

Criminal Justice & Public Safety
Warren County Assigned Counsel

AGENDA

June 21, 2022

Committee Members: GERACI, Braymer, Seeber, Dickinson, Driscoll, McDevitt and Diamond

- I. Committee meeting called to order by Chairman
- II. Motion to approve minutes of prior committee meeting
- III. Action Agenda/New Business
 1. **Request: Enter into a Memorandum of Understanding with Saratoga, Albany and Schenectady counties on an Assigned Counsel Panel collaborative.**

Rationale: This will allow four counties to pool resources for CLEs, resource attorneys and some panel membership and recruitment activities.

Referral/Pending Items: None

- IV. Information for Discussion/Review:
- V. Privilege of the Floor to discuss any additional items to come before the Committee. Please allow fifteen second delay on live stream meetings.
- VI. Motion to adjourn

Attachments

- #1 Resolution Request Form #20**
- #2 Albany County Resolution (Example)**
- #3 Albany County Memorandum of Understanding (Example)**
- #4 Albany County Letter of Support for MOU (Example)**

RESOLUTION REQUEST FORM NO. 20

MISCELLANEOUS

****Please List All Other Requests Not Covered by Previous Resolution Request Forms Here.
Please attach any backup information available and be as detailed as possible.***

DEPARTMENT NAME: Assigned Counsel

DATE: 6/21/2022

- (a) Purpose of Request: **Enter into a Memorandum of Understanding for Collaborative Assigned Counsel Panel Services with Albany, Saratoga and Schenectady Counties.**
- (b) Details: **Please see Agenda attachment #3 as an example**
- (c) Previous Resolution Number: **None**
- (d) Where are the Funds (if required)? List Budget Code, Object Code, Full Title* and Amount: **A. 1170 437 Consulting Fees and A. 1170 440 Legal/Transcript Fees.**

Sample: A.8021 470 Planning & Community Development – Contract

* as listed in budget and LOGOS

RESOLUTION NO. 119

AUTHORIZING AN INTERMUNICIPAL AGREEMENT REGARDING
REGIONAL ASSIGNED COUNSEL PROGRAM COLLABORATION

Introduced: 4/11/22

By Law Committee:

WHEREAS, The Administrator of the Assigned Counsel Program has requested authorization to enter into an intermunicipal agreement regarding regional assigned counsel program collaboration for the term commencing April 1, 2022 and ending April 1, 2024, and

WHEREAS, The Administrator has indicated that the aforementioned agreement would allow the Assigned Counsel Program to partner with the Saratoga, Schenectady, and Warren County Assigned Counsel Programs in providing training and developmental resource programs to assigned counsel program attorneys, now, therefore, be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an intermunicipal agreement regarding regional assigned counsel program collaboration for the term commencing April 1, 2022 and ending April 1, 2024, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote - 4/11/22

State of New York
County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 11th day of April, 2022, a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.



IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 13th day of April, 2022.

Nezelle Chambers
Clerk, Albany County Legislature

MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN
THE COUNTY OF ALBANY, THE COUNTY OF SARATOGA,
THE COUNTY OF SCHENECTADY, AND THE COUNTY OF WARREN
ESTABLISHING PARAMETERS FOR ASSIGNED COUNSEL PROGRAM COLLABORATION IN
IMPROVING INDIGENT DEFENSE SERVICES IN THE CAPITAL REGION

This Memorandum of Understanding (“MOU”), made as of this _____ of 2022, by and between the **County of Albany**, having its principal office located at 112 State Street, Albany, New York 12207 (hereinafter “Albany”), the **County of Saratoga**, having its principal office at 40 McMaster Street, Ballston Spa, New York 12020 (hereinafter “Saratoga”), and the **County of Schenectady**, having its principal office located at 620 State Street, Schenectady, New York 12305 (hereinafter “Schenectady”), and the **County of Warren**, having its principal office located at 1340 State Route 9 Lake George, NY 12845. Albany, Saratoga, and Schenectady may be referred to individually as a “[P]arty,” and collectively as the “[p]arties” as appropriate.

WHEREAS, the right of individuals to have competent, effective representation in criminal prosecutions and certain family court proceedings has long been established in the State of New York; and

WHEREAS, the responsibility for providing the necessary resources to provide these services has traditionally been left as a responsibility of County governments in the State of New York; and

WHEREAS, the State of New York, through the New York State Office of Indigent Legal Services (“ILS”), has agreed to provide significant grant resources to local governments in order to improve the quality of indigent defense statewide (hereinafter the “ILS Funding”), and

WHEREAS, the Parties have each signed a separate Agreement with the State of New York in which they receive financial support to improve indigent defense services while meeting specific programmatic and financial benchmarks; and

WHEREAS, each of the Parties possesses an Assigned Counsel Program, which is required under to provide such programs to their attorneys via the ILS Funding; and

WHEREAS, the Parties’ Assigned Counsel Programs wish to collaborate with one another on various training, education, and resource programs on an as-needed basis,

Therefore, it is agreed by the parties signing below that:

I. The above-mentioned county Assigned Counsel Programs shall collaborate to provide training programs, continued legal education (CLE) programs, and resource programs to the panel members of each County’s Assigned Counsel Program.

