

SULLIVAN COUNTY CAP PLAN



I. OVERVIEW

This document outlines a centralized arraignment part plan for Sullivan County, New York. This is a draft plan subject to review and revision upon consultation with relevant stakeholders, including the Town and Village Courts of Sullivan County, the Sullivan County Magistrate’s Association, the Sullivan County Legal Aid Panel and Conflict Panel, the Sullivan County Assigned Counsel Administrator, the Sullivan County District Attorney, the local police agencies listed in Appendix B, including the Sullivan County Sheriff and New York State Police, Troop F.

A. Geography and Demographics

Sullivan County is located in the southeastern portion of New York State, but northwest of New York City. It shares a border with Pennsylvania along the Delaware River. Sullivan County comprises an area of approximately 997 square miles and according to the 2020 census has a population of 78,624 people. In 2023 the median household income was \$68,063.

B. Courts

Sullivan County has fifteen (15) Town Courts and three (3) village courts, a full list of which are in Appendix A.

The Lawrence H. Cooke Sullivan County Courthouse is located at 414 Broadway, Monticello, New York 12701.

C. Police Agencies

Sullivan County is served by a number of law enforcement agencies. These include the New York State Police (Troop “F”), the Sullivan County Sheriff’s Office, and four local agencies comprised of the Fallsburg Town Police Department, the Liberty Village Police

Department, the Monticello Village Police Department, and the Woodridge Village Police Department. The New York City Department of Environmental Protection also operates in the area around reservoirs which provide drinking water to the City of New York.

A list of these agencies and their addresses is in Appendix B.

D. Facility and Location

Primary CAP Facility: Sullivan County Jail / Sheriff’s Law Enforcement Center located at 58 Old Route 17, Monticello, New York 12701.

Courtroom Setup: CAP courtroom and surrounding areas will have a judge’s bench, public seating (capacity for around 20 persons), separate holding cells, attorney–client private consultation areas and public entry through a magnetometer. A digital recorder system and necessary computer equipment will be provided by the Third Judicial District.

Public Access: Courtroom open during CAP sessions, with Sheriff’s deputies staffing magnetometer and ensuring security.

E. Hours of Operation

Daily Sessions: Two arraignment sessions held every day as needed, including weekends and holidays:

Morning Session: 7:00 a.m. – 9:00 a.m.

Evening Session: 7:00 p.m. – 9:00 p.m.

F. Participating Agencies

The following law enforcement agencies will participate in the Sullivan County CAP through formal Memoranda of Agreement (MOAs):

- Sullivan County Sheriff’s Office
- New York State Police – Troop F (Liberty, Narrowsburg, Roscoe, Wurtsboro barracks)
- Fallsburg Town Police Department
- Liberty Village Police Department
- Monticello Village Police Department
- Woodridge Village Police Department
- New York City Department of Environmental Protection

(Note: Town constable offices are excluded at this time, as they are not expected to make arrests for which prompt arraignments are necessary.)

G. Reasons for creating a centralized arraignment part in Sullivan County

- **Ensuring Counsel is present at first arraignment:**

The constitutional right to counsel for individuals facing criminal charges is protected in New York State under CPL §§170.10(3) and 180.10(3) and was reinforced by the Court of Appeals in *Hurrell-Harring v. State* (2010). New York’s Executive Law §832(4)(a) directed the Office of Indigent Legal Services (ILS) to ensure counsel at first appearance (CAFA). Sullivan County, like many rural counties, has historically relied on justices being called at all hours to conduct arraignments, often without defense counsel present. A CAP will resolve these issues by centralizing arraignments at fixed times with guaranteed coverage from defense attorneys.

- **Enabling more efficient utilization of police forces:**

A CAP will also allow for more efficient use of police forces by limiting the amount of time an officer has to hold a defendant in custody following an arrest. Under current procedures, when an arrest is made for an offense requiring immediate arraignment, the arresting officer must locate a judge to conduct the arraignment. Once a judge is located, the court must also wait for an attorney to be present to represent the defendant. A CAP court will allow the defendant to be held at the Sullivan County Jail pending arraignment at the next scheduled session. Once the defendant is secured in the Sullivan County Jail, the officer may return to patrol, with assurance that a judge and attorney will be present at the next scheduled CAP session.

