regard to population.

This measure recognizes that the legislative purposes underlying chapter 556 – eliminating the costly requirement of PSIs for negotiated sentences and allowing for probation departments to more appropriately reassign probation officers – are equally applicable in the 57 counties located outside New York City. The current PSI requirements necessitate additional court hearings, delay sentencing and expenditure of public resources in conducting investigations and preparing reports that rarely affect final sentencing outcomes. The Committee believes that probation departments and courts outside New York City should be treated no differently than the probation department in New York City with regard to an expensive, time-consuming mandate shown to have little impact on sentencing.

It is important to note that neither chapter 556 nor this measure would make any other change in statutory requirements concerning PSIs or affect a judge's discretion to order a PSI in any case where the judge believes it is appropriate to do so, including any case where the statute would no longer automatically require a PSI.

Proposal

AN ACT to amend the criminal procedure law, in relation to waiver of pre-sentence investigations and reports

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 5 of section 390.20 of the criminal procedure law, as added by chapter 556 of the laws of 2013, is amended to read as follows:

5. Negotiated sentence of imprisonment. **[** In any city having a population of one million or more and notwithstanding **]** Notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation and written report thereon shall not be required where a negotiated sentence of imprisonment for a term of three hundred sixty-five days or less has been mutually agreed upon by the parties with the consent of the judge, as a result of a conviction or revocation of a sentence of probation.

§2. This act shall take effect on the ninetieth day after it shall have become a law.

5. Fine and Conditional Discharge Upon Conviction for Driving While Ability Impaired
(Penal Law § 60.20)

This measure amends the Penal Law to authorize the imposition of the sentence of a fine and conditional discharge upon conviction for the offense of driving while ability impaired.

Section 1192(1) of the Vehicle and Traffic Law makes it unlawful for a person to operate a motor vehicle while "the person's ability to operate such motor vehicle is impaired by the consumption of alcohol." Vehicle and Traffic Law § 1192(1). The violation of this provision of the Vehicle and Traffic Law is a traffic infraction and punishable by a fine in an amount between $300 and $500 or by imprisonment for 15 days, or by both a fine and imprisonment. Vehicle and Traffic Law § 1193(1)(a).

Section 60.20 of the Penal Law sets forth the sentences that are to be imposed upon the conviction of a traffic infraction. The sentences are: a conditional discharge; an unconditional discharge; a fine or imprisonment, or both; or a sentence of intermittent imprisonment. See Penal Law § 60.20. While the Vehicle and Traffic Law expressly prohibits the court from imposing a conditional discharge without also imposing a fine for any violation of its provisions, see Vehicle and Traffic Law § 1193(1)(e), Penal Law section 60.20 does not authorize the imposition of a fine and conditional discharge for the conviction of a traffic infraction.

A conditional discharge is a sentence intended to rehabilitate a person convicted of an offense by discharging the applicable penalty (i.e. imprisonment or probation) on condition that the person performs certain acts that the court deems reasonably necessary to ensure that he or she will lead a law-abiding life. See Penal Law §§ 65.05 and 65.10. Among other things, a conditional discharge may require that the person undergo medical or psychiatric treatment or participate in an alcohol or substance abuse program. See Penal Law § 65.10(d) and (e). Because the discharge may be conditioned upon the person's receipt of treatment or counseling, the conditional discharge provides the court with a very useful tool for addressing substance abuse problems that may underlie an individual defendant's conviction for driving while impaired.

Finally, authorizing a court to impose the sentence of a conditional discharge for the conviction of the offense of driving while impaired is consistent with other provisions of the Vehicle and Traffic Law, which authorize mandatory treatment for substance abuse for persons

who violates its provisions. See Vehicle and Traffic Law § 1198-a(2)(b) (requiring persons convicted of driving while intoxicated to receive treatment).

