

October 2017 - The Structural Changes of Success

1) They said it couldn't be done: ensuring counsel at arraignment in Washington county

The Post-Star, a regional newspaper in Washington County, published a June 27, 2017 article entitled “*Public defenders make it to arraignments in Washington County*” which describes Washington County’s counsel at arraignment program.¹ The article began by noting that “[i]n almost every criminal case in Washington County this year, newly arrested people have not had to face arraignment on their own. When asked if they will plead guilty, they have had public defenders at their side.” The article went on to contrast this to what used to happen prior to implementation of the County’s counsel at arraignment programs, stating: “It’s a big change from years past, when public defenders were typically assigned after arraignment.”

The data from Washington County illuminates the dramatic change in Washington County’s arraignment practice. According to data the Washington County Public Defender office sent ILS, between November 1, 2016 and June 30, 2017, the Public Defender’s Office covered 1,417 arraignments. This means that 1,417 people had an attorney standing at their side during their first court appearance who, if they had been arrested a year earlier, likely would have been on their own.

What is impressive about this is that many of these arraignments occurred off-hour – i.e., outside of a regular court session. Covering these off-hour arraignments is no small feat given the fact that Washington County is a relatively large, rural county. One assistant Public Defender told ILS that she travelled over 500 miles during one weekend alone to ensure that people were represented at their first court appearance. Moreover, the Public Defender Office was met with a great deal of skepticism when they initiated their arraignment program, with many judges opining that “it can’t be done.” But the Public Defender Office attorneys persisted. Under Public Defender Michael Mercure’s leadership and with the cooperation of local magistrates and law enforcement, it was done.

2) The Suffolk County Legal Aid Society: twenty-three newly hired, well-trained lawyers

Using a combination of quality and caseload relief funding, the Suffolk County Legal Aid Society (SCLAS) has hired twenty-three new lawyers. But while newly hired attorneys formerly did not have an opportunity for any formalized training upon starting their employment with SCLAS, this group of new hires will not start representing clients until first participating in a comprehensive training program coordinated by Kent Moston, Sab Caponi, Bryan Browns, and Joe King, and then conducting court observations and shadowing more experienced attorneys. To facilitate group discussion and more in-depth conversations, the SCLAS has divided the class of new lawyers into three groups: 1) the “advance team” of four lawyers who started on August 1, 2017 and finished the formal training program in September 2017; 2) a group of 9 recent law school graduates who started their formal training in early September 2017 and are targeted to finish in mid-

¹ A link to this article can be found at: http://poststar.com/news/local/public-defenders-making-it-to-arraignments-in-washington-county/article_87f6d843-ff6f-5cb3-9330-db4a6f299743.html.

October 2017; and 3) another group of 10 recent law school graduates who are training at the same time, but in a different location. Training topics include: substantive and procedural criminal law; defense strategies; the “lay of the land” (local court practices); practice, trial, and advocacy skills; social work aspect of criminal defense practice; investigations; and collateral consequences, including the immigration consequences of a conviction.

The SCLAS trainers report that these newly hired attorneys are eager and committed to getting the most out of this training opportunity. Below is a picture of one of the training groups:



3) Ontario County: promoting a culture of collaboration among panel attorneys

The *Hurrell-Harring* Settlement has made funding available to the Ontario County Assigned Counsel Program (ACP) for a mentor attorney, Robert Zimmerman. Mr. Zimmerman has practiced in the region for years, and is widely regarded as a high-quality, committed criminal defense attorney. He and Andrea Schoeneman have been conducting monthly meetings with the panel attorneys to not only brainstorm but also discuss new initiatives in the county and to review recent trials. For example, in March 2017, an ACP attorney received an acquittal in a Rape 2nd trial. This trial involved not only a second chair attorney but extensive investigation. At the following monthly meeting, the panel attorneys met to discuss the case and learn about the strategies the attorneys and investigator used to secure the acquittal. At another meeting, Ms. Schoeneman invited Jeffrey S. Rougeux, the Director of Ontario County Probation, to attend and inform attorneys about a new county initiative to more effectively use community-based treatment as an alternative to incarceration.

Panel attorneys have told ILS that they value these monthly meetings as an opportunity to work more collaboratively with other panel attorneys and as a forum for brainstorming and thinking about their cases more creatively. They also value having Mr. Zimmerman available to them as a resource.