

1 STATE OF NEW YORK

2 ORLEANS COUNTY LEGISLATURE

3 _____/
4
5 PUBLIC HEARING REGARDING

6
7 CREATION OF A DISTRICT COURT

8 IN ORLEANS COUNTY

9 _____/
10
11
12 HELD AT: Orleans County Legislative Chambers
13 14016 Route 31W,
14 Albion, New York 14411

15
16 DATE: Wednesday, July 19, 2023

17
18 TIME: 7:00 p.m. to 9:00 p.m.

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22
23 REPORTED BY: SUSAN M. RYCKMAN, CP,
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25 21 Woodcrest Avenue,
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PRESENT:

LYNNE M. JOHNSON, Chairman;
WILLIAM H. EICK, Vice Chairman;
MERLE DRAPER, Member;
JOHN FITZAK, Member;
EDWARD F. MORGAN, Member;
JOHN C. WELCH, JR., Budget Officer;
JOSEPH CARDONE, ESQ.,
Orleans County District Attorney;
JOANNE BEST, ESQ.,
Orleans County Public Defender;
JOSEPH FULLER, Committee Member,
Town of Albion Justice;
BRUCE SCHMIDT, ESQ., Committee Member.

<u>1</u>	<u>SPEAKERS:</u>	<u>PAGE</u>
2	JOSEPH CARDONE	9
3	JOANNE BEST	26
4	JOSEPH FULLER	41
5	BRUCE SCHMIDT	51
6	MIKE ZELAZNY	64
7	DENNIS YOUNG	66
8	SHERRY DAVENPORT	70
9	DEAN PULEO	73
10	DEB BERRY	77
11	DON NIPPER	79
12	MIKE ZELAZNY	80
13	STEVEN COLON	81
14	ED GRABOWSKI	81
15	JIM SIMON	84
16	DICK DeCARLO	86
17	JOE MARTILLOTTA	88
18	JOSEPH CARDONE	90
19	(Question and Answer:) DAVENPORT/CARDONE	92
20	YOUNG/CARDONE	96
21	JOSEPH FULLER	99
22	KELLY GREGORIE/CARDONE	101
23	JOANNE BEST	102
24	JOSEPH FULLER	105
25	CHAIRMAN JOHNSON	106

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1 CHAIRMAN JOHNSON: I would like to
2 call the information session to order, and
3 because there's so many here that we don't
4 know, I thought we could go around the room
5 and introduce ourselves before we start this
6 process.

7 If the woman in purple would start
8 here in the front, tell us your name, and
9 where you're from?

10 MS. PAUL: I'm Susan Paul, and I'm
11 from Albion.

12 MR. COLON: Steve Colon,
13 Lyndonville.

14 MR. JURINICH: Bill Jurinich,
15 Lyndonville.

16 MR. LAURICELLA: Paul Lauricella,
17 Lyndonville.

18 MS. LAURICELLA: Sandy Lauricella,
19 Lyndonville.

20 MR. PULEO: Dean Puleo, Office of
21 Court Administration.

22 MR. GRABER: I've got no voice.
23 Dennis, you do it.

24 MR. YOUNG: Dennis Young, New York
25 State Magistrates Association, President. And

1 Gary Graber, he is our legislative chairman,
2 and past judge in the Town of Darien.

3 MR. GRABOWSKI: Ed Grabowski, Town
4 of Shelby.

5 MS. KLUTH: Debbie Kluth, Town of
6 Kendall.

7 MR. KUJAWA: Joe Kujawa, Town of
8 Ridgeway.

9 MR. ROOT: Rick Root, Town of Barre.

10 MS. BERRY: Debbie Berry, Village of
11 Medina.

12 MR. BERRY: David Berry, Town of
13 Ridgeway.

14 MR. FISHER: Richard Fisher, Town of
15 Ridgeway.

16 MR. HURLEY: Kevin Hurley, Town of
17 Carlton.

18 MS. NIEHAUS: Kim Niehaus, Carlton.

19 MR. NIPPER: Don Nipper, Magistrate
20 in the Town of Palermo, Oswego County, and
21 Director for the New York State Magistrates
22 Association.

23 MR. GAUDIOSO: David Gaudioso, Town
24 of Kent.

25 MS. YOCKEL: Debbie Yockel, Town of

1 Carlton.
2 MS. SWAN: Margaret Swan, Town of
3 Barre.
4 MR. POGUE: Sean Pogue, Town of
5 Barre.
6 MR. MOY: Vick Moy, Town of
7 Clarendon.
8 MS. CORNICK: Denise Cornick,
9 Village of Albion.
10 MS. ALLPORT: Jaime Allport, Town of
11 Albion.
12 MS. WILLIAMS: Lynne Williams, Town
13 of Ridgeway.
14 MR. ASHBERY: Gayle Ashbery, Town of
15 Carlton.
16 MS. LEWIS: Sue Lewis, Holley.
17 MR. SNYDER: Mike Snyder, Albion.
18 MR. DeCARLO: Dick DeCarlo, Carlton.
19 MR. MARTILLOTTA: Joe Martillotta,
20 Albion.
21 MS. BENTLEY: Laura Bentley,
22 Carlton.
23 MR. KNAPP: David Knapp, Holley.
24 MR. RIGHTMYER: Gerry Rightmyer,
25 Town of Murray.

1 MR. ZELAZNY: Mike Zelazny, Town of
2 Shelby.

3 MS. ZELAZNY: Mary Zelazny, Town of
4 Shelby.

5 A SPEAKER: Murray.

6 MR. SIDONIO: Joseph Sidonio,
7 Murray.

8 MR. BELL: Jim Bell, attorney for
9 the Town of Albion.

10 MR. ELLIOTT: Tim Elliott, Village
11 Trustee from Medina.

12 MR. RIVERS: Tom Rivers, The Orleans
13 Hub.

14 MR. WILSON: Scott Wilson, Orleans
15 County Jail Superintendent.

16 MEMBER MORGAN: Ed Morgan, County
17 Legislator.

18 MEMBER FITZAK: John Fitzak, County
19 Legislator.

20 MEMBER DRAPER: Merle Draper, County
21 Legislator.

22 MEMBER EICK: Bill Eick, County
23 Legislator.

24 CHAIRMAN JOHNSON: Lynne Johnson,
25 County Legislature Chairman.

1 MEMBER WELCH: Jack Welch, Chief
2 Administrative Officer.

3 MR. FULLER: Joe Fuller, Albion Town
4 Judge and Orleans County Magistrates
5 President.

6 MS. BEST: Joanne Best, Public
7 Defender.

8 MR. SCHMIDT: Bruce Schmidt,
9 attorney.

10 MR. CARDONE: And Joe Cardone,
11 District Attorney.

12 CHAIRMAN JOHNSON: I want to thank
13 all of you for coming. And then just a few
14 housekeeping things to go over.

15 We have some presentations we're
16 going to make to you, then we will open it to
17 the public. Every one of you will have a
18 chance to say whatever it is you need to say,
19 to be heard, and put on the record.

20 And at the end, our District
21 Attorney and our Public Defender will answer
22 whatever questions were posed. If we can't
23 answer them tonight, the only thing we ask is
24 that you leave us your name and your email,
25 and we will send you the answers.

1 So with that, I will turn it over to
2 our District Attorney, Joe Cardone.

3 MR. CARDONE: Thank you, Madam
4 Chairman. Again, I'm Joe Cardone, Orleans
5 County District Attorney. There are a few
6 housekeeping matters I'd like to bring to your
7 attention as well.

8 There is a number of related printed
9 materials regarding all of this. They are
10 posted on the county web site, they're just
11 recently posted, and we're going to try to
12 post that this evening through Zoom. And it
13 should be on the screen as well. So you will
14 be able to access those materials there rather
15 than printing them all out and passing them
16 out. I know we have a number of people
17 watching this on Zoom, and it will make it a
18 lot easier for them.

19 We will continue to add documents to
20 that as we go forward, and this over the next
21 few weeks and months.

22 The format for this evening is there
23 are four speakers, including myself, Public
24 Defender Joanne Best, Judge Joe Fuller, and
25 then Retired Judge Bruce Schmidt.

1 Following that, we will have a
2 period of time to permit people to make any
3 comments or ask any questions. We would ask
4 that you limit your time to three minutes, and
5 we'll try to be somewhat accommodating where
6 we can.

7 So really where I would like to
8 start out this evening is kind of give you a
9 historical perspective on all of this.

10 As I think many of you know, the
11 justice court system has been in place in
12 New York State, basically, since its
13 conception. It was codified under the Uniform
14 Justice Court Act of many years ago. Under
15 the Uniform Justice Court Act, by law, there
16 are to be two town justices, at least two town
17 justices, from every township in a particular
18 county. And that has gone on for many, many
19 years. It is not required that you be an
20 attorney to be elected as a town justice.
21 Basically, you're winning an election based on
22 votes from the community. There is no
23 requirement of any prior legal education or
24 experience in order to become a judge.

25 After you're elected as a town

1 justice, there are requirements for certain
2 training that have to be done upfront, and
3 then required to have training each year
4 thereafter.

5 The system that's been in place for
6 many years now has really met with criticism
7 for a long time. I have in front of me a
8 series of newspaper articles from the New York
9 Times that were posted in 2006. At that time
10 it was a situation where the Upstate Justice
11 Court System was under a lot of fire, and the
12 New York Times did a series of articles about
13 the Upstate Justice Court System, and claiming
14 that there were many injustices that were
15 being done.

16 And they start out by saying that --
17 they quote by Governor Al Smith back in 1906,
18 where then he said that the justice court
19 system was a farce in those days. And these
20 are his words, not mine. That it was an
21 outworn system. It was said by Franklin D. Roosevelt
22 in 1926, and that it is a feeble office
23 respected by no one. It was a comment made by
24 a commission also commissioned in 1920 -- in
25 the 1920s to look at that.

1 Now, I have been practicing here in
2 Orleans County for 40 years doing criminal
3 work. I can tell you, I have experienced the
4 town justices throughout this county. I've
5 had nothing but respect for them, and I think
6 person to person, each one of them has done
7 their utmost to do a great job while they've
8 been in office. But this really isn't about
9 that.

10 So I would like to kind of explain
11 where we're coming from this evening, and we
12 want to start just by telling you that,
13 really, Orleans County has been in the
14 forefront of any place in the State of
15 New York with respect to court consolidation
16 and reform.

17 When I started in 1992 as District
18 Attorney, there were 24 judges, village and
19 town justices, throughout Orleans County. We
20 are now down to 11. And how did that happen?
21 Well, under the Uniform Justice Court Act and
22 particularly Section 106(a) of the Uniform
23 Justice Court Act, it permits neighboring
24 townships to reduce the number of justices in
25 each of those townships from two to one, and

1 merge those two courts. And that's exactly
2 what happened here in Orleans County in 2006.
3 It was done initially with the Town of
4 Ridgeway and the Town of Shelby. To my
5 knowledge, that's the first time it's ever
6 been done in New York State. And those courts
7 were reduced to two town justices. Those town
8 justices were -- each was elected from one of
9 those townships, but they have jurisdiction
10 over both townships of Ridgeway and Shelby.

11 The law was changed the following
12 year, whereby it indicated that two or more
13 contiguous townships could do that. And so in
14 just a couple years to follow, the Town of
15 Yates also participated in that consolidation.
16 And now, technically, the west end of Orleans
17 County is actually one court, with each of
18 those justices having jurisdiction throughout
19 the entire west end of Orleans County.

20 Now, of course, there were village
21 courts at that time, too. There was the
22 Village of Medina and Village of Albion.
23 Those courts dissolved back in the mid 2000s,
24 and that eliminated four justices full-time,
25 and I think also acting village justice in

1 each of those jurisdictions.

2 So our system operated for a number
3 of years in that fashion. Over the years to
4 come, the rest of the towns, with the
5 exception of the Town of Albion because of the
6 volume in that court, followed suit not by
7 using 106(a) to reduce the number of judges,
8 but basically, a resolution, as I understand
9 it, was passed in each of those townships by
10 the town boards to reduce the number of judges
11 from two to one. And so we have it today,
12 again, that if you take the ten townships and
13 add one more for the Town of Albion, because
14 there are two town justices there, that's
15 where we get the 11 judges that are in office
16 today.