Proposal

AN ACT to amend the penal law, in relation to authority to impose a sentence of a fine and conditional discharge upon conviction of the offense of driving while ability impaired

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (d) of subdivision 1 of section 60.20 of the penal law, as added by chapter 477 of the laws of 1970, is amended to read as follows:

(d) A sentence of intermittent imprisonment, as provided in article eighty-five; or

(e) Upon a conviction under subdivision one of section one thousand one hundred ninety-two of the vehicle and traffic law, a fine or a sentence to a term of imprisonment, or both, as prescribed in the vehicle and traffic law, and a period of conditional discharge, as provided in article sixty-five of this chapter

§ 2. This act shall take effect on the thirtieth day after it shall have become a law and shall apply only where the events upon which a conviction is based occurred on or after such effective date.

6. Authorizing Judicial Hearing Officers to Accept Certain Guilty Pleas (CPL § 350.20; § 380.10)

This measure amends sections 350.20 and 380.10 of the Criminal Procedure Law to authorize a judicial hearing officer to accept a guilty plea when authorized to hold a trial of a B misdemeanor.

Judicial hearing officers are retired judges appointed to perform certain designated judicial functions in civil and criminal courts pursuant to Article 22 of the Judiciary Law for the purpose of freeing judges to conduct more trials. People v. Scalza, 76 N.Y.2d 604, 608 (1990).

Section 350.20 of the Criminal Procedure Law authorizes a local criminal court to assign a judicial hearing officer to conduct a trial of a B misdemeanor upon consent of all parties to the criminal proceeding. When assigned to try the case, the judicial hearing officer has the same powers as a judge of the court in which the proceeding is pending. CPL 350.20(2). With respect to a trial of a B misdemeanor, section 350.20 provides that the judicial hearing officer shall determine all questions of law, act as the exclusive trier of all issues of fact, and render a verdict. CPL 350.20(1).

Experience has shown that after a case has been assigned to a judicial hearing officer under this provision the defendant frequently decides to plead guilty in lieu of proceeding to trial. This presents a problem in that section 350.20 does not expressly authorize a judicial hearing officer to accept a guilty plea; as a result, the matter must be returned to the judge before whom it originated for a final disposition. Return of the case to the original judge defeats the very purpose of the original assignment, namely, to free the judge to dispose of matters involving more serious offenses.

This proposal would authorize the judicial hearing officer to accept a guilty plea by amending section 350.20 to provide that a judicial hearing officer shall have jurisdiction over the proceeding as defined in sections 1.20(24) and 10.30(1) of the Criminal Procedure Law. Section 10.30(1) provides that local courts have trial jurisdiction of all offenses other than felonies. Section 1.20(24) provides that a criminal court's trial jurisdiction of an offense includes, among other things, the "authority to accept a plea to" the offense. In addition, this measure would amend section 380.10 of the Criminal Procedure Law to provide that the sentencing procedure set forth in that statute applies to all offenses, including those adjudicated by judicial hearing

officers.

By authorizing a judicial hearing officer to accept a guilty plea, this measure would enable the judicial hearing officer to fully dispose of the matter assigned to him or her and thereby conserve judicial resources.

Proposal

AN ACT to amend the criminal procedure law, in relation to authorizing a judicial hearing officer to accept a guilty plea when assigned to conduct a trial

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 350.20 of the criminal procedure law, as added by chapter 840 of the laws of 1983, is amended to read as follows:

2. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court in which the proceeding is pending, which includes authority to accept a plea to or in satisfaction of the accusatory instrument. The rules of evidence shall be applicable at a trial conducted by a judicial hearing officer.

§ 2. Subdivision 1 of section 380.10 of the criminal procedure law, as amended by chapter 840 of the laws of 1983, is amended to read as follows:

1. In general. The procedure prescribed by this title applies to sentencing for every offense, whether defined within or outside of the penal law; provided, however, where a judicial hearing officer has conducted the trial pursuant to section 350.20 of this chapter, or accepted a plea to or in satisfaction of an accusatory instrument, all references to a court herein shall be deemed references to such judicial hearing officer.

§ 3. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law and shall apply only to accusatory instruments filed on or after such effective date.

7. Expanding Statewide the Current Authority for Single-Judge Trials in B Misdemeanor Cases
(CPL § 340.40(2))

This measure amends section 340.40 of the Criminal Procedure Law to expand statewide the current authority of a local criminal court to hold a single judge trial where the potential term of imprisonment for the offense is not more than six months.