II. That, upon the execution of an Amendment to this Memorandum of Understanding, other assigned counsel programs throughout the Capitol Region may join this collaboration.

III. That this collaboration will be dedicated solely to the provision of attorney training programs, continued legal education programs, and resource programs and shall only utilize funds allocated by their respective budgets for these purposes.

IV. That the Parties, by mutual agreement, agree to allocate either financial resources or equivalent services to provide these programs to fulfill their grant responsibilities for ILS Funding. Programs employed in the pursuit of this objective would incorporate this MOU by reference, and be subject to the normal fiscal processes required by their respective State and County budgetary processes.

IN WITNESS HEREOF, each of the Parties has duly signed this Memorandum of Understanding on the dates written below:

County of Albany Representative Date

County of Saratoga Representative Date

County of Schenectady Representative Date

County of Warren Representative Date

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.:

On the ____ day of _____, 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF _____) SS.:

On the ____ day of _____, 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC



DANIEL P. MCCOY
COUNTY EXECUTIVE

COUNTY OF ALBANY
ASSIGNED COUNSEL PROGRAM
COUNTY OFFICE BUILDING
112 STATE STREET, ROOM 820
ALBANY, NEW YORK 12207-2021
(518) 447-5681 - FAX (518) 447-5564
WWW.ALBANYCOUNTY.COM

THOMAS C. DEBOSE III
ASSIGNED COUNSEL PROGRAM ADMINISTRATOR

WILLIAM A. CARTER
SUPERVISING ATTORNEY

LARRY J. ROSEN
SENIOR ATTORNEY

Since 2018, Albany County has been the recipient of a significant amount of money from the New York State Office of Indigent Legal Services (NYS ILS) which is dedicated to the supplementation of the various County indigent defense providers ("Statewide"). These funds are conditioned upon the County providing programs designed to improve the representation of indigent defendants, such a Mentoring Programs for assigned counsel attorneys (so that the younger attorneys may learn from more experienced ones, MCLE trainings (to develop the assigned counsel attorneys substantive practice), and 2nd Chair Programs (to allow attorneys to draw upon additional support in cases where they may need it).

As is the case with all government programs, it is essential to find effective ways to make the resources provided stretch as far as they can go. To this end, the Assigned Counsel Program has been engaged in conversations with similarly situated programs in the Capital Region. As we are all required to establish the same types of programming for our attorneys, it makes sense for us to collaborate on these issues in the long term. By pooling our resources, the various programs will be able to provide more intensive training programs, as well as more of them. The impact of such a collaboration will be magnified due to the fact that many of our panel attorneys overlap from one county government to another.

My concerns relate to the structure of the collaboration. Each of the other assigned counsel programs are representatives of other municipal entities, and thus by our Charter, we need legislative authorization in order to collaborate with them. However, if we are successful in reducing the costs of each individual collaboration, the amount of money that the County will have to contribute in each program is likely to be significantly less than the bar for legislative approval (\$100,000).

Further, in circumstances like MCLE trainings, opportunities are very likely to spring up and dissipate very quickly, without the time and opportunity to get a full resolution through the legislature between the two . An example of this was our two MCLE “Lunch and Learns” where NYSDA gave hour trainings to the panels. From conception to launch, this process took less than a month. The fortunate circumstance in this example is that both of these MCLE trainings were offered to us for free. I don’t anticipate that the Program will be as fortunate for future trainings.

Drawing upon my experiences in the Law Department, I’ve been considering a solution not dissimilar from what the County utilizes in other contexts like the Stormwater Coalition or the Inter-municipal Shared Services Agreements. I propose a resolution that names and identifies the various assigned counsel programs and the counties that they represent, and allows for them to work together to collaborate on the objectives of this Statewide funding for indigent defense. The MOU would allow the programs to contract for services without further legislative approval, *so long as the agreements themselves were properly procured*. Thus, the Regional Collaboration could work together on a Contract that costs \$35,000, but would only have to secure approval from CAB, as opposed to the Legislature. A “bare bones” proposed MOU accompanies this letter.

I want to make sure that I’ve addressed any potential concerns from Law before placing this matter before the Legislature. Is it possible to have the County Attorney’s Office review and comment upon this proposed MOU before putting it before the Legislature? I’m happy to entertain any structural requests or adjustments that may be necessary.

With Respect,

Thomas C. DeBose III

Thomas C. DeBose III
Administrator
Albany County Assigned Counsel Program