17 The justice court system in the
18 State of New York is an extremely important
19 system. It has not only jurisdiction over
20 vehicle and traffic matters, misdemeanors, but
21 it also has jurisdiction -- initial
22 jurisdiction over felony cases. It's said
23 that the justice court system in the State of
24 New York, there's something like 2.2 million
25 cases a year throughout the State of New York,

1 and that 85 percent of the dockets in the
2 justice court system in the State of New York
3 are vehicle and traffic matters.

4 The State of New York is just one of
5 eight states in the country that still permit
6 non-lawyer judges to be judges. And that over
7 the years has met with a lot of criticism.
8 It's said that if as a criminal defendant you
9 have the right to be represented by an
10 attorney, you should also have the right to go
11 in front of a judge who has legal training.
12 And unfortunately, many of our town justices
13 are having to deal with a lot of laws in their
14 courts that are just as complicated, legal
15 issues and cases, that are just as complicated
16 as we see in the superior courts in county
17 court and supreme court. So they've had their
18 work cut out for them over the years, and
19 with, you know, frankly, not often a lot of
20 support. They do get some assistance from the
21 Office of Court Administration, but the Office
22 of Court Administration primarily is there for
23 the superior courts.

24 The problem with a lot of the
25 justice courts over the years is that the

1 facilities that they've had to exercise court
2 in, frankly, are not sufficient. Just in
3 terms of day-to-day court proceedings, but
4 also holding trials in those courts, and not
5 adequate facilities for juries. And security
6 often gets to be a problem in local courts.

7 So with all of that, the State of
8 New York, for many years now, has been looking
9 at, well, what do we do? How do we improve
10 the system?

11 In 2006, then Chief Justice
12 Judith Kaye commissioned a study to be done,
13 and a very lengthy study, which is in the
14 materials, that was an Action Plan for the
15 Justice Courts of the State of New York was
16 actually done and printed.

17 And I think it's fair to say that
18 the upshot of that study was that we really
19 need to look at the population, the
20 demographics, and geography within the
21 counties in Upstate New York, and let counties
22 choose what system best suits them.

23 In 1964, the New York State
24 Government passed what is now known as the
25 District Court Act. And that was done

1 primarily for Long Island. Because of its
2 geography and being such -- along counties
3 Nassau and Suffolk, they looked for a
4 different form of court to better suit the
5 needs of its population. And in 1964,
6 district courts were established in Suffolk
7 and Nassau County. And since that time, there
8 have been no other district courts, that I'm
9 aware of, anywhere else in the State of
10 New York. Although, the District Court Act is
11 available to all counties and jurisdictions
12 throughout the State.

13 Probably many of you are aware that
14 there is currently some legislation in the
15 State of New York, I think it passed the
16 Senate, I'm not sure if it passed the
17 Assembly, and it certainly hasn't been signed
18 into law at this point, but they're taking the
19 position that the hundred most busiest courts
20 in the State are going to be required, if this
21 law passes, to have lawyer judges in those
22 courts. I don't think that Orleans County
23 possesses one of the hundred busiest courts in
24 the State, but that's going to be determined
25 by the Office of Court Administration and also

1 the Division of Criminal Justice, if that law
2 actually passes.

3 So what have been these complaints
4 about the justice court system? What do they
5 feel that the problems are? In addition to
6 the court facilities, which frankly, are often
7 a difficult expense for the towns. Most
8 courts, in particular in this county, we have
9 what's known as District Attorney's Night.
10 Which is usually one night a month in the less
11 busy courts and maybe two or three times in
12 the more busy courts in the county. The
13 problem with that is it often delays cases.
14 You may appear on a case on District Attorney
15 Night one time a month, it gets adjourned.
16 It's adjourned for another month, and as you
17 can imagine, there's a lot of reason for
18 different adjournments and cases that,
19 frankly, should be resolved fairly quickly are
20 often spread out over many months to get
21 resolved.

22 With a district court, what is
23 anticipated is that that would be a full-time
24 court. It would run 9 to 5 every day, and
25 with that, hopefully, streamlining some of

1 these cases and resolving them in much quicker
2 fashion. That's better for the defendant and
3 it's better for victims in our case.

4 And it's, under what we're
5 discussing, it envisions there being a
6 centralized district court somewhere in the
7 center of the county, most likely in the Town
8 of Albion or Gaines or thereabouts. No
9 particular facility has been acquired or
10 determined to be the spot at this point, but
11 we know that the county over the next few
12 months, depending on what happens with this
13 proposition is, in fact, going to look to what
14 alternatives there may be. It would likely be
15 owned by the county, and maintained at county
16 expense.

17 The judges in a district court would
18 be full-time judges. We're proposing that
19 there be two district court judges. They are
20 elected district court judges. They are
21 actually, as I understand it, employees of the
22 Office of Court Administration, as would the
23 supporting staff, and actually paid as State
24 employees and not local employees.

25 The concept behind it is that by

1 having the centralized court, many of the
2 problems we deal with now with transporting
3 inmates to various courts on various nights
4 would all be centralized. The various offices
5 within the county, whether it be the district
6 attorney's office, the public defender's
7 office, the probation department, that would
8 all go through a centralized location.

9 We feel that in a county as small as
10 Orleans County, that a centralized, one
11 centralized court, will be sufficient for
12 those no matter where they live in the county.
13 We all share one Walmart, we all share one
14 Department of Motor Vehicles in a centralized
15 location, and it wouldn't be a matter of
16 traveling more than 10 or 15 miles for anybody
17 in this county to get to that centralized
18 court.

19 The district court is something that
20 has been studied for a long time. There's
21 been several different studies, and those
22 different studies are actually posted on the
23 web site, as I've told you. But most
24 recently, the New York State Bar Association
25 came out with this report, which is a Task

1 Force on the Modernization of the Criminal
2 Practice. And the remarks that they make in
3 the -- in the recommendations are as follows:

4 That the current justice court
5 system must be replaced or revised in order to
6 meet the demands of due process in an
7 efficient and effective judicial system.

8 Instead of some 1200 plus courts
9 with 1800 justices of whom 1,000 or more are
10 not attorneys, many of whom are part-time
11 justices, due process demands that all
12 justices be attorneys.

13 And it goes on to say that the fair
14 and efficient administration of justice in
15 New York State is dependent on an effective
16 and well-operated local court system. The
17 inescapable conclusion is that the current
18 justice court system must be replaced.

19 Minor changes have not met the
20 requirements of due process in the protection
21 of the rights of the accused as well as the
22 rights of the people.

23 Offering counties, towns, and
24 villages the opportunity to voluntarily
25 evaluate and adopt costly changes, economies

1 of scale, and efficiencies by consolidating
2 court functions has not produced the desired
3 effect.

4 So with all of that, in this county,
5 pre-COVID we did form a committee in this
6 county to look at whether it is feasible to
7 consider a district court in this county. And
8 that committee has consisted of myself,
9 Judge Schmidt to the left of me, also
10 Joanne Best from the Public Defender's Office,
11 the Magistrates Association has been
12 represented by their president, Joe Fuller,
13 and we've had members of the legislature
14 involved as well. Mr. Draper and Mrs. Johnson
15 and Mr. Fitzak, I think, is also on the
16 committee as well. And we've looked at this
17 for a number of years now, had many
18 discussions about it, and tried to come up
19 with what makes sense to do here.

20 And frankly, this is just something
21 we are putting out to the public, not to in
22 any way harm any other association or -- and
23 this is not about the magistrates association
24 or the district attorney's office or the
25 public defender's office. It's really about

1 our community, and what system best serves
2 justice in our community.

3 We feel that it's really incumbent
4 upon us, as part of the criminal justice
5 system, to move forward as technology moves
6 forward, as laws, frankly, are getting more
7 complicated in this state with respect to
8 various procedures and whatnot, to really do
9 what we can to make this the best system for
10 Orleans County. And that's what our focus is
11 on is Orleans County.

12 So to that end, we have put together
13 a proposal with respect to studying district
14 courts and perhaps having a referendum this
15 fall to vote on whether or not there be a
16 district court system in Orleans County.

17 But I want to explain a little bit
18 about that process. Over the next few weeks
19 and months, it's my intention to get out to as
20 many groups as I possibly can, and give as
21 much information to the community as possible,
22 and answer questions that there may be about
23 what it is that we are proposing in terms of
24 the district court.

25 If in fact, it does make it to the

1 ballot this fall, which is what our goal is,
2 and even if voted in, frankly, that's really
3 just the beginning of the process. In order
4 for it to be established here in Orleans
5 County, it has to be done by home rule. Which
6 means that the next step of it will be to go
7 up to State government, where I'm sure it will
8 be debated in the assembly and in the senate.
9 This is a major change in the State of
10 New York. But I think a number of other
11 counties are looking at what it is that's
12 happening in Orleans County with respect to
13 this, and perhaps are looking to follow suit
14 as well. For many, many reasons.

15 There are a lot of pros and cons to
16 this. There is a lot of detail to all of
17 this. But I don't want to go on and take the
18 time of the other speakers here tonight, but I
19 certainly will answer questions.

20 We feel we can streamline many of
21 the things that are going on with the justice
22 court system right now. A couple years ago
23 the State required us to start what's known as
24 a CAP Court, which is a Centralized
25 Arraignment Part of the Justice Court System.

1 Whereby every morning now, we have
2 arraignments at 8:30 in the morning and 7:30
3 at night with respect to any arrests that are
4 made by the county. And that requires a town
5 justice to go to our county jail, where a
6 public defender is required to also go to the
7 public -- to the jail at that time, and
8 arraignments are done. The district
9 attorney's office appears by telephone. And
10 it's, you know, frankly, would not be
11 happening, but for the work of the Sheriff's
12 Department and the Orleans County Jail and the
13 support that we're getting from them in making
14 this function on a daily basis.

15 Now, I don't want to mislead you.
16 There are days when there are no arrests and
17 there are no CAP courts. But through the
18 district court system, that would all be
19 replaced. We would have arraignments first
20 thing in the morning and last thing in the day
21 to accommodate the requirements with respect
22 to arraigning defendants in Orleans County.

23 Frankly, I could go on for quite a
24 long time here, and certainly want you to have
25 as much information. At this point I'm going

1 to give it to my other colleagues, and let
2 them have some comments. And certainly, I
3 want to answer any questions that any of you
4 have at this point. So at this point, I'm
5 going to turn it over to Ms. Best.

6 MS. BEST: Thank you. So I'm
7 Joanne Best. I'm the Public Defender in the
8 county, and I've been in this position for
9 about six years. Was a practicing attorney
10 privately in this county for about 15 plus
11 years before that. I'm very familiar with all
12 of the justice courts.

13 And as Joe said, you know, we're not
14 here to criticize the justice courts or take
15 away from the great work that they've done
16 over the years in this community, but we are
17 looking at the changes on the horizon and how
18 we can address that.

19 I think part of -- part of the push
20 for this over the last three years is that the
21 State, through the State Bar Association, the
22 Public Defense Associations, the District
23 Attorney Associations is moving towards
24 consolidating different functions in general.
25 And I have always been of the opinion that

1 it's better for us to do something on our own,
2 and set up a system that works for us, rather
3 than have a State agency tell us how we're
4 going to impose this on our community, our --
5 our departments, and our citizens.

6 At this point we're in a very good
7 position to have kind of the upper hand in
8 saying that this will work for us or this
9 won't work for us, and tailor it to our
10 specific needs. Because we aren't Suffolk
11 County we aren't Nassau County. And I think
12 it's helpful for us to take as much time as we
13 need to make sure we get it right.

14 And I think that as you read the
15 papers, and just look around at how things
16 have gone in this county over the last two
17 decades, there are less attorneys in this
18 county now. There are less town judges in
19 this county now. They have recently raised
20 the rates for assigned counsel, which I'm not
21 sure if everybody is aware of that. But that
22 is putting a huge burden on our offices to
23 attract attorneys into our county because,
24 quite frankly, people can live in other
25 counties that offer possibly more -- more

1 civil -- civil and community functions and
2 things than, maybe, Orleans does. So we're
3 working at a deficit with attorneys, and if
4 the State does say, well, the town courts are
5 going to have to be manned by attorneys, we
6 won't have attorneys then to represent
7 litigants.

8 And this isn't just about the
9 criminal aspect of it, it's also about the
10 civil aspect. And that is a big important
11 factor in this whole process as well, because
12 the small claims court could now be heard in a
13 district court, which increases the limits and
14 the filing that people would be able to
15 pursue, rather than having to file it in
16 supreme court.