Section 340.40(2) of the Criminal Procedure Law now provides that a defendant charged by information with a misdemeanor must be accorded a jury trial, except that, in the New York City Criminal Court, a defendant must be accorded a single judge trial where the authorized term of imprisonment for the charged misdemeanor is not more than six months.

This measure would extend the exception now applicable only in the New York City Criminal Court to all local criminal courts. Thus, in local criminal courts located outside of New York City, trials of class B misdemeanors would be nonjury trials only. This measure does not infringe on a defendant's right to a jury trial because, under the Constitution, the right to a jury trial attaches only when the defendant is charged with a crime for which the maximum penalty is more than six months' incarceration. See Baldwin v. New York, 399 U.S. 66 (1970).

This measure would save substantial time and money in a number of ways. By freeing up limited jury resources, this measure would enlarge the misdemeanor trial capacity of the State's local criminal courts. By authorizing single-judge trials for offenses carrying potential incarceration of no more than six months, this measure would shorten the time from arraignment to trial, reduce costs associated with impaneling juries, and ensure an adequate supply of jurors for the trial of more serious misdemeanors and felony charges. These fiscal and administrative advantages would especially benefit District Courts on Long Island, upstate City Courts and busy suburban Justice Courts.

Proposal

AN ACT to amend the criminal procedure law, in relation to trial in certain local criminal courts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 340.40 of the criminal procedure law, as amended by chapter 673 of the laws of 1984, is amended to read as follows:

2. In any local criminal court a defendant who has entered a plea of not guilty to an information which charges a misdemeanor must be accorded a jury trial, conducted pursuant to article three hundred sixty, except that [in the New York city criminal court,] the trial of an information which charges a misdemeanor for which the authorized term of imprisonment is not more than six months must be a single judge trial. The defendant may at any time before trial waive a jury trial in the manner prescribed in subdivision two of section 320.10, and consent to a single judge trial.

§ 2. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law and shall apply only to informations filed on or after such effective date.

8. Sealing Court Records of Action Dismissed on Motion of Prosecutor (CPL § 160.50)

This measure would amend section 160.50 of the Criminal Procedure Law to authorize the sealing of the court records in a criminal action or proceeding in the event that the charges are dismissed upon motion by the prosecutor.

Currently, section 160.50 of the Criminal Procedure Law authorizes the court to seal the records of a criminal action or proceeding that has terminated in favor of the defendant. The purpose of the sealing rule is to ensure that the person charged with, but not convicted of, a criminal offense is free of the stigma of having been the subject of the charge. The records subject to this provision, which consist of all official records and papers, including judgments and orders of a court, but not including published court decisions or opinions or records and briefs on appeal, relating to the arrest or prosecution, including all duplicates and copies thereof, on file with the Division of Criminal Justice Services, any court, police agency, or prosecutor's office, must be sealed. See CPL 160.50(1). Subdivision three of this provision sets forth the specific circumstances under which an action or proceeding will be considered terminated in favor of the defendant. See CPL 160.50(3). The class of dispositions qualifying for such treatment includes acquittal and various specified dismissals and vacaturs. Id.

Prosecutors have the discretion not to proceed with a criminal action or proceeding. See People v. Thomas, 4 Misc.3d 57, 59 (Sup. Ct., App. Term 2004), aff'd 4 N.Y.3d 143 (2005). Despite the broad class of dispositions covered by section 160.50, however, it does not expressly authorize the sealing of court records when the prosecutor moves to dismiss the entire accusatory instrument or when the prosecutor elects not to prosecute after the accusatory instrument has been filed but prior to the arraignment. There is no reason to exclude the records associated with this class of dispositions from the sealing rule established by section 160.50. This measure would provide express authorization for inclusion.

By authorizing the sealing of court records upon the prosecutor's motion to dismiss or election not to proceed, this measure would extend the protections of section 160.50 to a person whose criminal case is terminated in his or her favor under these circumstances.

