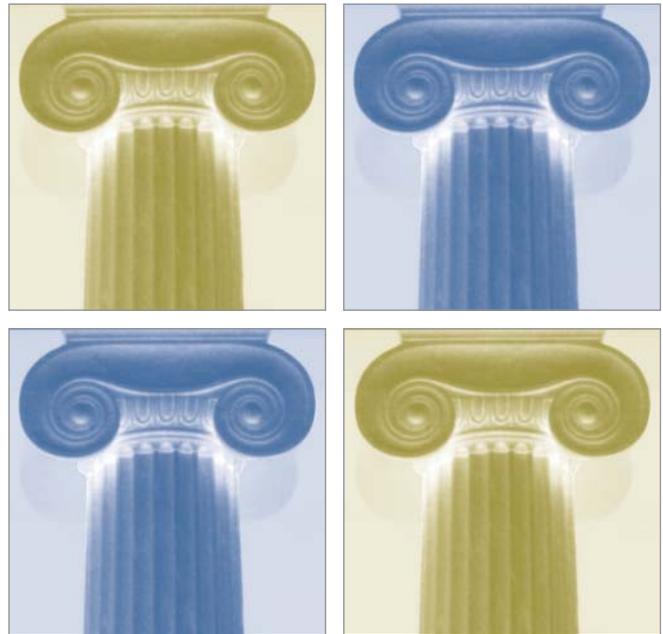


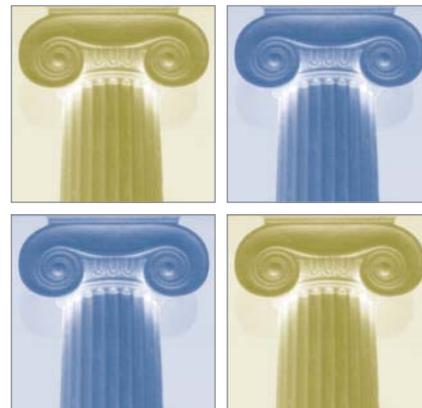
THE TASK FORCE ON COURT SECURITY
REPORT TO THE CHIEF JUDGE AND
CHIEF ADMINISTRATIVE JUDGE



O C T O B E R 2 0 0 5

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Contents

Introduction	iii
Executive Summary	vii
A. Security Management and Administration.....	vii
B. Security Protocols and Equipment	viii
C. Contract Security.....	ix
D. Physical Infrastructure	x
E. Judicial Threats	x
F. Emergency Preparedness	xi
G. Justice Court Security	xi
H. Legislative Initiatives	xii
I. Ongoing Monitoring and Response	xii
1 Background: The State of Court Security	1
A. State-Provided Court Security	1
1. Personnel and Management	2
2. Budgeting and Finance	4
3. Security Procedures and Protocols.....	5
B. Contract Court Security	7
1. Budgeting and Finance	7
2. Training.....	7
3. Uniform Security Procedures.....	8
4. Transfer of Court Security to the Judiciary	8
C. Judicial Threats.....	9
D. Emergency Preparedness	11
E. Justice Court Security.....	16
2 Recommendations	19
A. Security Management and Administration.....	20
Redeployment of Existing Uniformed Personnel.....	20
Special Response Teams.....	21
Residential Training Facility.....	22
Physical Skill Assessments.....	22
Court Officers Academy Duration	23
In-Service Training.....	23
Incident Reports	24
B. Security Protocols and Equipment	24
Prisoner Handling Procedures	24
Classification of Prisoners	25
Handcuffing	26
Alternative Prisoner Restraints.....	26