17 So there are a lot of benefits to
18 doing this, and one of the other benefits is
19 that we would be down to, basically, one --
20 definitely one full-time attorney judge and
21 possibly two full-time ones, but we could also
22 work off of a part-time judge.

23 A lot of other counties have what
24 are called city courts, and we can't have a
25 city court in this county because we just

1 don't have the population to do that. Those
2 city courts coexist with the town courts that
3 are established in those counties and
4 communities. They still have functions in
5 those -- in those jurisdictions and in those
6 counties, and that's what we're proposing as
7 we try to move forward and come up with
8 something. A plan that would work for our
9 specific community is not to eliminate the
10 town courts. And I know one of the public
11 notices did say about eliminating/abolishing
12 the town courts. That has never been the
13 intention of the committee or any of us in any
14 way, shape, or form. So we're talking about
15 having them coexist with the district court.

16 Some of the other benefits of having
17 that is just the consistency for people that
18 have to go into court. Our system, as Joe
19 mentioned, in New York State is extremely
20 cumbersome. I believe that we have 11
21 different levels of courts in this State. And
22 it is one of the most complicated courts --
23 court systems in the US. Just as an example,
24 a lot of states have -- their highest court is
25 called their supreme court. In our State it's

1 the Appellate Court or the Court of Appeals,
2 rather. So that's -- just even that
3 terminology causes confusion for people
4 sometimes.

5 So having some of this streamlined
6 so that people aren't going to multiple courts
7 and trying to take care of different problems
8 and in different townships, missing court
9 dates, and things like that, we can handle it
10 in a more streamlined fashion.

11 Plus, we would have the oversight of
12 the Office of Court Administration, which can
13 provide us a lot of assistance. They have --
14 there's funding that's available through the
15 Office of Court Administration, which as Joe
16 mentioned, we would have -- the judges would
17 be paid for through that office as well as the
18 clerks and a lot of the other support staff.

19 As far as Joe had commented that the
20 district court would have to be a building
21 owned and maintained by the county, that
22 doesn't necessarily come out as a bad thing.
23 As far as I know, the -- the main courthouse
24 in Albion is also technically owned by the
25 county, and is leased back to the Office of

1 Court Administration. So there's a lot of
2 sharing of services that occurs there.

3 The district court could also take
4 place right in the existing courthouse.
5 That's always a possibility, too. After the
6 renovations were done to the courthouse
7 several years ago, there are three fully
8 functioning courtrooms in that facility now,
9 and as many of you probably know, we have one
10 primary judge, which is Judge Church. We have
11 other judges and a support magistrate that
12 come in on certain days, but there is room
13 there to also try to promote having it right
14 at an existing facility.

15 I know that a lot of people have
16 already kind of been talking about whether or
17 not this will be cost effective, and what we
18 should do as far as who's going to pay for the
19 costs and what are those exact costs going to
20 be. The cost effectiveness part of this is --
21 is pretty important, I think, because first
22 and foremost, I mean, the court's are not in
23 any type of capacity as money generators.
24 None of the courts are set up for that
25 purpose. We're not looking at that we're

1 supposed to be in the black all the time when
2 a court system is operating, whether it's
3 justice court, supreme court, family court.
4 But if you look at some of the figures that
5 have been proposed from the Magistrates
6 Association, it appears that there was
7 approximately \$450,000 budgeted county wide
8 for all of the town courts. So that's the
9 combined amount. And that in the last two
10 years, in each of those last two years, they
11 have operated at a loss of approximately
12 \$150,000 per year. So when you look at that,
13 you're really looking at \$600,000 a year.
14 \$450,000 in costs, and \$150,000 in losses. So
15 at the -- not trying to say that this would
16 definitely be a wash or it would be
17 financially beneficial, we don't know that for
18 sure because we're not sure how many staff we
19 would actually need. We anticipate, we know
20 the numbers, probably need at least two
21 full-time court clerks, maybe an associate
22 clerk, and as I stated before, at least one
23 full-time judge and possibly a second
24 full-time judge that would operate the court
25 from Monday through Friday, normal business

1 hours, from 9 until 5 o'clock. Also taking
2 into consideration the CAP process that we
3 need to comply with, and that would -- that
4 runs every single day of the year. That is
5 holidays, weekends, evenings, and that would
6 still -- we would have to set up something
7 that would comply with that. So that might be
8 where the part-time judge in a district court
9 would come into play, that they would have to
10 alternate weekends, or there would have to be
11 some sort of standard set up to accommodate
12 that as well.

13 I think that having the district
14 court would prove to be highly efficient for
15 everyone involved in the community. It would
16 benefit our office, the district attorney's
17 office, the probation department, the jail,
18 the local police departments, because we would
19 have one central location.

20 Right now we have, I think, five or
21 six different agencies, police agencies,
22 within the county, and they are writing
23 tickets for various things, whether it's
24 traffic, misdemeanors, violations, things of
25 that nature. They have to know for sure which

1 day is the DA night, and when that ticket or
2 that person would be returned to the court.
3 If there's any change in a monthly schedule
4 for a particular justice court, the officers,
5 and not at any fault of theirs, but they might
6 be looking at a master schedule rather than at
7 an email that came through saying that we're
8 not having court tonight or we're switching
9 our court night to another day. So now you've
10 got people showing up for court when there's
11 not even court in session. So I know that
12 doesn't happen a lot, but nonetheless, it does
13 happen.

14 It would also help with the fact
15 that right now the CAP court is set up, as we
16 stated, twice a day, every single day. The
17 town justices are supposedly on a rotation for
18 morning sessions and evening sessions. Not
19 all of the town justices participate in that,
20 which is fine, and we have it staffed
21 properly, and it's working. But just to put
22 it out there as far as the cost of that
23 program, right now there -- if you figure
24 there's 365 days in the year, a full day, if a
25 justice's called in on the morning session and

1 the evening session, they're entitled to a
2 stipend of \$250. So when you multiply that
3 out, that comes out to a little over \$91,000
4 per year. And we won't hit that ever, and I'm
5 not going to lie and say that we've ever come
6 close to that in the years that that's been in
7 operation, but the potential is there. And
8 that's a cost that OCA is already paying for
9 this CAP program in our -- in our county. So
10 that would be taken care of, and that money
11 would not be set aside for the CAP purposes,
12 it would now go to the district court
13 purposes.

14 There are other problems that are
15 associated with CAP, as far as people
16 sometimes are waiting and waiting for hours on
17 violations because they're in need of having
18 an Order of Protection placed against them,
19 and they have to wait until the next session.
20 If we have the district court, those people
21 aren't waiting. They are getting arraigned in
22 a much quicker fashion. And I know a lot of
23 people are of the position that they're
24 Defendants, and if they have to wait, they
25 have to wait. Or, we're tired of hearing

1 about catch and release. These same
2 individuals are going to get released or
3 processed no matter what the -- what the
4 situation is, but now we're imposing upon the
5 jail to hold these individuals on extremely
6 minor offenses that they're charged with
7 because they have to wait for some sort of
8 administrative Order of Protection, having
9 their driver's license suspended, or something
10 of that nature. With a district court, we
11 could facilitate them and process them through
12 a lot quicker, and take care of the case loads
13 that we have.

14 Kind of going into, again, the lack
15 of attorneys in the area. This is not just an
16 Orleans County problem, this is a statewide
17 problem. And Joe can tell you as well as I
18 can, that all of our offices statewide are
19 having huge, huge problems of hiring
20 attorneys, younger attorneys to come in, and
21 then retaining them. So it's a -- it's a very
22 big problem. And this would cut down on the
23 amount of having people scheduled in this town
24 court in a morning session, and having
25 somebody else scheduled in an evening session

1 in a different court, and then possibly
2 another court. We're pretty good in this
3 county as far as not having overlapping
4 courts, but there -- there are times that that
5 could happen or that they run close together.

6 Having some courts in the morning,
7 some courts at night, it's also cumbersome for
8 the people that are using the court system,
9 not knowing if they should be in court in the
10 morning, if they should be in court at night,
11 what day that there is a clerk there because
12 they're not fully staffed throughout the
13 weeks, most of the clerks are marked time. So
14 even if you go in to file a small claims
15 action, you might have to go back a couple of
16 times, or a landlord/tenant matter. You may
17 have to go back a couple of times in order to
18 actually get there when somebody is available.

19 So again, we're not looking to
20 eliminate the justice courts, and I think that
21 they would still serve a very important
22 function in this county. As far as code
23 enforcement, they could still handle landlord
24 and tenant issues. Traffic issues would still
25 be something that could -- would go through

1 there, and even certain criminal matters would
2 still be able to be handled in the town and
3 justice courts.

4 Overall, the argument, I think, has
5 been that the town justices do get training,
6 and we're not disputing that they get
7 training. But they're not getting the same
8 training as an attorney. And that's not to
9 say that all attorneys are good judges because
10 I'm not going to sit here and say that that's
11 true. And the amount of training doesn't make
12 you a better person or a better professional,
13 if you will, but having that training is
14 something that is ingrained in us for seven
15 years, basically. We go through four years of
16 college, three years of law school. We have
17 continuing legal education classes that we're
18 required to go through.

19 The actual judges, district court
20 judges, supreme court judges, county court
21 judges, they are required to go to a basic
22 judge school every year for refresher courses.
23 They are constantly being supervised by the
24 administrative law judges and the Office of
25 Court Administration.

1 So I know that the town justices
2 also have training, and their training is on
3 an annual basis also. And they have a
4 resource center which is manned by attorneys.
5 So when they call the resource center to get
6 support or information, they're talking to
7 attorneys because that's who is staffing that
8 resource center.

9 So I think overall that there are --
10 there's been some concerns, and there's been
11 people bringing up very good points about how
12 will people get there, and how are we going to
13 pay for this, and what's going to come of it.
14 And some of those things are fluid questions,
15 and we don't have the answers to them just
16 yet. And I don't know that we will until we
17 get to the point that the community has -- has
18 more say in this. But I can tell you that
19 right now, we do have some of the figures, and
20 that it's -- it's going to be the same or less
21 as what the town justice combined costs. And
22 if the towns want to keep their town justices
23 in place, that's fine. We're not looking to
24 eliminate them.

25 So at this point in time I do think

1 that we should be ahead of the eight ball
2 instead of behind it, and start talking about
3 what is the appropriate way to do this. And
4 not talking about whether we should or
5 shouldn't do it, it's how do we accomplish
6 this so that we are in control over how it's
7 going to be set up in our county, rather than
8 in a year or two or five years being told what
9 we're going to have to do. And I think that
10 too many times we've been in that situation,
11 that the higher population areas of this State
12 dictate what we have to do in Orleans County,
13 Genesee County, or other smaller counties.

14 And I think this is a great
15 opportunity for us, because it is going to
16 happen. There are other things that are going
17 to get consolidated, and that's going to
18 include possibly town assessors, code
19 enforcers. There's just people that are -- we
20 just don't have people that are willing to
21 take on certain positions. Even the fact that
22 we've consolidated some of the town courts and
23 the village courts, that has helped
24 tremendously, but there are not a lot of
25 people looking at filling those positions as

1 we're sitting here now.

2 So I thank everybody for their
3 attention, and I know that this is bothersome
4 to a lot of people, and I think the thing
5 that's most bothersome is whenever there's a
6 change, and we don't have all the answers.
7 Not knowing is probably the hardest part of
8 it.

9 And if there are questions that
10 people have, all of us will be more than happy
11 to research what we can, and get the answers
12 to you as quickly as possible. And I think
13 that having the county web site is a great
14 vehicle for that. So we can keep questions
15 updated and the information flowing to
16 everybody that's interested about it.

17 So I thank you again, and if there
18 are questions, as Joe said, we would be more
19 than happy to address those at the end of the
20 presentation.

21 CHAIRMAN JOHNSON: Thank you,
22 Joanne. And at this time we'll pass it on to
23 the president of our County Magistrates
24 Association, Mr. Joseph Fuller.

25 MR. FULLER: Thank you. Excuse me,

1 for those of you who don't know me, my name is
2 Joe Fuller, I'm a Town of Albion Judge,
3 retired police officer out of the Village of
4 Albion. I've been a judge for the past nine
5 -- going on nine years now, and I'm currently
6 the President of the Orleans County
7 Magistrates Association.