Proposal

AN ACT to amend the criminal procedure law, in relation to sealing of a court record upon dismissal of a criminal action upon motion of the prosecutor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 3 of section 160.50 of the criminal procedure law, as amended by chapter 518 of the laws of 2004, is amended to read as follows:

(b) an order to dismiss the entire accusatory instrument against such person pursuant to section 170.30, 170.50, 170.55, 170.56, 180.70, 210.20, 210.46 or 210.47 of this chapter, or on the motion of the appropriate prosecutor, was entered or deemed entered, or an order terminating the prosecution against such person was entered pursuant to section 180.85 of this chapter, and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or

§ 2. Paragraph (i) of subdivision 3 of section 160.50 of the criminal procedure law is amended to read as follows:

(i) prior to the filing of an accusatory instrument in a local criminal court against such person or after the filing of the accusatory instrument but prior to an arraignment, the prosecutor elects not to prosecute such person. In such event, the prosecutor shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one.

§ 3. This act shall take effect immediately.

9. Dangerous Dog Proceedings: Providing Courts with Discretion to Direct Seizure of a Dog after an Evidentiary Hearing.
(Agriculture and Markets Law § 123(2))

Pursuant to the Agriculture and Markets Law ("AGM"), a "dangerous dog" proceeding is commenced by the filing of an *ex parte* sworn statement describing an attack or threatened attack by a dog. AGM § 123(2) requires the judge reviewing the statement to make an immediate determination whether there is probable cause to believe the dog is dangerous. If so, the court "shall issue an order to any dog control officer, peace officer . . . or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination." Whether or not the judge finds probable cause for seizure, he or she is required to hold a hearing on the complaint within five days.

Under the statute, where the court finds probable cause that a dog is dangerous the court is required to direct seizure of the dog prior to holding an evidentiary hearing or giving the respondent an opportunity to be heard. While seizure may be appropriate in many cases, mandatory seizure is not always practical or feasible. In addition, the statute is silent concerning whether the court may direct seizure of the dog following a hearing. Thus, where a judge does not find probable cause that a dog is dangerous until the conclusion of the evidentiary hearing, the statute does not at that point authorize seizure of the dog. While the court must make an immediate snapshot determination regarding seizure based upon unproven allegations at the outset of the proceeding, it has no ability to issue a seizure order after making a final determination that the dog is dangerous based on the evidence presented at the hearing. This loophole poses both public safety and enforcement concerns: where the dog has not been seized and the respondent does not comply with court-ordered conditions, such as subjecting the dog to spaying or neutering, professional evaluation or secure confinement, it would appear that the court would have to hold the dog's owner in contempt to ensure compliance.

In view of the foregoing concerns, AGM § 123(2) should be amended to give the court discretion whether to direct seizure of a dog at the outset of the proceeding, and to authorize the court to direct seizure of a dangerous dog following a hearing on the merits.

Proposal

AN ACT to amend the agriculture and markets law, in relation to dangerous dog proceedings.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The first unlettered paragraph of subdivision 2 of section 123 of the agriculture and markets law, as amended by chapter 59 of the laws of 2010, is amended to read as follows:

Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may, and any dog control officer or police officer as provided in subdivision one of this section shall, make a complaint under oath or affirmation to any municipal judge or justice of such attack or threatened attack. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so [shall] may issue an order to any dog control officer, peace officer, acting pursuant to his or her special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as provided in this section. Whether or not the judge or justice finds there is probable cause for such seizure, he or she shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. The petitioner shall have the burden at such hearing to prove the dog is a "dangerous dog" by clear and convincing evidence. If satisfied that the dog is a dangerous dog, the judge or justice may issue an order to any dog control officer, peace officer, acting pursuant to his or her special duties, or police officer directing such officer to immediately seize such dog and hold the same pending adequate proof satisfactory to the court of compliance with any other order of the court pursuant to this subdivision or subdivision three of this section, and further shall [then] order neutering or spaying of the dog, microchipping of the dog and one or more of the following as deemed appropriate under the circumstances and as deemed necessary for the protection of the public:

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.