II. THE CENTRALIZED ARRAIGNMENT PART PLAN

A. The Proposed Sullivan County Centralized Arraignment Plan:

The following constitutes the proposed permanent plan for Sullivan County to operate a centralized arraignment part for custodial arrests, at which counsel will be provided to defendants at all after-hours, weekend and holiday arraignments.

- Persons subject to custodial arrests include any of those for which appearance tickets may not, or need not, be issued under CPL § 150.20.

- The CAP procedure will also apply to appearances for warrants returnable to a local criminal court as contemplated by CPL §410.40 (2), including bench and arrest warrants). This CAP will not apply to arraignments pertaining to Adolescent Offenders or Juvenile Offenders as contemplated by CPL Article 722.

B. Hours of Arraignment

There will be two designated Sullivan County CAP sessions per day that will convene as needed every day, including weekends and holidays, to conduct local criminal court custodial arraignments.

C. Designated CAP Sessions:

The morning session will commence at 7:00 a.m. and continue until 9:00 a.m. The evening session will commence at 7:00 p.m. and continue until 9:00 p.m. The CAP may adjourn if all arraignments are completed prior to the end of the session. However, if any defendant is ready to be arraigned prior to 9:00 a.m. or 9:00 p.m. the CAP will be reconvened, and the on-call judge and on-call attorney will return to the CAP for the arraignment. “Ready to be arraigned” shall mean that all requirements have been met for the arraignment, and that counsel, the Defendant and other necessary parties will be present and ready to proceed 30 minutes prior to the conclusion of the particular cap session.

D. Altering the Hours of Designated CAP Sessions:

The hours of CAP sessions may be changed or altered:

- upon the agreement by the Sullivan County Sheriff, the President of the Sullivan County Magistrates Association, the Sullivan County Legal Aid and Conflict Panels, the Sullivan County Assigned Counsel Administrator, the Sullivan County District Attorney, and the Administrative Judge of the New York State Third Judicial District; and
- provided that the CAP will be available to convene at least once every twelve hours and for a duration of at least two hours each time it convenes.

E. Judges Presiding at the CAP:

The local criminal court judges from the Town and Village Courts in Sullivan County will preside over CAP Court arraignments. The on-call judge will be

responsible for presiding over any arraignments during that judge's designated CAP session for defendants arrested anywhere in the county. The on-call judge must be notified of the need for an arraignment.

1. On-call Rotation:

- Judges will be assigned designated CAP Sessions according to a pre-determined on-call rotation schedule developed by the Sullivan County Magistrates Association and approved by the Administrative Judge of the New York State Third Judicial District. The Magistrate's Association will provide the first schedule to the Administrative Judge for pre-approval and will thereafter provide a copy to the Judge of all subsequent schedules. The schedule will be made monthly, at least 30 days in advance of the first day of the month covered by the schedule.

2. Back-up Judges

- In the event that the scheduled on-call judge has a conflict of interest in conducting the arraignment or is unexpectedly unavailable to preside during the scheduled session, the on-call judge will contact the back-up judge from the on-call rotation schedule provided by the Sullivan County Magistrates' Association.

3. Compensation for Judges

- Compensation will be paid in accordance with the Rules of the Chief Administrative Judge Section 126.3 Off-Hours Arraignment Parts; as of December 28, 2023, that rule provides as follows:

Each judge or justice of a city, town or village court temporarily assigned to an off-hours arraignment part established by the Chief Administrator pursuant to Judiciary Law § 212(1)(w) shall receive \$400 per day, or \$200 per half-day, for each day or half-day period of service during which such judge or justice performs one or more judicial functions in the off-hours part. Where an assignment requires a participating judge or justice to remain available on-call for service in an off-hours arraignment part, there shall be no compensation for any day or half-day period of service that does not include at least one in-court judicial function. No state-paid judge may receive compensation under this Part for service in an off-hours

arraignment part in lieu of regularly scheduled service in a state paid court without the approval of the Chief Administrator.