8 So to clear something up real
9 quickly, I've been getting a lot of questions
10 from people in the public asking me why I'm in
11 favor of this because of what they're reading
12 on the hub with my name on listed to this
13 committee. I'm not in favor of this at all.
14 Our Orleans County Magistrates Association is
15 not in favor of this at all. So I am going to
16 go over some details here.

17 This past Monday we had a meeting in
18 the District Attorney's Office for the
19 District Court Committee, which I attended.
20 And DA Cardone who runs the meeting, basically
21 said, it's impossible to come up with costs
22 for this. Every township he's gone to, I've
23 talked to town supervisors and board members,
24 he's been very vague on information that he's
25 presenting. So I'm going to give you some

1 numbers, and these numbers are, basically,
2 easy to get by making a few phone calls to the
3 Office of Court Administration, the Eighth
4 District, and talking to the local town boards
5 and stuff like that.

6 So first of all, let me pull it up,
7 I'm having troubles. District court
8 proponents have not presented any estimated
9 costs. Currently New York State is
10 \$10 billion in deficit, and in the -- in the
11 fiscal year '23/'24, per Spectrum 1 and Fox
12 Business, New York State is financially
13 bankrupt, with a current debt of \$269 billion.

14 Assemblyman Steve Hawley, who we
15 have spoken to, as well as the Eighth District
16 Court have both told us there is no line item
17 budget for district court.

18 In 2022, all town -- town courts'
19 total budgets were approximately \$567,000
20 versus \$974,000 for one district court, which
21 would include two judges, two clerks. Now
22 those judges' salaries would be about \$200,000
23 a year with benefits, give or take, and that's
24 set by -- by the State. Those court clerks'
25 positions would probably be up to \$80,000 a

1 year plus benefits.

2 District court would be a financial
3 disaster. Estimated costs could be up to
4 \$3 million a year.

5 Fine revenue's for last year alone,
6 just for Orleans County, totalled \$322,839, of
7 which the county only received \$33,000 --
8 \$33,280 in 2022. Orleans County District
9 Court would have to spend \$90 to collect just
10 \$1 in fine revenue.

11 Infrastructure. So they could buy
12 land if they want, like it was talked about.
13 But I'm going to be honest with you, I sat in
14 a meeting where they said that they are
15 looking at buying the GCC building in Albion.
16 That's where they want to put the -- your
17 district court. That building is assessed at
18 \$450,000. Potential costs up to a million
19 dollars to purchase that. At least \$1 million
20 to renovate that building, which would create
21 thousands of dollars in lost tax revenue to
22 local communities. That means town, county,
23 school, and village tax revenues are lost,
24 especially if you live in the village, Town of
25 Albion, Town of Barre, Town of Carlton who

1 would absorb some of those tax revenues.

2 Town court facilities have long been
3 paid for, and yes, some of the buildings
4 aren't the greatest, but they're paid for.
5 Orleans County taxpayers would be funding any
6 and all district court infrastructure.

7 Presently there's 86 percent of
8 Orleans County budget is New York State
9 unfunded mandates.

10 We used the Public Defender's budget
11 back in 2016, which is \$321,725 versus last
12 year's budget of \$1,587,383, of which
13 \$1.3 million comes from New York State, five
14 times the cost. If funding is withdrawn, a
15 tax of 73 cents per thousand, or 7.5 percent
16 increase in your county tax rate would be --
17 would be put in place.

18 Per New York State Law, at first
19 arraignments the Defendant must be represented
20 by an attorney. New York State can and will
21 eventually remove this funding.

22 As you know, the State is bankrupt,
23 and they are going to eventually say, it's
24 time for the county to pay for things, which
25 falls on us.

1 Why haven't the proponents of the
2 district court investigated the New York State
3 Town and Village Justice Consolidation Plan?
4 Just look at what happened in Ridgeway,
5 Shelby, and Yates. There was no
6 infrastructure costs. Costs would remain the
7 same or somewhat lower.

8 Is district court proposal just
9 another way for lawyers to drink -- drink from
10 the public trough with a \$200,000 salary? And
11 I want to touch on that. They -- they said
12 that they do not want to eliminate justice
13 courts. They would like the justice courts to
14 remain so they can handle traffic and civil.
15 So we're going to pay a district court judge
16 \$200,000 to do a third of our job. Actually,
17 two -- two judges they're proposing.

18 Hypothetically, if Orleans County
19 District Court were to be funded by New York
20 State OCA, does the Orleans County Legislature
21 really believe that New York State can and
22 would fund the remaining 59 counties?
23 Probably not, with their current financial
24 issues.

25 Now, I want to -- on the bottom of

1 this I want to point to a couple things on
2 this slide. Our town courts administer
3 justice fairly across the county. Sentencing
4 fines are within the New York State
5 guidelines. Most of the cases that we handle,
6 the district attorney's office or the public
7 defender's office or private attorney work out
8 a plea agreement. They bring that to us, and
9 ask us yes or no if we will accept it. We're
10 going on their recommendation this is good.
11 We're also going on by our training, and
12 usually we accept those deals and administer
13 the fines and sentencing as appropriate or set
14 by the State.

15 Town justices also live in
16 communities, and they're the courts closest to
17 the people, versus a district court where many
18 people would not know the judge.

19 Establishment of a district court in
20 Orleans County defies common sense. The
21 creation of a district court, if voter
22 approved, will be irrevocable, it's more
23 lawyer driven Albany/New York City type
24 Government equals higher taxes. Bottom line,
25 more government always equals higher taxes.

1 Now, our courts, I said, are closest
2 to the people. Judges are directly elected by
3 local communities. Most judges are active in
4 their community. People feel more comfortable
5 with them, especially when they go in front of
6 them.

7 Town judges are held to the same
8 training and ethical standards as other judges
9 in New York. And just for the record, seven
10 of our twelve current judges in Orleans County
11 are retired law enforcement or correction
12 officers, including one judge who was an
13 attorney and also taught criminal justice for
14 several years.

15 Now, on March 28th of this year, the
16 Orleans County Legislatures created a District
17 Court Committee, which is Resolution 137-323.
18 To this date, and I'm on this committee, there
19 has been no report or no study.

20 The only study that is being
21 referenced is the one by the Bar Association
22 right here, which is written by attorneys for
23 attorneys.

24 Inconsistencies from the county.
25 What should we believe? First, let's start

1 with the public hearing notices. On Saturday,
2 July 8th of this month, the public hearing for
3 this meeting was -- was put out with the words
4 abolishment of current town and village courts
5 in Orleans County.

6 So apparently, someone didn't read
7 that or someone didn't like the negative
8 feedback. So on the 13th, about a week later,
9 the notice was amended to remove the wording,
10 abolish town and village courts.

11 Now this week we also, at our
12 meeting, were handed the local law that the
13 county's proposing. I asked, did anyone read
14 this local law?

15 Let's start with the salaries
16 portion of it. OCDC-5, which is in the local
17 law, Orleans County District Court Meeting.
18 Number 5, New York State pays the salaries.
19 On the very next page, Item Number 7, it
20 states, all salaries, compensation, expenses
21 shall be included in the county budget. Who's
22 paying for what? Are the Orleans County
23 taxpayers paying for this, or is OCA paying
24 for this, which is also paid by taxpayers.

25 County says town courts will

1 continue to handle traffic and civil cases.
2 We're going to pay a judge -- two judges
3 \$200,000 each, which is \$400,000, to do a
4 third of our job. Does that make sense?

5 We also said -- they also have told
6 us that they want us to handle traffic. Well,
7 Item Number 9 outlines procedures relating to
8 traffic offenses. The county wants to take
9 that away from us.

10 What are some concerns. Why is
11 there a rush to put this on the ballot?
12 There's been no study, no report issued. What
13 is the county hiding? What are they not
14 saying? Who will benefit? Will the towns
15 benefit, will the county benefit, or some
16 person going to benefit in this county? And I
17 have my opinions on that.

18 Just last night a resolution was
19 passed in this room by the legislators to put
20 this on the ballot. There was one legislator
21 who asked, why are we putting the cart before
22 the horse? And I -- I agree.

23 Remember, Orleans County is a rural
24 and poor county already taxed to the max.
25 Just look at the recent property tax

1 reassessments. Does anyone want to pay more
2 taxes?

3 New York State is financially
4 bankrupt with, like I said earlier, a
5 \$269 billion debt. More government equals
6 higher taxes.

7 And lastly, I am just going to leave
8 you with this: This same body of government,
9 the County Legislature, just a few years ago,
10 when -- when this body was talking about
11 selling nursing home, they promised the
12 taxpayers of this county that our taxes would
13 go down. How did that work out? Thank you.

14 CHAIRMAN JOHNSON: Thank you very
15 much, I appreciate your comments. And lastly,
16 we'll turn it over to our Honorable Bruce Schmidt,
17 retired Gaines Town Justice and attorney.

18 MR. BRUCE: Good evening, everybody.
19 I'm in a unique position because of the fact
20 that I was a town judge for 12 years and
21 retired, I've been a member of the New York
22 State Bar Association for quite a few years,
23 I've been an admitted attorney in this State
24 for over 50. I practiced in every court in
25 Western New York. I've done appellate work,

1 I've been on both sides of the issue as a
2 Plaintiff in civil cases, representing the
3 State in other cases. I've been a town
4 prosecutor, county prosecutor, State
5 prosecutor, and likewise, have done
6 significant criminal defense work and
7 significant civil defense and claims work.

8 I also, by the way, was a police
9 officer. So while some of those folks in the
10 current position as justices, I join them in
11 having that as a background, and that's how I
12 got through law school.

13 I come at this from a different
14 position. I was first asked on this committee
15 because at that particular time, I was the
16 President of the Magistrates Association in
17 our county. Likewise, I've been President of
18 the Bar Association in our county, was elected
19 as a member of the Erie County Bar Association
20 Board of Directors some time ago.

21 I had the opportunity to see the
22 change in courts, to see the change in things
23 as they moved along, and for the most part,
24 they have been better.

25 And I am asked to speak here because

1 I come from a perspective that I also was on
2 staff of the Minority Leader in the New York
3 State Assembly. So I do have a little
4 background in how legislation goes on in our
5 wonderful capitol.

6 This particular plan we're
7 presenting because of the fact, I believe
8 honestly, that many on the committee are
9 trying to get ahead of the game, as
10 Joanne Best so eruditely said. My experience
11 has been that when you look at the legislature
12 currently, if you don't think things are
13 happening because of five downstate counties,
14 you must not be reading any of the papers that
15 I am.

16 Notwithstanding the zeal that our
17 two elected representatives, Senator Orr and
18 Assemblyman Hawley take, the proof in the
19 pudding is what happens. And what happens
20 down there is what they want to have happen,
21 and they don't care who we are or what we are.
22 When we are the sixth or the fifth smallest
23 county out of 62, with a population of about
24 40,000, and that's, I guess, dwindling
25 somewhat, we certainly don't have that

1 presence that, maybe, a county like Erie, or
2 Town of Tonawanda has 200,000 people, or the
3 County of Monroe, et cetera, and et cetera.

4 So the only opportunity that we have
5 to get our foot in the door is that when we
6 have the opportunity where we can make that
7 particular change, is try and get our foot in
8 early on the game. We have seen how, just by
9 looking at what's happened relative to the new
10 thing that's going on in our county, thanks to
11 our legislature here and Cooperative Extension
12 United Way, of getting broadband out to
13 everybody. Well, a lot of people, a lot of
14 people, got it before we did, even though we
15 were early in the game. But we didn't have
16 that opportunity to have input like we do
17 here.

18 I looked at certain things that have
19 happened in my lifetime relative to the court
20 system. In Erie County we were at that
21 particular time, way back when, started to
22 judge, if you will, the judges by evaluating
23 them. Everybody thought that was, you
24 couldn't do that, that was terrible, and we
25 didn't. So now in most counties, we have an

1 evaluation system for those people who are
2 judges and those people who are seeking the
3 position of being a judge. We even have it,
4 if you've seen TV, to evaluate people for the
5 supreme court, for the Federal bench, for the
6 New York State Court of Appeals, the highest
7 judge, people are evaluating them. That was a
8 change. It's now become accepted. It wasn't
9 in the beginning.