10. Increasing the Penalty in Multiple Arrests for Driving Without a License
(VTL § 511(1)(b), (c); § 511(2)(a)(i); § 511(3)(a)(v) [new])

The Committee recommends this measure to amend the Vehicle and Traffic Law to increase the penalty for multiple arrests for driving without a license. Given the high levels of recidivism among unlicensed drivers - nearly 1 in 4 convictions for revoked licenses are repeat offenders - and the threat that such drivers pose to highway safety, the Committee feels this legislation is a step toward deterring repeat offenders. (*See* New York State Department of Motor Vehicles Institute for Traffic Safety Management and Research (ITSMR), 2016 Data)

This legislation would increase the maximum term of imprisonment from 30 days to 90 days for: 1) aggravated unlicensed operation of a motor vehicle in the third degree; and 2) aggravated unlicensed operation of a motor vehicle with a gross weight of more than 18,000 pounds.

In addition, this proposal increases the length of time between incidents of driving without a license that elevate the offense from a third-degree offense to a second-degree offense. Under current law, when an individual commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree, and he or she has previously been convicted of the same offense in the immediately preceding 18 months, he or she is then charged with aggravated unlicensed operation of a motor vehicle in the second degree. Under this proposal, the current 18-month period is increased to 2 years.

Lastly, this proposal creates a new subparagraph providing that, if an individual commits the offense of aggravated unlicensed operation of a motor vehicle in the second degree, and he or she has previously been convicted of the same offense in the immediately preceding 5 years, then he or she is charged with aggravated unlicensed operation of a motor vehicle in the first degree.

Proposal

AN ACT to amend the vehicle and traffic law, in relation to aggravated unlicensed operation of a motor vehicle

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision (1) of section 511 of the vehicle and traffic law is amended to read as follows:

(b) Aggravated unlicensed operation of a motor vehicle in the third degree is a misdemeanor. When a person is convicted of this offense, the sentence of the court must be: (i) a fine of not less than two hundred dollars nor more than five hundred dollars; or (ii) a term of imprisonment of not more than [thirty] ninety days; or (iii) both such fine and imprisonment.

§ 2. Paragraph (c) of subdivision (1) of section 511 of the vehicle and traffic law is amended to read as follows:

(c) When a person is convicted of this offense with respect to the operation of a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds, the sentence of the court must be: (i) a fine of not less than five hundred dollars nor more than fifteen hundred dollars; or (ii) a term of imprisonment of not more than [thirty] ninety days; or (iii) both such fine and imprisonment.

§ 3. Subparagraph (i) of paragraph (a) of subdivision (2) of section 511 of the vehicle and traffic law is amended to read as follows:

(i) has previously been convicted of an offense that consists of or includes the elements comprising the offense committed within the immediately preceding [eighteen months] two years;

§ 4. Paragraph (a) of subdivision (3) of section 511 of the vehicle and traffic law is amended by adding a new subparagraph (v) to read as follows:

(v) commits the offense of aggravated unlicensed operation of a motor vehicle in the second degree as provided in subparagraph (i), (ii), (iii) or (iv) of this paragraph and has previously been convicted of the offense of aggravated unlicensed operation of a motor vehicle in the second degree under subparagraph (i), (ii), (iii) or (iv) within the immediately preceding five years.

§ 5. This act shall take effect immediately and apply to offenses that occur on or after the effective date.

11. Increasing the Permissible Term of Imprisonment of a "Split Sentence" (Penal Law §60.01(2)(d))

This measure, included as part of our program in the past, has been revised to target a specific problem related to misdemeanor domestic violence offenses, and misdemeanor drug offenses that do not qualify for drug court. This legislation would authorize an increase in the maximum jail sentence – from 60 days to 90 days – that may be imposed for misdemeanor drug convictions and misdemeanor domestic violence convictions where there is a concurrent sentence of jail plus probation or conditions, i.e., a "split sentence." Penal Law 60.01(2)(d) authorizes a court to impose a split sentence of up to a maximum of 60 days in jail for a misdemeanor, along with a term of probation, which together cannot exceed the authorized term of probation as set forth in Penal Law § 65.00(3). See People v Zephrin, 14 NY3d 296, 299-300 (2010).