4. Appearance of Defense Attorneys

- The appearance of defense counsel is constitutionally mandated, and the on-call attorney must be notified of the need for an arraignment. Absent exceptional circumstances, a person shall not be arraigned in a CAP Court without defense counsel present. Should the requirements of CPL § 182 be met, defense counsel may make an electronic appearance.

5. On-Call Attorney Schedule

- Attorneys will be assigned designated CAP Sessions according to a pre-determined on-call schedule, created and approved by the Sullivan County Assigned Counsel Administrator.

6. Back-up Attorneys

- In the event that the scheduled on-call defense counsel has a conflict of interest or is unexpectedly unavailable to appear during the scheduled session, the on-call attorney will contact a substitute attorney from an Attorney Emergency Call List provided by the Sullivan County Assigned Counsel Administrator, consistent with the policies of said Administrator.

7. Appearance of the District Attorney

- The People's appearance will be at the discretion of the District Attorney. The Sullivan County District Attorney's Office must be notified of the need for an arraignment (see below, "Notification of Need for Arraignment").

8. Arresting Agencies

Following an arrest, the arresting agency will adhere to the following requirements:

- The arresting agency will enter fingerprint information using the ORI number of the court that has original jurisdiction of the offense. The Sullivan County CAP will not have a designated ORI Number.
- Upon arriving at the Sullivan County Jail, jail staff will secure the detainee in accordance with the protocols developed and circulated by the Sullivan County Sheriff’s Office for pre-arraignment detention.
- Fingerprint-Based RAP Sheet and Materials for Arraignment. The arresting agency must leave with the Sheriff everything necessary for an arraignment including but not limited to:
 - (1) two hard copies each of the accusatory instruments, any supporting depositions, information needed for an order of protection, any summary of the basis for a warrant, a declaration of delinquency or violation of probation petition;
 - (2) two hard copies of the fingerprint-based RAP sheet pursuant to CPL §160.40 or in the extraordinary case when a fingerprint-based rap sheet is not available, two copies of the DCJS Repository inquiry-based RAP;
 - (3) a writing that embodies the District Attorney’s recommendation regarding monetary bail and/or Pre-Trial Service Conditions for applicable charges, unless the District Attorney tells the arresting officer that a representative will appear in-person at the next CAP court session.

The Administrative Judge for the 3rd Judicial District may periodically update the above list and protocols to ensure the smooth execution of CAP arraignments.

F. Location of the CAP Court

The CAP Court will be located in the Sullivan County Jail / Sheriff’s Law Enforcement Center located at 58 Old Route 17, Monticello, New York 12701.

- (a) **Public Access.** When in session, the Sullivan County CAP will be open to the public and is wheelchair accessible. All persons will be required to

pass through the magnetometer located at the entrance to the building and submit to screening. A public restroom will be available.

(b) Attorney/Client Meeting Room: A meeting room, with a door that can be closed is located adjacent to the CAP courtroom. The room will contain furniture necessary to accommodate attorney client meetings including a table and chairs.

(c) Courtroom Furniture, Equipment, and Inventory / Alternate Room Use: The CAP Courtroom will be furnished with the following equipment, supplies and inventory described herein, which will be secured in a locked cabinet or room, when not in session. To the extent practicable, the furniture, such as the bench, will be moveable so that the room may be cleared to allow for multi-purposed use as directed and authorized by the Sullivan County Sheriff. Such use may include, but not be limited to meetings, training, and other activities involving the public.

G. Provision of equipment and supplies

The State of New York, Office of Court Administration, is requested to provide and maintain the following in the CAP Courtroom:

1. A laptop computer equipped with such up-to-date software, equipment, and systems necessary to ensure the smooth and efficient function of a proper courtroom. At this time of the formation of the CAP in Sullivan County, it is requested that these include the SEI Courtroom program, Liberty recording software and SharePoint Data Base System. The laptop will also have access to Web DVS for the electronic filing of Orders of Protection.
2. A microphone or microphones compatible with the recording software and computer sufficient to record the court proceedings.
3. A scanner and stand-alone printer.
4. A lockable cabinet to store the CAP Court's equipment and supplies when not in session. The printer will be set on top of the cabinet, or another suitable stand, when not in session.
5. A chair for the on-call judge and a bench that can be moved if necessary.