10 The same thing with another
11 situation. The new administration, if you
12 will, in the Court of Appeals, has indicated
13 and looking for a lot of money for attorneys
14 to be arbitrators. What in the world is that
15 about? Way back when they started a program
16 in Erie County called Alternative Dispute
17 Resolution System. That's where matters of up
18 to certain misdemeanors could be sent out to
19 an arbitrator or it could be sent out to a
20 mediator. That is something that is changing,
21 and now the court system wants that to happen.
22 Very rarely has that occurred in this county.
23 It's an opportunity for us, it's also a
24 change.

25 Likewise, we've all heard about the

1 bail law. We've also heard about the revision
2 to the bail law. And my colleagues here on
3 the bench and in this room know that the
4 revisions of the bail law, while touted, did
5 not give any new bailable or qualifying
6 offenses. It changed some of the
7 opportunities for judges to have more input,
8 but nothing new occurred to put some of the
9 people back for bailable offenses that many of
10 us wanted.

11 We now also see downstate that they
12 are looking at doing what they call a Clean
13 Sweep Act, and that is where if you have a
14 misdemeanor, why after three years, it just
15 goes away and disappears. Same thing with
16 certain felonies, after eight years, it
17 disappears and goes away.

18 They also are now proposing that
19 there is a bill where your conviction or your
20 plea is never ever final. You can challenge
21 that some time later on. So just imagine how
22 that's going to affect us when and if it does
23 occur. And to think it doesn't occur, look at
24 whatever else has come out of Albany. Look at
25 what's happening there.

1 This procedure, it's got some flaws,
2 and that's why we're having a public hearing.
3 The one thing that I certainly liked about it
4 is that if we get in the door with this thing
5 as a district court, we've established it,
6 this district court plan, separate from others
7 and other recommendations, is it does avail
8 the towns of the opportunity to do what they
9 want to.

10 And by the way, the State
11 Magistrates Association indicated that in the
12 report that District Attorney Cardone
13 mentioned, seeks to strip the municipalities
14 of their judiciaries because of the fact that
15 the report does not take into consideration
16 that there is a legislative process in each
17 town, the supervisor's executive and the town
18 board as the legislature, and of course, the
19 people that can make a determination.

20 Well in our plan, that remains. In
21 our plan, that remains, that the town, the
22 people, the supervisors, and town board,
23 ultimately, can make a determination. The
24 town people want to maintain a justice court
25 system, then it's maintained.

1 In the plan that's provided, it
2 satisfies what the people in downstate are
3 clambering about. And what they've clambered
4 about since the then Associate Judge in the
5 Court of Appeals became the Chief Judge of the
6 Court of Appeals, and that is that they
7 believe that any offense where a person could
8 receive jail time, that person should have an
9 attorney being the judge. Okay. So we do
10 that.

11 The question of finance, I'm not
12 going to get into, I'll leave that for
13 District Attorney Cardone and Public Defender
14 Joanne Best.

15 But there is a couple other things
16 that are not really stated. Judges, in the
17 report by the State Magistrates Association
18 indicated that it was only those individuals
19 who were justices in the town justice level
20 were getting what you might say as educational
21 matters. The other judges, as indicated, get
22 that on an annual basis also. They get that
23 on an annual basis. They also have lawyers on
24 staff all the time, and that's what the
25 justices in the court system here rely on the

1 -- the judges down in Albany in the resource
2 center. They call up looking for help and
3 assistance. Most judges that I'm aware of
4 have at least one clerk who's a law clerk, and
5 his or her job is to do that, and do other
6 kinds of situations and pleadings.

7 So this is not looking to take away,
8 in my opinion, the justice court system.
9 Which in my opinion, as Mr. Cardone's is, the
10 people that are in this room that are judges
11 and even those before, I've enjoyed being in
12 front of them. I was one of them, you know.
13 And I think they work very hard at it.

14 But the realty of life is, that
15 unless we get our foot in the door, New York,
16 Downstate New York, is going to tell us what
17 to do.

18 What's happening? Well, in March of
19 '22, there was a movement in the legislature
20 for an amendment to consolidate all of the 11
21 trial courts. What do you mean by that?
22 Well, you have family court, you got trial
23 court, you have county court, supreme court,
24 different other kinds of courts. And the
25 example being made was, that if some person is

1 going through a divorce, it's quite possible
2 as an ordinary human being to have to be in
3 family court for a custody matter, to be in
4 supreme court for a divorce matter, to be in
5 county court for a potential criminal matter,
6 and that could mean, essentially, three
7 different attorneys who might have three
8 different fields of expertise. And so the
9 movement was to try and consolidate all of
10 those courts into a supreme court. That was
11 in front of the legislature in March '22, as
12 an attempt to do something about courts.

13 Moreover, when I looked at this
14 situation and this bill, I really was thinking
15 of a couple things. I thought, first of all,
16 you know, this is a little bit off the wall
17 because, really, why do it now? And then I
18 thought, well, for crying out loud, I went to
19 school, there was a book called Future Shock
20 by a guy by the name of Toffler,
21 Alvin Toffler. And really, that was saying,
22 hey, this is all going to happen, you people
23 are going to be shocked when you see this, and
24 say, you might as well prepare yourself for
25 it. But he also had a caveat in there, that

1 if you're going to prepare for the future,
2 look at the old. Don't just throw the old out
3 because it's old. This is what we've done.
4 We've evaluated, I think, we want to keep the
5 justice court system, and we have the
6 opportunity to step forward and do that.

7 You know, when you -- when you look
8 at a lot of things, when you look at failure,
9 failure isn't all covered in books. Success
10 is a thousand fathers and mothers. If we
11 don't do anything, it's going to happen. I
12 think if you read the newspapers, and I'm sure
13 all of you do, and I know that's an oddity for
14 people like me, reading newspapers. But if
15 you listen to TV or look at Facebook or if
16 you're online or whatever it is, the reality
17 of life is going to be that as a small county,
18 they're going to put their foot down, and
19 unless we have something in place, they won't
20 listen. If we have something in place on the
21 district courts new accomplishing and come
22 forward, then we're probably going to be
23 accepted, and as an asterisk, and then we can
24 move forward. This is the opportunity to get
25 together and come forward and act.

1 There is another thing that
2 Judge Fuller mentioned about some people have
3 a reason. If this thing we propose were to go
4 in place today, the only people in this
5 county, in this room, who would lose their job
6 would be me. I am a Deputy Public Defender
7 for purposes of the CAP Court only. The only
8 person who has a vested interest would be me
9 because without a CAP Court, there's no need
10 for me. And part of the reason I have the job
11 is because of the fact that Joanne mentioned,
12 the lack of attorneys, the lack of the
13 opportunity for attorneys to be here.

14 So I say to you honestly that, hey,
15 for me, life has always been shut one door,
16 open another. And if that happens, the best
17 thing for this county is to move forward
18 before they tell us what to do. But this is
19 why we could have an opportunity to do it.

20 So I don't want to get into the
21 financial things and all that. Just as an
22 individual who's been around the courts and
23 served as a justice in our town courts here.
24 Also, I've also participated in the mediation
25 program that was mentioned that's there and

1 the arbitration program. My feeling is, let's
2 look at this program, perhaps we tweak it, but
3 I think it's the best thing going forward.

4 As far as the cost is concerned, I
5 really believe that when you look at the
6 issue, this is a State cost. And we don't,
7 you know, when it comes to getting money from
8 the State for our schools, we want to make
9 sure we get it so somebody else doesn't get
10 it. When it comes for looking for money for
11 highways from the CHIPS money, we want to make
12 sure we get it because somebody else will get
13 it. The same way here. I can oppose an
14 argument, but the reality is, if we don't get
15 it, somebody else will likewise get it.

16 So, that's my feeling. I do have
17 some of the other information that I can share
18 with you, but I just wanted to say that I
19 believe it's in the best interests of our
20 county to be ahead of the game, as opposed to,
21 as Joanne Best said, behind the eight ball.
22 Thank you.

23 CHAIRMAN JOHNSON: Bruce, I so
24 appreciate your comments. So now, finally,
25 we'll open it to the public. To keep this

1 thing moving along, we're going to try to
2 limit you to three minutes.

3 We have a microphone, Scott. If you
4 would just raise your hand to be called on,
5 we'll give you the microphone, and you can
6 state your comment for the record.

7 And then like I said, at the end,
8 our District Attorney and our Public Defender
9 are willing to try to answer some of your
10 points that come up through the evening. And
11 if not, we will be in touch with you
12 otherwise. And the town you're from, also,
13 please.

14 MR. ZELAZNY: Mike Zelazny,
15 Z-E-L-A-Z-N-Y, Town of Shelby. I do want to
16 clarify a point of information, which I'm not
17 sure what this is. It was stated in The
18 Orleans Hub today that this was a public
19 meeting to be held tonight at 7 p.m., but the
20 sign-in sheets indicate that it is a public
21 hearing. And I think Mr. Schmidt indicated it
22 was a public hearing.

23 CHAIRMAN JOHNSON: Well, I can
24 correct that. This is just a public
25 information meeting. There will be legal

1 public hearings to follow, but we haven't
2 proposed a local law to adopt this yet.

3 MR. ZELAZNY: Okay. Could those
4 sheets be corrected out there then because my
5 name went on a sheet that said public hearing,
6 and I would rather not have that --

7 CHAIRMAN JOHNSON: We will take care
8 of that. Thank you.

9 MR. ZELAZNY: And I have no clear
10 cut decision in my mind about what's good or
11 what's best for the county as of yet, that's
12 why I'm here trying to find out some
13 information.

14 But just a couple of observations in
15 listening to some of the people talk. If
16 we're already at a low number of attorneys
17 available in the county, then employing two
18 more by the county is going to decrease the
19 number available to represent people, whether
20 it be in a court system or for other needs,
21 you know, that we need attorneys for.

22 And just discussions on the State.
23 There is no guarantees with anything for any
24 State funding. I don't care if it's, now
25 yesterday, or tomorrow. And there's also no

1 guarantees on any State mandates either.
2 Because even though we may be first, it may
3 help to be first to do something like this,
4 but there is no guaranty that five or seven
5 years or ten years down the road they don't
6 change and say, you still have to do something
7 different.

8 So just a couple of observations.
9 And again, it's not meant to be against this
10 idea, and I'm just bringing up a couple
11 observations. Thank you.

12 CHAIRMAN JOHNSON: Thank you,
13 Mr. Zelazny.

14 MR. YOUNG: Good evening. My name
15 is Dennis Young, I'm President of the New York
16 State Magistrates Association. Our
17 organization represents the interests of,
18 approximately, 2700 city and retired town and
19 village judges. There are currently some 1195
20 town and village courts in New York State.
21 They constitute 60 percent of the entire
22 judiciary, and for generations have been
23 properly referred to as the courts closest to
24 the people. Each court is presided over by a
25 town or village justice all of whom have been

1 elected by their local communities and
2 extensively trained by the Office of Court
3 Administration to the point where you hear
4 people say that our education is almost equal
5 to what's taught in law school, fuck Miss
6 Public Defender. These judges are the very
7 definition of a public servant, and I'm
8 honored to speak on their behalf.

9 The mission of the New York State
10 Magistrates Association is to develop better
11 methods and desirable improvements in the
12 administration of local courts. To promote
13 education, interchange of ideas, bringing the
14 judges to that end, and to promote appropriate
15 legislation for these purposes.

16 I am following the resolution of the
17 Orleans County Legislative Resolution 137-323
18 since its passage by this body March 28th,
19 2023. This legislation passed a resolution to
20 authorize a study for the establishment of a
21 district court in Orleans. No numbers were
22 named, no qualifications cited, and to my
23 knowledge no actual study has yet been
24 undertaken or shared with the public. No
25 actual financial information has been put

1 forth to support any alleged cost savings.

2 There is little doubt this committee
3 did not seek to gather or share information
4 with the legislators to make an informed
5 decision. It appears they instead started
6 with one person's conclusions that local
7 courts should be abolished for the convenience
8 of county staff, and replaced by -- replaced
9 by State-run district court. Thus, totally
10 eliminating any local choice and control.

11 Town courts are staffed and budgeted
12 at levels deemed appropriate by their
13 respective town boards. As such, they operate
14 in a fiscally responsible manner, reporting
15 annually to local elected officials. Do you
16 really believe New York State would be more
17 financially conservative than your own local
18 government.