- Prisoner Courthouse Clothes Change 27
- Lockdown Procedures 27
- Gun Holsters 28
- Ballistic-Resistant Vests 29
- Continuum of Force 30
- Enhanced Security for Judiciary-issued Identification Cards 31
- Quality Control 33
- C. Contract Security 33
 - Written Copies of Court Security Procedures 34
 - Training 34
 - Oversight 35
 - Uniform Security Procedures 35
 - Transfer of Court Security to the Judiciary 35
- D. Physical Infrastructure 37
 - Courthouse Design 37
 - Courthouse Security Assessments 38
 - Facility Retrofitting 38
 - Security Liaisons 39
- E. Judicial Threat Response 39
 - Escort Training 39
 - Communication 40
 - Judicial Education 40
- F. Emergency Preparedness 41
 - Intergovernmental Cooperation 41
 - Secure Web Site 42
 - Protecting Data 42
 - Emergency Response Training for Non-Uniformed Personnel . . . 43
- G. Justice Court Security 43
 - Security Assessments 43
 - Courthouse Design 44
 - Training 44
 - Procurement 44
 - JCAP Expansion 45
 - Justice Court Security Working Group 45
- H. Legislative and Intergovernmental Initiatives 46
 - Video Court Appearances 46
 - Threats to the Judicial Process 47
 - Court Security Appropriations 47
- I. Ongoing Monitoring and Response 48

3 Conclusion 51

Appendix — Bound Separately

Introduction

There is perhaps no more vital or complex challenge for a free society than assuring that its courts are always open, accessible and safe. As if the September 11, 2001 destruction of the World Trade Center's Court of Claims facility and the devastation of the Louisiana and Mississippi court systems in the wake of Hurricane Katrina¹ were not reminder enough of the importance and difficulty of protecting the infrastructure of our justice system, recent events in courthouses across the nation underscore the exigency of securing the courts, and the judges and nonjudicial court employees on whom the public relies to meet their justice needs. The last year alone witnessed numerous high-profile crimes and other threats against courts and judiciary personnel nationwide:

- In a courthouse in Fulton County, Georgia, a criminal defendant used a deputy sheriff's firearm to shoot and kill a judge, another deputy sheriff and a court reporter;
- A convicted counterfeiter threatened to bomb a Chicago courthouse in retaliation for his conviction;
- A Jacksonville, Florida litigant begrudged by a court ruling took hostages and threatened to kill them unless the presiding judge resigned, prompting the judge to stage her resignation on live television to save the hostages' lives;
- Relatives of a federal judge in Illinois were murdered in the judge's home in apparent retaliation for a ruling in a criminal case; and
- A Seattle, Washington man upset about child support rulings brought a hand grenade into a federal courthouse, leading to mass evacuations and a stand-off that led to the man's death.

While longstanding strict security measures in New York State's courts and enhanced measures adopted after September 11 have helped avert such tragedies in the Empire State, New York is not immune to this danger. In the last decade, there have been over 1,300 incidents of threats against judges and other court personnel. During this time, there have also been thousands of other courthouse security incidents to which uniformed court officers have responded.

Because the New York State Judiciary operates one of the nation's busiest court systems — New York's caseload now exceeds four million new filings a year — and given the emerging nationwide trend of threats against courts, judges and nonjudicial court employees, there is no reason to expect a diminution of such events in New York State. Courts will forever face threats to public safety precisely because the Third Branch's primary function is to mediate complex and often highly emotional disputes. Courts are busy places where violent felons face justice, victims confront attackers, parents dispute child custody and support obligations, and myriad other life-altering circumstances are debated, decided and appealed — all in high-traffic, high-pressure and high-stakes

¹ Peter Applebome and Jonathan Glater, *Storm Leaves Legal System a Shambles*, N.Y. Times, September 9, 2005, at 1; Charles Sheehan, *Can Justice Be Done in Midst of a Disaster?*, Chicago Tribune, September 9, 2005, at 1.

environments. Especially in the criminal courts, conflict and the threat of violence will forever form the backdrop against which courts and judges fulfill their justice missions.

Layer atop these realities the modern specter of terrorism, and the careful implementation and constant refinement of public safety measures become absolute necessities and inescapable facts of life for New York's courts. And the massive disruption of the Mississippi and Louisiana court systems in the aftermath of Hurricane Katrina is a brutal reminder of dangers and threats of other types to which courts are vulnerable and must be prepared to face.

At the same time, however, courts in free societies cannot function behind opaque veils of security. Access is essential to protect core constitutional liberties and ensure equal justice for all. Balancing security with access, when a single preventable death or injury is one too many and when mere seconds can mean the difference between life and death, demands constant vigilance and re-examination of court security procedures.