6. Access to an interpreter service such as Language Line for non-English speaking defendants.

The Sullivan County Magistrates' Association shall provide the CAP Court with:

- An inventory of supplies sufficient for the operation of the CAP Court such as two extra robes (a large and a medium) to be kept at the CAP Courtroom, forms, copy paper, toner, pens, pencils, stapler and staples, staple remover, paperclips, scissors, rubber-bands, arraignment logbook, envelopes, stamps or postage meter, etc. Such inventory will be monitored and maintained by the Magistrate's Association in conjunction with the Office of the Administrative Judge of the New York State Third Judicial District; and

Sullivan County will provide the following:

1. Flags in the courtroom;
2. Labor and materials to ensure that the bench and the judges' lockable Cabinet, and other equipment or furniture designated for the purpose of carrying out arraignments at the CAP Court (such as the defense attorneys' lockable cabinet) can be safely moved and stored to accommodate other uses of the room that will also be used as the CAP Courtroom;
3. A telephone with speaker accessible from the bench.
4. Internet access.
5. Seating for the defendant, defense attorney, District Attorney, and any visitors.
6. A private room for defense attorneys to meet with clients with a desk and chair for the attorney, a chair for the client.

H. Security

There shall be at least two deputies present for arraignment: an officer in charge of the arrestee and second officer in charge of screening guests who wish to attend the court proceeding and otherwise provide support in the courtroom.

- Weapons and items defined as prison contraband by the penal law will not be permitted in the courtroom.
- The CAP courtroom has secure doors and no windows or access except through a monitored access area.
- A plan for Emergency Egress (Flight path) will be established, distributed to the Magistrates Association, the 18-B Administrator and the District Attorney, and will be posted in the CAP courtroom.

I. Arraignments that May Occur Outside of the Designated CAP Courtroom

If an arraignment is required during a time when a local criminal court is conducting a regularly scheduled session, the arresting agency may take the arrestee to the court in session, and the presiding judge may conduct the arraignment if:

- (a) the matter is one over which the court in session would have original or alternate jurisdiction pursuant to CPL §§120.90 and 140.20; and (b) defense counsel is available at the court in session.

J. Pre-Arrestion Detention

Process of arrest and holding:

- When a law enforcement agency has arrested a person requiring arraignment, that person will be processed and, where applicable, fingerprinted by the arresting agency and then transported to the Sullivan County Jail to await arraignment at the next scheduled CAP session.
- Subject to circumstances outlined in the MOU, once turned over to the custody of the Sheriff, the arrestee shall become the responsibility of the Sheriff, and the arresting officers may return to normal duty. The Sullivan County Sheriff reserves the right to turn away the arrestee whom the Sheriff determines needs medical attention, (see MOU between pertinent law enforcement agencies attached hereto.)
- Arrestees brought to the Sullivan County Correctional Facility' for pre-arrestion detention will be secured separate from the general population of the jail and will be arraigned at the next available CAP Session.

Confirmation of Arraignments

At the time of admission of an arrestee to the Sheriff's custody for the purpose of awaiting arraignment, the arresting officer will notify the next scheduled CAP judge of the need for an arraignment. The officer will provide the scheduled CAP judge with the following information:

- Defendant's name
- Location of arrest / court of jurisdiction
- All Charges
- Whether an Order of protection is anticipated
- Name of victims and/or co-defendants, if known
- Monetary Bail and/or Pre-Trial Service Condition recommendations, if known

Notification of Need for Arraignment

Using contact lists provided and updated as necessary by the Sheriff, the County Court Judge, the President of the Magistrates Association, the Assigned Counsel Administrator and the District Attorney, the following notification process will be used:

1. As soon as a need for an arraignment is known, the arresting agency, will send a global email notification to a "CAP ARRAIGNMENT NOTIFICATION" email group consisting of essential participants, including the Sullivan County Sheriff, the judges participating in the CAP, the Sullivan County Assigned Counsel Administrator and the Sullivan County District Attorney.
2. The arresting agency will also call the following parties to notify of the need for an arraignment:
 - a. The scheduled CAP Judge;
 - b. The on-call defense attorney; and
 - c. The District Attorney, or the on-call attorney designated by the District Attorney.