19 Those fiscal constraints contrast to
20 the majority of State-paid judges who receive
21 salaries exceeding \$200,000 and a multiple
22 support staff, including highly paid clerks,
23 law clerks, court clerks, stenographers,
24 secretaries, technology staff, and security.
25 It is estimated that each of these State-paid

1 judges, together with his or her staff, cost
2 taxpayers roughly \$1 million. How is this
3 fiscally responsible?

4 To add insult to injury, by giving
5 up local courts, the towns would also give up
6 revenue of those courts now provided, and cut
7 off local access to litigants. Does anyone
8 here want to explain to their constituents how
9 this improves these courts or your
10 communities? It smacks of the latest attempt
11 by the New York State Bar Association, of
12 which there's only 15 percent of the attorneys
13 in the State that are actual members of the
14 association, and specifically a committee on
15 which Mr. Cardone serves to advance the Bar
16 Association goals in providing increased
17 opportunities for their members, and likely
18 himself, and to dictate who can serve in our
19 local governments.

20 Whether or not to establish district
21 court is a weighted decision, and one that
22 should be entered into only after considerable
23 data has been collected in consultation with
24 those who are affected. There -- there's no
25 reason only two counties have such a system.

1 To send this to a county-wide vote at this
2 point fails to examine both the expense and
3 resulting impact to your communities.

4 Please reject this poorly conceived
5 and hastily fashioned seizure for the voters'
6 rights to determine who they would choose to
7 serve as their judges. Thank you for the
8 opportunity.

9 CHAIRMAN JOHNSON: Thank you. And I
10 need to remind the audience that we will only
11 accept respectful comments. So going forward,
12 just keep that in mind. Next.

13 MS. DAVENPORT: Good evening. My
14 name is Sherry Davenport. I have been a town
15 justice in the Town of Summer Hill for the
16 past 28 years, and I'm a past president of the
17 New York State Magistrates Association.

18 I was alerted to the passage of the
19 Resolution 137-323 by a local justice here who
20 expressed their grave concern to me. Since
21 that time, I've been following it, what little
22 information has been publicly available.

23 Having worked in a county attorney's
24 office for over 20 years, working with
25 legislatures and -- and legislative staff,

1 this is a very strange process that you've
2 undertaken here.

3 First, the resolution pushed the
4 study to name an unnamed committee. There was
5 no information as to who that was. This means
6 that you are -- this group is not a public
7 body. You are appointed by legislators to do
8 a study, and report back to the legislature.
9 And that apparently has not happened. So I'm
10 not sure why we're here this evening. But
11 there are a lot of unanswered questions that I
12 have.

13 I understand most of the members of
14 this committee are county employees. Not only
15 would that tend to skew any recommendation,
16 but you've assembled a group of people who
17 don't necessarily have the insight or
18 perspective that many outside stakeholders
19 could offer.

20 Were there any other alternatives to
21 abolishing local courts that were considered?
22 When can we see the study that you've
23 supposedly undertaken? Are your legislators
24 planning to send this to the constituents
25 without any substantive information for a

1 vote?

2 There was -- my concern is, you have
3 passed a resolution last night, the county
4 legislature, to go to a public hearing without
5 the benefit of having a local law to send to
6 public referendum, I should say. To send to a
7 public referendum. You have absolutely put
8 the cart before the horse.

9 You have not done the proper steps
10 that the Municipal Home Rule Law requires that
11 you do. There is a process for passing a
12 local law. There is a process for submitting
13 it to the Board of Elections. Having it
14 passed, having public review and input. None
15 of that has happened here.

16 The proposed local law, I believe,
17 was put together by a district attorney or one
18 member of your committee. This is not from a
19 member of the legislative body. It is not
20 proper. And just so that you are aware, there
21 is substantial case law out there about
22 referendums going to the Board of Elections
23 without being -- being vague, and not
24 explaining well what that subject matter is.
25 And they are subject to abolishment. They

1 don't have to put them on the ballot if they
2 are not proper.

3 So I would just hope that you would
4 please take a moment, go back to the
5 legislature, who is the proper body for this
6 kind of discussion, give them your study, let
7 them make a determination because that's what
8 the electors of Orleans County have elected
9 them for, and go through the process of the
10 Municipal Home Rule Law requires, and do it
11 properly.

12 There seems to be a real rush to
13 judgment here, and I am not sure why that is.
14 And it just causes everyone to want to shine
15 away from it, so I don't think you are doing
16 yourselves any favors.

17 I thank you greatly for allowing me
18 to speak here this evening, and I hope there
19 will be others who do the same.

20 CHAIRMAN JOHNSON: Thank you.

21 MR. PULEO: Good evening. My name
22 is Dean Puleo. I'm with the Office of Court
23 Administration, and the court administration
24 has not taken a position on this. And there
25 is a reason we don't have any skin in the

1 game, frankly. Right now, you -- home rule is
2 home rule. The Office of Court Administration
3 assists justice courts. That that's my job.

4 I do want to clarify a few of the
5 items, but Mr. Schmidt said he wants to open
6 the door, get his foot in the door. Once the
7 State takes control of that court, that door's
8 going to swing wide open, and OCA takes 100
9 percent control over any of those courts. And
10 that's something that you should consider.

11 As far as training goes. Yes, back
12 in 2006 there was a scathing report, and
13 Judge Kaye came out with recommendations, an
14 action plan, and that's been instituted since
15 then. The Office of Court Administration,
16 without cost to the town, provides justice
17 court support. We have a full-time staff,
18 five people in Albany available to town
19 justices, myself here in Erie County, my
20 assistant Janeen Wilson. Every one of these
21 justices. And I cover eight courts by the
22 way, the entire eighth district. Every one of
23 these justices, and every justice in this
24 county have my personal cell phone. They call
25 me at night when they're on the bench and have

1 a question. I'm happy to help. I've come out
2 in person and assisted with -- with helping.

3 Judge -- Mr. Schmidt also talked
4 about three different courts, a divorce. We
5 have an answer to that, it's called Integrated
6 Domestic Violence Court, and that's -- that's
7 already instituted.

8 The CAP Court was designed with a
9 plan. And that plan had staffing and funding
10 and monies and -- and a clear path as to how
11 it was going to be handled. You're still
12 going to need that CAP Court because you will
13 have two justices that have to be covered
14 7 days a week, 24 hours a day, 365 days a
15 year. So nights, weekends, holidays, one of
16 those justices is on vacation, one of the
17 justices is ill, somebody's going to have to
18 be there to do those arraignments. That CAP
19 Court is still going to be required. We're
20 still going to be paying for that, whether you
21 have that or not.

22 We provide the computer. We provide
23 the software. We provide the support. These
24 are all part of the -- all part of the action
25 plan from 2006.

1 When you talk about attorneys and
2 judges and their salaries, those clerks, just
3 to clarify, this isn't a clerk like we think
4 of a town clerk. This -- the law clerk is an
5 attorney. So for each judge you have a law
6 clerk. That job starts at \$120,000 a year,
7 and that's mandated by OCA. That's something
8 that -- I don't know if that's been
9 considered.

10 But that's -- whether funding is
11 there or not, I can't say. I can say that I'm
12 not aware of any funding. I'm not aware of
13 any budget lines. I'm not aware of where the
14 money for this might be coming from.

15 But I just, I did want to clarify --
16 I did want to clarify particularly that
17 training requirement. As Judge Young
18 indicated, we've done an awful lot of
19 resources and time, making certain that judges
20 are up-to-date and up to speed. Last year, 13
21 judges in this district, in the Eighth
22 Judicial District, were remanded to chambers
23 because they didn't complete their training
24 that was required. That's something that --
25 we monitor that. Thirteen judges, we took

1 them off the bench, said you can't be a judge
2 until you finish this. That's how important
3 that is to OCA. So to say that these judges
4 are not really adequate and trained, I have to
5 strongly disagree with that.

6 And you're getting this from the
7 horse's mouth, and some people might suggest
8 that I'm more akin to the other end, but to
9 have this conversation, just it boggles my
10 mind how -- how this committee can suggest
11 that you can have this district court and have
12 town courts coexist. This is clearly an
13 abolition of these town courts. And I can't
14 see any other -- any other way out of this.
15 So that's all I have to say. Thank you.

16 CHAIRMAN JOHNSON: Thank you.

17 MS. BERRY: Debbie Berry from the
18 Town of Ridgeway. I've worked in the court
19 system and at the county clerk's level, so I
20 have experience budgeting for both
21 municipalities. And I can say that when you
22 do your budgeting, you have to present that to
23 the public. How can the public know what's
24 going to happen to our taxes? What's going to
25 happen to the county versus the State? You

1 know, there's only two district courts in the
2 State. How are we jumping on board as
3 Number 3? I'm not sure that's what we're
4 ready for just yet because we don't have
5 numbers to know what to do with that.

6 There is Justice Most Local, it is a
7 report by the Special Commission on the Future
8 of the New York State Courts from September of
9 2008. The existing justice court system
10 reflects the needs of the community. Every
11 town and village board writes local laws that
12 directly relate to their specific needs.
13 These laws are given teeth by the local courts
14 that are familiar with these local town and
15 village laws. The reality is that a district
16 court system would not be familiar with those
17 kinds of local village and town laws, making
18 those local laws impotent and not reflecting
19 the needs of a local community. That was a
20 letter to the commission dated September 6th
21 2007 from Honorable Dan Dale, Portville Town
22 Justice.

23 I just think you have to take
24 everything into consideration when you're
25 looking at this, and get a report written so

1 that we can see what's going on. And again,
2 I'm not sure why it was done so hasty, and why
3 we're only given notice so short.

4 CHAIRMAN JOHNSON: Thank you.

5 MR. NIPPER: Don Nipper,
6 N-I-P-P-E-R. Some spell that with a K.

7 First of all, I want to thank all
8 the corrections officer. I'm a retired
9 lieutenant from the Department of Corrections,
10 I work across the road. I want to thank the
11 Orleans County Sheriff's Office for protecting
12 us here and have a safe place to hold this
13 meeting.

14 Judge Fuller, thank you for bringing
15 that up. But I guess the people to your left
16 are trained as police officers, peace
17 officers, they still think they need attorney
18 judges.

19 I'm from Oswego County. One
20 gentleman said you have to eliminate CAP. The
21 city court judges in Oswego CAP were
22 unavailable today. There's three Defendants
23 waiting to be arraigned at CAP Court tonight.
24 Oswego County we have a new court opened up,
25 the Village of Phoenix. They are waiting for

1 a new ORI number because the State, it's been
2 so long since they opened up a new court, they
3 forgot how to give out the proper ORI number.

4 As far as being a New York State
5 taxpayer, I don't understand how one county is
6 trying to abolish and do away with CAP Court.
7 You have presidents in the Civil County
8 Magistrates Association that I fought very
9 hard for to get into CAP Court.

10 With that I'm clear. Thank you for
11 your time -- oh, one more thing. If this is
12 true what Judge Fuller said, you put this to a
13 vote last night before this meeting, I don't
14 think that's very fair or consistent,
15 something judges believe in.

16 CHAIRMAN JOHNSON: Thank you.

17 MR. ZELAZNY: Mike Zelazny again.
18 Just very briefly, I just want to clarify.
19 When I said earlier about you can't -- how did
20 I state about New York State? Oh, that there
21 is no guarantees. And I didn't mean that
22 derogatory against New York State. It's just
23 that we are, ultimately, responsible and
24 fiscally responsible for our own decisions,
25 just like we are in our own household.

1 Nobody's going to really take responsibility
2 and know for sure what we can afford and what
3 we cannot afford unless we make our own
4 decisions. That's what I really meant by
5 that.

6 MR. COLON: Hi, Steve Colon from
7 Lyndonville. As a New York State Taxpayer, I
8 pay too much in taxes. So I think that common
9 sense needs to be done. Why pay somebody to
10 do one-third of a job when two-thirds is
11 already doing it? And I believe in little
12 government. Thank you.

13 CHAIRMAN JOHNSON: Thank you.

14 MR. GRABOWSKI: Ed Grabowski, I'm
15 from the Town of Shelby. And I guess my
16 question is -- and nobody answered it -- we
17 live in a rural county where we have, what,
18 the OTS bus system? So how are these people
19 going to get to Albion to a district court?
20 That's one of the points. I know it's been
21 said, somebody said, well, they get to Social
22 Services. That's a different fact. So a lot
23 of the town and local courts, or the local
24 courts, some of the people can actually walk
25 there.