The "split sentence" option of Penal Law § 60.01(2)(d) provides for an important sentencing alternative in those cases where neither a "straight" jail term nor a supervisory sentence is considered appropriate by itself. Unfortunately, however, there are many cases where the judge at sentencing or the prosecutor during plea negotiations may feel constrained to reject the "split sentence" in favor of straight imprisonment because they are uncomfortable with sentencing the defendant to only 60 days in jail. This works to deprive many defendants, especially in drug treatment and other specialty courts, of the beneficial rehabilitative options available through probation. Similarly, in the case of domestic violence, rejection of the "split sentence" deprives victims of the protection of a "cooling off period" from their abuser. This is critical from the "trigger date," *i.e*. the court appearance, in which an abuser is at the highest risk for retaliation and needs court supervision the most. The Committee believes that "split sentences" would be utilized more widely if judges had the discretion to impose a jail term of up to 90 days as part of the overall split sentence, and that fewer prosecutors would insist on long sentences of straight jail time if there was an option of combining probation with a jail term of 90 days instead of only 60 days. In the Committee's view, sentencing a defendant with underlying problems like drug addiction and domestic violence to a split sentence of 90 days plus probation generally produces better results than sentencing the defendant to a longer term of straight jail time without the benefits and rehabilitative options available through probation.

In order to effectuate the foregoing goals, this measure would amend Penal Law

§ 60.01(2)(d) to increase, from 60 days to 90 days, the maximum period of incarceration that may be served in conjunction with a sentence of probation or conditional discharge for certain Class A misdemeanors.

Proposal

AN ACT to amend the penal law, in relation to revocable sentences of probation or conditional discharge and imprisonment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (d) of subdivision 2 of section 60.01 of the penal law is amended to read as follows:

(d) In any case where the court imposes a sentence of imprisonment not in excess of sixty days[,] for a misdemeanor, except not in excess of ninety days for assault in the third degree as defined by section 120.00 of this chapter, menacing in the second degree as defined by section 120.14 of this chapter, stalking in the third degree as defined by section 120.50 of this chapter, criminal obstruction of breathing or blood circulation as defined by section 121.11 of this chapter, sexual misconduct as defined by section 130.20 of this chapter, forcible touching as defined by section 130.52 of this chapter, sexual abuse in the second degree as defined by section 130.60 of this chapter, criminal contempt in the second degree as defined by section 215.50 of this chapter, criminal possession of a controlled substance in the seventh degree as defined by section 220.03 of this chapter, criminally possessing a hypodermic instrument as defined by section 240.45 of this chapter, criminally using drug paraphernalia in the second degree as defined by section 220.50 of this chapter and criminal possession of methamphetamine manufacturing material in the second degree as defined by section 220.70 of this chapter, or not in excess of six months for a felony or in the case of a sentence of intermittent imprisonment not in excess of four months, it may also impose a sentence of probation or conditional discharge provided that the term of probation or conditional discharge together with the term of imprisonment shall not exceed the term of probation or conditional discharge authorized by

article sixty-five of this chapter. The sentence of imprisonment shall be a condition of and run concurrently with the sentence of probation or conditional discharge.

§2. This act shall take effect on the first day of November next succeeding the date on which it shall become a law and shall apply only to offenses committed on or after such effective date.

IV. FUTURE MATTERS

As always, the Committee welcomes and stands ready to review ideas and suggestions proposed by judges, court employees, practitioners, bar associations and members of the public concerning all issues relating to the jurisdiction and operations of the Local Courts across New York State. In 2020, the Committee looks forward to contributing its knowledge and expertise on issues of significance to the local courts. Additionally, the Committee will continue to confer with the Chief Administrative Judge's other Advisory Committees whenever they may have a corresponding interest in issues relating to the jurisdiction and operations of the local courts, including ongoing efforts to ensure the presence of counsel at after-hours and weekend arraignments.

Respectfully submitted,

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