Arraignment Procedures

Statutory Requirements

Arraignment of a defendant at the CAP shall be conducted pursuant to CPL §170.15(1) and CPL §180.20(1), commonly known as an “alternate arraignment.” According to DCJS policy, a hardcopy of either form of criminal history report (fingerprint based or, in extraordinary circumstances where fingerprints are not available, name search based) should be provided to defense counsel or, to the defendant themselves if they are unrepresented. There is no requirement that the report be returned to the court at the conclusion of the arraignment.

Transfer of Arraignment Documents

After the arraignments have been concluded, the CAP judge will scan and email copies of the arraignment documents to the court of original jurisdiction, and pre-trial services if applicable. Such documents include copies of the charges (accusatory instruments), supporting depositions, arraignment memorandum, order of protection, securing order, Parker admonishment, etc. The RAP sheet will be transferred by secure email. The on-call judge will keep the charging and arraignment documents for his/her records. On-call judges will maintain an arraignment log to keep a record of the arraignments that are conducted by each judge.

1. The arraigning judge will be responsible for the transmittal of any order of protection to the arresting agency.
2. As an alternative to email, the documents listed in section (b), above, may be transferred via a secure “Sharepoint” site, at such time when a site is developed and ready for use.

Collection of Bail

If the on-call judge secures the defendant's appearance upon payment of bail, then the Sullivan County Sheriff's Office will collect the bail and transfer the bail to the court of original jurisdiction. The CAP Court will not collect monetary bail.

Orders of Protection

If the on-call judge issues an order of protection, he or she will immediately timely enter it into the WebDVS system.

Plea of Guilty

A defendant may enter a plea of “guilty” at arraignment. While not common, the following steps will guide the Court in handling such pleas.

1. **Payment of Fines and Surcharges -** While infrequent, guilty pleas are sometimes entered at the time of the arraignment. The creation of a CAP Court is not intended to change this procedure, but in the rare event that a guilty plea does occur, the CAP Judge may issue an appropriate sentence, which may include a fine and mandatory surcharge. The defendant shall be provided with a Notice of Fine and Surcharge for the defendant to pay the fine and surcharge to the court of the arraigning judge who obtains final jurisdiction of the matter by virtue of the guilty plea. The Notice shall provide a reasonable period to make the payment. The CAP Court Judge will comply with the requirements of the Justice Court Fund Principles for the collection, recording and accounting for any fines, surcharges and/or fees collected from defendants.
2. **Other Procedures Upon Entry of a Guilty Plea at Arraignment -**
 - a. If a pre-sentence investigation (PSI) is required, one should be ordered, and sentencing adjourned to allow its completion.
 - b. If no PSI is required, the judge may sentence in accordance with the statute and issue a fine/surcharge notice, providing the defendant with a reasonable period to pay.
 - c. If DNA collection is required, an appropriate order will be issued.
 - d. The arraigning judge shall also notify- the court of original jurisdiction of the disposition, so that the court can properly transfer its records and dispose of the filing on its CDR or TSLED docket.

Release on 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 geographic jurisdiction. The arraigning CAP judge will consult the schedule chart for the court of original jurisdiction to determine when that court is in session and will set the next appearance date accordingly.
- If necessary, the defendant will be permitted to make a call, free of charge, to obtain a ride or transportation from the CAP court. The defendant will be allowed to stay in a waiting area of the Sullivan County Correctional Facility while awaiting transportation.

III. ONGOING REVIEW AND IMPROVEMENT

A. Ongoing consultation and communication

- To address unanticipated issues, a stakeholders' meeting will be held approximately 30 days after implementation of this plan in order to address concerns and resolve any complications.
- Meetings will continue to be held among stakeholders not more than every 90 days thereafter until such time, by agreement of stakeholders, that such meetings are no longer necessary.