Even in judiciaries with relatively homogenous caseloads, demographics and management cultures, striking this delicate balance in the most unobtrusive and cost-effective manner is a challenging prospect. In New York State, however, meeting the court security challenge is all the more complicated because of the sheer scope and diversity of New York's court system. The New York State Unified Court System includes 1,200 State-paid² judges presiding in nine separate trial courts and several appellate tribunals, over 15,000 nonjudicial employees and 2,300 locally-paid Town and Village judges, and facilities ranging in size from one-room rural courthouses to the recently opened 84-courtroom courthouse in Brooklyn. That New York's courts vary widely in size and caseload, physical design and threat profile resists one-size-fits-all categorization but yet requires at least some standard protocols and coordination among uniformed and civilian officials responsible for court security. Given this physical and operational diversity, and especially in the shadow of September 11, New York State must constantly improve the physical, administrative and operational apparatus of security in response to evolving threats and on-the-ground circumstances at each of New York's many diverse court facilities. That much is clear, even without a report, to any casual observer.

Precisely how to achieve such constant re-evaluation and improvement, however, is more elusive given the unique challenges of providing court security in a state whose governmental structures are as diverse as New York's. Under the State Constitution, New York's 11 trial courts are divided by jurisdictional and administrative fissures that frustrate speedy and efficient deployment of security personnel serving in each court. A handful of New York's courts (*e.g.*, the Court of Appeals) are located in facilities owned and controlled by the State. A much larger number of courthouses (over 300) are provided by county and city governments. An even larger number of courts, the 1,300 Justice Courts, are located in facilities provided by town and village governments. The manner of providing court security also varies widely among courts. In many courts, security is provided by uniformed court officers employed and trained by the Judiciary. In other courts, security is provided by the county sheriff or city police department pursuant to contract with the Judiciary. In the Justice Courts, security, if any, is that which the town or village government chooses to provide.

In light of New York State's diversity of court facilities and multiple levels of government responsible for their operation and protection, the task of securing New York's

² References in this report to "State-paid" refer to courts in New York in which the judges and court employees are paid from State funds. These courts are the appellate courts and all trial courts except the Town and Village Justice Courts, which are locally-funded and administered.

judicial system requires a flexible approach at once centralized enough to anticipate risks and coordinate funds, personnel and other resources needed for rapid response, and yet also localized enough to reflect the courts' many kinds of facilities, threat levels and governing relationships. As the Judiciary's response to September 11 demonstrated, collaboration across branches and levels of government is critical to plan for court security threats and address them swiftly. And recognizing that sometimes the very proliferation of responsible parties can itself hinder efficient mobilization in the public safety arena, some measure of centralization and perhaps reinvention of outdated administrative and operational protocols may be necessary to reduce public exposure to avoidable risks and maximize government's response to them. Here, too, careful balancing between centralization and local control remains essential.

In response to these concerns, Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman convened this Task Force on Court Security in March 2005. Co-chaired by Office of Court Administration (OCA) Administrative Director Lawrence Marks and OCA Chief of Operations Ronald Younkins, the Task Force's mandate has been to examine the operational, administrative and legal landscape of protecting New York's courts, and to make recommendations where reforms are necessary to better secure the courts and the public they serve. The Task Force, and its Working Group, brought together uniformed personnel, operational managers from New York's trial courts and senior OCA officials to conduct a top-to-bottom analysis of the entire court security system. Collaborating with the court system's administrative judges, judicial and nonjudicial associations and court employee unions, the New York State Bar Association, New York State Sheriffs' Association, New York State Association of Police Chiefs, New York State Emergency Management Office, New York City Department of Correction, New York City Office of Emergency Management and the National Center for State Courts' Summit on Court Safety and Security, the Task Force surveyed every facet of safety planning, threat assessment and response in the courts, including:

- Court security staffing and deployment procedures;
- Recruitment and training;
- Protective equipment for uniformed officers and other court personnel;
- Prisoner transportation and protection procedures;
- Courthouse entry screening;
- Security contracts with local governments;
- Facility design and threat assessments;
- Judicial threat screening and response protocols;
- Physical and technological monitoring;
- Lockdown and other event-response procedures; and
- Emergency preparedness planning.