1 The second thing about technology.
2 I know Judge Young and everybody mentioned,
3 well, kind of alluded to it. Town and village
4 courts -- well, we don't have any village,
5 they were eliminated. Town courts in the
6 County of Orleans have everything that the
7 other courts have. We have the courtroom
8 program. We have Web DVS for protection
9 orders. Security. We have comptroller
10 reports that we have to put in. We have
11 E-Justice, which is the background checks for
12 everybody, and we have to go through
13 background checks to get that access to that.
14 And we're watched with all that. The judges
15 who are in here know that. You can't just do
16 that. We have E-Pass. We check people's
17 abstracts for their driver's licenses, and
18 we're fair with people. We have LexisNexis,
19 which is a program to do research. We have
20 access, and everybody's mentioned this, to the
21 Resource Center in Albany.

22 About the full-time and part-time
23 judges. They can't have a practice. And
24 somebody brought up about the lack of
25 attorneys in Orleans County. We are number 62

1 in the State. We have -- we're at the bottom.
2 We have a county of 41,000 people. We have
3 .06 attorneys, which means we have 24
4 attorneys in Orleans County. And a bunch of
5 us are old, we're not practicing anymore.
6 Some of them are working already in the
7 county, and they would have to give up their
8 practice. So I don't know how many would do
9 that.

10 As far as in court, judges make the
11 determination after the district attorney and
12 the public defender present something to us.
13 So we have attorneys in the courtroom. We
14 have two of them. We have an assistant
15 district attorney, we have a public defender
16 or assistant public defender.

17 As far as contacting people, I know
18 Judge Schmidt mentioned this, that about --
19 how people know what court they're going to.
20 One of the things that we do in CAP Court,
21 people know this, and in our regular courts is
22 we get contact information from everybody, and
23 we have them sign that contact sheet. How do
24 you want to be contacted, and what's the
25 easiest way to do that.

1 The last thing I want to say, I
2 don't know if anybody reads the New York Post,
3 but Comptroller DiNapoli was in there this
4 morning. There's an article. He predicts
5 that New York State is going to be \$36 billion
6 in debt with the deficit over the next four
7 years. So you can look that article up. So I
8 -- well, no, that's four years he predicts it.
9 And it could be worse. He said it could be up
10 to 50 billion depending on how the economy
11 goes. We know how the economy is going, it's
12 going downhill. So thank you.

13 CHAIRMAN JOHNSON: Thank you,
14 Mr. Grabowski. Anyone else?

15 MR. SIMON: Are we able to make a
16 comment on Zoom?

17 A SPEAKER: Somebody on Zoom --

18 MR. SIMON: Can you hear me okay?

19 CHAIRMAN JOHNSON: Yes, I can. Go
20 ahead, Mr. Simon.

21 MR. SIMON: Thank you. Thank you,
22 Chairman Johnson. I guess I -- I just have
23 one comment. Jim Simon, Town of Yates
24 Supervisor.

25 I would suggest that the legislature

1 consider a resolution to rescind the decision
2 to put this on as a referendum, and give the
3 committee, the team that you've collected,
4 time to actually produce a report that could
5 then be made public. And then just go through
6 the procedure again. Public hearing, you
7 know, then we would be seeing all of the data
8 that everyone's been asking about, and I think
9 a lot of this tension that has built up rather
10 quickly would dissipate.

11 So my suggestion is, revoke the
12 resolution, the decision to put this to a
13 referendum. It's premature, in my opinion.

14 Just last week our town board voted
15 unanimously in the Town of Yates not to
16 support a district court. Largely because we
17 don't have information to say whether this is
18 a good idea or not.

19 So gather the information, have the
20 committee and the task force or whatever
21 you're calling it do their work, and at that
22 point -- but make it public so that everyone
23 can start to understand what it is that's
24 being proposed. And I thank you for your
25 time.

1 CHAIRMAN JOHNSON: Thank you, Mr. Simon.

2 MR. DeCARLO: Dick DeCarlo,
3 D-E-C-A-R-L-O. I reside in the Town of
4 Carlton. I'm not unlike Judge Schmidt, I'm a
5 retired judge. I served on the bench in the
6 Town of Barre for six years. So I'm very
7 familiar with this process and what the judges
8 go through, the District Attorney, Public
9 Defender, what everyone in this room goes
10 through. I will commend everyone in this
11 process up to this point. There's been a lot
12 of work, a lot of thought, and a lot of time
13 put into it.

14 I will be very honest with all of
15 you. I came here with questions tonight. I
16 have more questions, unfortunately. And
17 that's not how a public information hearing
18 should be run.

19 I agree with Mr. Simon. Based on
20 what I heard earlier, I think you have some
21 procedural issues with this referendum being
22 on the ballot. You may want to have a
23 discussion with your own attorney about that.

24 I heard from the gentleman from OCA.
25 There is no funding for this. They don't plan

1 on putting any money into it. I find it hard
2 to believe that New York State's going to put
3 any money into this.

4 I initially thought we were getting
5 rid of town courts when I got here. We're
6 going to keep town courts. So now we're
7 adding another layer. Who's paying for it?
8 If OCA's not, if the State's not, that's me,
9 Joe Q taxpayer. Of which I pay a lot of taxes
10 in this town.

11 To echo Mr. Simon's comments, Ladies
12 and Gentlemen of the Legislature, I think you
13 need to strongly reconsider and pull this
14 referendum back. Do I think this needs to be
15 studied more, I absolutely do.

16 Joanne, Joe, you're right, it's
17 coming. I question if we're out there in
18 front and we get something in place, good for
19 us, but folks, I've been around for a long
20 time. I've seen one mandate after another
21 come down from New York State, and they just
22 do whatever they want, and they don't give a
23 damn what we do up here in Orleans County. We
24 may come up with a system that works for us,
25 and it's great. And -- and when they get all

1 done with it, we're going to be stuck with it,
2 and we may have to change. Who knows if we're
3 even going to put in place what the future may
4 be.

5 Pause, think about this, talk about
6 this some more. Get some good hard numbers
7 together. Thank you.

8 CHAIRMAN JOHNSON: Thank you, Mr. DeCarlo.

9 MR. MARTILLOTTA: Joe Martillotta,
10 Albion, M-A-R-T-I-L-L-O-T-T-A. I feel
11 strongly both ways. Yeah, I believe in small
12 government. But multiple layers of government
13 is absurd as well.

14 Orleans County, 40,000 people,
15 approximately 5,000 students in our five
16 school districts. We have 20 layers of
17 government in this county. Ten townships,
18 four school -- five school districts, four
19 villages, and a county government. Take away
20 the 5,000, we're down to 35,000. I'm not a
21 mathematician, but about 1,750 people we got a
22 layer of government?

23 So, yeah, one court for the county,
24 we're 40,000 people, that's a wonderful thing.
25 But we have to study it. We gotta know what's

1 going on. It -- it's just mind boggling we're
2 talking about, oh, we're a small, you know,
3 small community because we're the Town of
4 Albion or the Town of Gaines. Well, we're a
5 small community with a whole -- excuse me,
6 with a whole county, 40,000 people. That's
7 small. Twenty governments. It's -- it's mind
8 boggling. And how did we get there? Well, we
9 use to do it with a horse and buggy, and it
10 took longer to get from one section of the
11 Town of Albion to the other corner. Now I can
12 get from the northwest corner of Yates to the
13 southeast corner of Barre or Shelby or
14 whatever, I don't know, just as quick with a
15 car. And if I don't have a car, call the
16 Sheriff's Department. What the heck, they'll
17 bring you. And we got how many -- somebody
18 said how many different layers of police
19 enforcement? You know, four, five, six,
20 whatever. It's -- it's -- duplication is
21 crazy.

22 Study it, do something. Let's
23 become the City of Orleans for crying out
24 loud. We already got the Florida league in
25 our flag. You know, the State won't allow us

1 to become a city because then we would get
2 more funding. Sorry. Thank you.

3 CHAIRMAN JOHNSON: Thank you,
4 Mr. Martillotta. Anyone else?

5 MR. MARTILLOTTA: And I'm not going
6 to be obscene because, you know, if I had to
7 talk to Joe or Joe, you know, I could be. But
8 not to all these nice people here.

9 CHAIRMAN JOHNSON: Then I will turn
10 back to our District Attorney to wrap up, if
11 you can answer any of the comments that came
12 up.

13 MR. CARDONE: Yeah, if I might just
14 a brief comment. I certainly want to take
15 your questions. Frankly, I think some of the
16 information we've received tonight is skewed.
17 And obviously, there would be debate if we
18 were to answer as to some of the things that
19 have been said that I think, frankly, are
20 inaccurate.

21 But I do feel that it's important
22 that the public knows what it is that we're
23 proposing, what it is that we're potentially
24 getting into. And to suggest that there's any
25 motive other than the best interests of this

1 community or that somebody's up here for their
2 own personal gain is just wrong. I contend
3 that that is not the situation. I have a
4 great respect for the Magistrates Association,
5 they're here in numbers, and I think that's
6 wonderful. And I want the rest of the
7 community to be heard as well.

8 But having said that, if there's
9 questions I will certainly want to take them.
10 But you know, in the weeks and months to come,
11 regardless of what position the legislature
12 takes on the referendum, we certainly want to
13 get more information out to the public.

14 And I can tell you that, you know,
15 we put a request out to every township in this
16 county for hard numbers with respect to the
17 running of their courts. And repeatedly asked
18 for those numbers. We got responses from
19 three of them, and of those three, they
20 weren't complete. I don't know, you know, why
21 that is. I don't know why that we don't have
22 the cooperation of local government in
23 attempting to do something that is for the
24 benefit of this community. Whether it's right
25 or whether it's wrong. But I want you to know

1 that.

2 So if there's questions, I will try
3 and answer them. Yes, ma'am?

4 MS. DAVENPORT: Could you please
5 explain the statutory authority for having --
6 could you please explain the statutory
7 authority for district court? I know it's
8 Article 6, Section 16 of the Constitution that
9 says you can have a district court, but it
10 doesn't seem to include any reference to being
11 able to maintain still a town and village
12 court system and the district court.

13 And as the gentleman said from OCA,
14 you open that door, the State takes over,
15 you're done.

16 MR. CARDONE: So under our
17 Constitution it calls for the justice court
18 system. In -- in Suffolk and Nassau Counties
19 there was a justice court system in place when
20 they put the district court system into place,
21 and nothing under current State law permits us
22 to abolish a justice court. They just have
23 been, frankly, rendered not effective in those
24 counties. They have very limited use in those
25 counties. And most things go through their

1 district court.

2 There was enacted a District Court
3 Act in 1964, which is a separate act. You
4 will find it at the end of McKinney's that's
5 quite elaborate in terms of what's required,
6 in terms of a district court.

7 You know, with all due respect to
8 the Office of Court Administration, there's
9 not -- there's not a line item for district
10 courts in our State budget. This is a long
11 arduous process. If things went today through
12 the State, and it got approved next year,
13 we're talking a couple years at least before
14 this would be put in place. And the funding
15 would have to be put in place by the Office of
16 Court Administration to fund a district court
17 happening in this county with respect to their
18 end of it. But there is -- at this point,
19 there's no line item that appears anywhere in
20 the budget. It's something that would have to
21 be budgeted by the State.

22 MS. DAVENPORT: I guess I'm still
23 waiting for the statutory answer. So what is --

24 MR. CARDONE: The statutory answer
25 is in the Uniform District Court Act.

1 MS. DAVENPORT: But there is no
2 provision in that to maintain a town and
3 village court.

4 MR. CARDONE: To maintain a town and
5 village court?

6 MS. DAVENPORT: Along with a
7 district.

8 MR. CARDONE: Yeah, no. It's
9 independent of the Uniform Justice Court Act,
10 right?

11 MS. DAVENPORT: That's not how I
12 read it, but...

13 MR. CARDONE: Well, that's how I
14 read it, and that's what happened in Nassau
15 and Suffolk Counties.

16 MS. DAVENPORT: But that was before
17 the District Court Act.

18 MR. CARDONE: No, it wasn't. The
19 District Court Act was established, and then
20 from that Suffolk and Nassau set up their
21 district courts.

22 MS. DAVENPORT: There have been
23 changes to that act since that time. No other
24 court has gone in that direction.

25 MR. CARDONE: No other county you

1 mean?

2 MS. DAVENPORT: Yes.

3 MR. CARDONE: And they haven't. It
4 is a question why, to be honest with you. I
5 mean, these studies aren't -- you know, it's
6 being said that this attorney is looking out
7 for attorneys, and that these studies are all
8 done to promote the Bar Association and
9 whatnot. That's not the case. I mean, you
10 really are humbling the integrity of our State
11 Bar Association to take that position. These
12 are people that put a lot of time and effort
13 into studying these issues, and what they are
14 saying, they're saying for a reason. It's
15 well -- well studied. I mean, you know, to
16 take a position that you need a written study
17 from this group, these reports specifically
18 address Orleans County and the situation
19 within Orleans County. Those studies are
20 made.

21 The finances, frankly, aren't made.
22 And those are unknown. And a lot of it is due
23 to, frankly, lack of cooperation from our
24 local courts, but also some of these amounts
25 are set by the Office of Court Administration.

1 I don't agree that the district court judge
2 makes 200,000. My understanding it's more
3 near 150/160,000. But whatever it is.

4 You know, our court's aren't in
5 place necessarily to be a center for financial
6 gain. They're there for justice. They're
7 there to protect the interests of our
8 community and the people in the community,
9 protect the right of victims and defendants.
10 And that's what our court system is about.
11 And that's what we're looking to promote. Not
12 any individual, not any agency, or anything
13 else.

14 CHAIRMAN JOHNSON: Thank you.
15 Joanne, do you have any closing comments on
16 any of the statements that were --

17 A SPEAKER: There is another
18 question.

19 MS. BEST: I will let the gentleman
20 ask the question first, and then I will --

21 CHAIRMAN JOHNSON: I'm sorry, I
22 didn't see a hand.

23 MR. YOUNG: Mr. Cardone, you're
24 maintaining you're going to rely on the Bar
25 Association study to give to this legislative

1 body, and not have them do their own study to
2 draw their own conclusions to give the public
3 their study? You're going to rely on the Bar
4 Association study, which is a very biased
5 study; is that true?

6 MR. CARDONE: No, it's not true.
7 You will see, and what's posted on our web
8 site, studies that have been done by various
9 agencies throughout this State.

10 MR. YOUNG: And you will go by --

11 MR. CARDONE: No, no.

12 CHAIRWOMAN JOHNSON: Excuse me?

13 MR. YOUNG: -- a 2006 --

14 MR. CARDONE: Let me finish.

15 MR. YOUNG: -- New York Times
16 Article.

17 CHAIRMAN JOHNSON: Excuse me.

18 MR. CARDONE: No, no, no. Let me
19 give you a for instance. Here's a study by
20 the Fund For Modern Courts as the Town and
21 Village Justice Courts, and what their
22 recommendation is with respect to forming
23 district courts. I invite you to take a look
24 at what we posted.

25 MR. YOUNG: I -- I've read it

1 before. But you're not going to conduct your
2 own study. Why don't you tell these people
3 you're not going to conduct your own study?

4 MR. CARDONE: That's not true. We
5 have conducted --

6 MR. YOUNG: So where is it? Where
7 is the study?

8 MR. CARDONE: So you're talking
9 about a written study?

10 MR. YOUNG: Where is your study on
11 this proposal to show the citizens in this
12 county?

13 MR. CARDONE: And what are --

14 MR. YOUNG: Your own study, not the
15 modern -- any of these studies.

16 MR. CARDONE: Study as to what
17 issue, sir?

18 MR. YOUNG: Where is your study?

19 MR. CARDONE: As to what issue, sir?

20 MR. YOUNG: The study on this
21 proposal? Have you done one yourself?

22 MR. CARDONE: Yeah.

23 MR. YOUNG: No, you're relying on --
24 you're relying on those.

25 MR. CARDONE: We have assessed the

1 situation in our county with respect to what
2 our current court system is. I -- I think
3 what we'd like to do is put it to the
4 people --

5 MR. YOUNG: Where is it in writing?
6 Where is it in writing, everything --

7 MR. CARDONE: I'm not going to have
8 a dialogue with you.

9 MR. YOUNG: You don't have that.

10 MR. CARDONE: Not going to have a
11 dialogue with you.

12 MR. YOUNG: No, you don't have it.
13 I -- I'm done.

14 MR. CARDONE: Okay. Thank you.

15 CHAIRMAN JOHNSON: Yes, can you hold
16 one second. We have one more comment from up
17 here.

18 MR. FULLER: Listen, regarding his
19 question and what was at stake. I asked this
20 money -- in our meeting, I asked this to the
21 legislators, I asked this to Mr. Cardone, and
22 everyone in that room. If this is so
23 beneficial to Orleans County, why are we
24 rushing this through without a study?

25 Now, you're saying this is your

1 study, Joe? The two and a half pages, three
2 pages whatever it is, by Orleans County is
3 written by you, not this committee. So why is
4 this committee not -- in such a rush? Not me.
5 Why are you and the rest of the legislators in
6 such a rush to get this on the ballot, pass
7 this? Because you know once it's passed, you
8 can't revoke it.

9 MR. CARDONE: Yeah, so my response
10 to you is, I'm not in a rush, number one.

11 Number two, you and your Magistrates
12 Association have been a part of this committee
13 since its inception. And I ask you, what has
14 the Magistrates Association brought to this
15 study, and what cooperation have we received
16 from the Magistrates Association in promoting
17 that study?

18 MR. FULLER: This is the second time
19 we stand in front of this body and a
20 legislature meeting with numbers and facts.
21 You are going through the same thing, and you
22 laughed at us. They're basically the same
23 numbers. All you have to do is pick up a
24 telephone and talk to people, and you will get
25 the same numbers that we got.

1 MR. CARDONE: I -- i don't think I
2 would, to be honest with you. There are a
3 number of numbers that you set forth.

4 MR. FULLER: The bottom line is,
5 what is the rush and what are we hiding?

6 MR. CARDONE: There is no rush, as
7 far as I'm concerned.

8 CHAIRMAN JOHNSON: We have a
9 question in the back.

10 MS. GREGORIE: Kelly Gregorie,
11 G-R-E-G-O-R-I-E, Murray. And I just had a
12 question about the positions for the judges
13 will be elected positions. So I just had a
14 question if you've thought about how long the
15 term for the judges will be, and if there will
16 be term limits on that?

17 MR. CARDONE: So under the District
18 Court Act, the term of a judge is six years.
19 That's established by State law, and they're
20 subject to re-election every six years. Under
21 Office of the Court Administration rules,
22 mandatory retirement of a judge at age 70. So
23 you do have those restrictions. I don't know
24 of anything that restricts a judge from
25 running for office as many times as he seeks

1 to do that. As long as he's elected by the
2 community, he'll stay on the bench. As I know
3 it. Is that fair to say?

4 A SPEAKER: That's correct.

5 CHAIRMAN JOHNSON: Thank you.
6 Joanne, had some closing comments.

7 MS. BEST: Just as a response to
8 Joe Fuller's comments about the Public
9 Defender's Office and the funding that we
10 receive. This has been brought up twice now,
11 and I addressed it once, but I might as well
12 address it in this forum as well.

13 It seems to be that there's some
14 concern or somehow the magistrates feel that
15 the funding that the Public Defender's Office
16 receives from the State has any bearing on
17 this decision whatsoever, or that it's being
18 used as an example for some reason.

19 The funding that comes through our
20 office as a result of Hurrell-Harring
21 settlement, and that was a statewide lawsuit
22 that was settled several years ago. There
23 were initially a handful of counties that were
24 pilot counties that received funding to ensure
25 that people had representation throughout

1 criminal proceedings.

2 That funding is part of a
3 settlement, which means that you either do
4 this, or we're going to continuously pay
5 individuals that -- that aren't representative
6 authorities, and we're gonna pay those --
7 those individuals separately.

8 So the funding that comes for us is
9 through grants from the State, and if that
10 funding goes away, almost every position in my
11 office, including my position being full-time,
12 goes away. I go back down to part-time.
13 Almost every one of my assistants is out the
14 door, because they are paid for by funding.

15 So I'm not really sure what
16 relevance that has to this discussion, but
17 again, this is the second time now that it's
18 been brought in the context of the district
19 court discussions. So I just wanted to
20 clarify that, that there's really nothing that
21 should have any impact from our department on
22 this district court discussion.

23 I agree with Joe Cardone. I agree
24 with the comments that have been made. There
25 is no rush on this. We are here tonight to

1 talk about this in an open way, get input from
2 people to try to figure out what is the best
3 solution.

4 If there's stuff that needs to be
5 done or looked at further, we're willing to do
6 that. There's no question about it. If what
7 you're saying is you want a formal study of
8 dollars and cents and estimates and -- and the
9 amount of cases that would be heard by this,
10 we can prepare that. That's not a problem.

11 We were looking at trying to get
12 this on for the November ballot because,
13 again, just to keep things rolling. But in
14 the meantime, we can most certainly provide
15 something that is in a written form and backed
16 by supporting documentation, whether it's
17 other studies that have been done, which
18 everyone relies upon when they come to a
19 conclusion. You don't just do your own, you
20 rely on other people's statements and comments
21 and things, too. So those would be
22 incorporated into any final written study that
23 people are looking at.

24 But that most certainly can be done,
25 and it won't take us long to do that. But we

1 do need to have the cooperation from the local
2 townships in order to do some of those --
3 those calculations and present that in a fair
4 and unbiased way. So we haven't gotten that,
5 and that has been asked for several years ago
6 at this point. And I think if we can get some
7 of that information, we would -- we would
8 gladly be able to put together something that
9 would be a little bit more comprehensive than
10 us making presentations this evening. So
11 thank you for those comments and.

12 MR. FULLER: Joanne, just to respond
13 on your line item that we used in our
14 presentation, it is nothing against you or
15 your department. We use it as an example
16 because it is a State mandate. With the
17 changing laws that everyone needs to be
18 represented now at arraignments, that puts a
19 lot of burden on your office. Basically, what
20 we're saying is if that funding from the State
21 comes -- we use that as an example.

22 MS. BEST: My people go away, too.

23 MR. FULLER: At some point the
24 county's going to have to pick it because you
25 know how busy the courts are.

1 MS. BEST: They're not. They're
2 not.

3 A SPEAKER: They have to.
4 (Everyone speaking at once.)

5 CHAIRMAN JOHNSON: Thank you for
6 your comments. I'm going to wrap this up,
7 it's a little after nine, and we've been
8 trying to stay on schedule. And I just had a
9 couple comments to finish up.

10 Our first meeting on district courts
11 was September 18th of 2020. So please don't
12 be misled that this has not been studied by
13 the committee for years. The first time the
14 District Attorney came to the legislature was
15 in September of 2020.

16 There were a couple remarks tonight
17 about abolishing local courts. Never our
18 intent, and I think the District Attorney made
19 that very clear.

20 And as far as procedural issues that
21 this legislative body has been questioned on,
22 the only resolution that happened last night
23 was allowing us to put it on the ballot as a
24 referendum in November. We have a local law
25 that has been drafted. We have not passed

1 this. We have not had the public hearings on
2 the local law. What we did, under a time
3 schedule, was pass a resolution allowing us to
4 put it on the ballot. That's what happened
5 last night.

6 So as far as the question on
7 procedural issues and revoking resolutions,
8 that -- that's not what's at issue here. For
9 the next three months you will be contacted on
10 public hearings that the District Attorney and
11 the Public Defender want to have in different
12 towns. We have to have a legislature public
13 hearing before we even consider the local law.
14 But I wanted to assure you that due process
15 has been met, and has been gone through our
16 county attorney. And I know there were
17 questions about that.

18 And we will advise you of the next
19 public hearing. And I appreciate all your
20 attendance. Thank you.

21 (The proceeding concluded at 9:03 p.m.)

22 * * *


1 STATE OF NEW YORK)

2 SS:

3 COUNTY OF GENESEE)

4
5
6 I DO HEREBY CERTIFY as a Notary Public
7 in and for the State of New York, that I did
8 attend and report the foregoing proceeding,
9 which was taken down by me in a verbatim
10 manner by means of machine shorthand.

11 Further, that the proceeding was then
12 reduced to writing in my presence and under my
13 direction. That the proceeding was taken to
14 be used in the foregoing entitled action.
15
16
17
18
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20

21 

22 SUSAN M. RYCKMAN, C.P.,
23 Notary Public.
24
25