Executive Summary

The Task Force finds that the state of court security in New York is strong. Yet, in this arena, even one avoidable tragedy is unacceptable, with high stakes consequences not only for the individuals directly involved in any particular incident but also for the justice system itself and the public's perception of and confidence in the courts. All reasonable steps must be taken to ensure that our courthouses are safe and that judges, court staff, jurors and litigants are not subject to threats, intimidation or violence in the very place where the public goes to seek justice.

The strength of court security in New York is due in large part to the centralized administrative structure of the court system. In contrast to the locally-funded and administered judiciaries found in many states, New York's unified court administrative structure enables centralized security budgeting, policymaking and training. On the other hand, the New York court system is large, diverse and complex. Not surprisingly, many of the Task Force's recommendations concern a more uniform, but yet still locally-appropriate, implementation of standard policies and procedures.

The Task Force makes 47 recommendations for building on the already strong court security foundation in New York and further enhancing the safety of our courts. The recommendations are designed to achieve these broad objectives:

- Ensure that uniformed personnel are efficiently and effectively deployed throughout the courts and are adequately trained and equipped to perform their jobs;
- Update and in some cases standardize public safety procedures;
- Ensure that courthouses and other physical infrastructure of the justice system are designed and maintained to protect against foreseeable risk; and
- Enhance the speed and flexibility of security and emergency responses.

Some of the Task Force's recommendations can be implemented immediately, some require the input and cooperation of local governments and other entities, and some require legislative authorization. In addition, implementation of several of the recommendations has already begun, as it was determined that the interest of public safety militated against delaying their implementation pending release of this report.

The Task Force divided its work, and thus its recommendations, into nine discrete categories.

A. Security Management and Administration

The sheer size of the New York State court system and the vast number of courts and courthouses require both local flexibility (to assure responsiveness) and central oversight (to assure efficiency and compliance with legal and budgetary constraints). The Task Force finds that the balance between local and central control, and the means of exercising central oversight, both need to be adjusted to enhance the efficiency and effectiveness of the security system. The Task Force recommends the following steps to promote this

balance, as well as several other recommendations in the area of security management and administration:

1. Develop a simpler, more streamlined process for reassigning uniformed personnel where staffing imbalances exist between courts. See pages 20–21
2. Establish and train a Special Response Team of uniformed officers for flexible deployment in response to special events, emergencies and serious judicial threats. See page 21
3. Establish a residential Court Officers Academy. See page 22
4. Establish a study group to assess feasibility and need for periodic physical skill assessments for uniformed court officers, with a mandate to report back by April 1, 2006. See pages 22–23
5. Expand recruit training at the Court Officers Academy from 10 weeks to 14 weeks to facilitate additional training in areas such as physical skills and emergency response, and to allow additional simulations and cross-training with affiliated law enforcement agencies. See page 23
6. Require local court administrators to provide OCA with periodic reports on compliance with mandatory in-service training requirements by uniformed court officers. See page 23
7. Annually review security incident reports and propose policy and procedure changes responsive to incident trends. See page 24

B. Security Protocols and Equipment

The recent incidents of courthouse violence underscore the necessity of strictly following the policies and procedures in the New York Judiciary’s Court Officers Rules and Procedures (CORP) Manual and revising certain Manual procedures to minimize risks from prisoners. This report offers a number of recommendations to pre-empt risks that experience demonstrates can be avoided with simple precautions. These recommendations should be implemented wherever the Judiciary directly provides public protection services in the courts, and strongly encouraged in all other contexts by means recommended in later sections of this report.

8. Require that when transporting a prisoner directly from secure holding pens into a courtroom, the uniformed officer in closest proximity to the prisoner must be unarmed. See pages 24–25
9. Require that prisoners transported through public areas of courthouses be escorted by no fewer than two uniformed officers. See pages 24–25
10. In those jurisdictions without such protocols, work with local correction agencies to establish a classification system for prisoners so that the courts will be notified of special category information (*e.g.*, assaultive prisoner, escape risk, suicide watch, gang affiliation). See pages 25–26
11. Require that prisoners be rear-handcuffed at all times except when appearing before a jury and during extended hearings. See page 26
12. Evaluate alternative restraint devices and standardize the use and type of equipment employed. See pages 26–27
13. Require that any prisoner change of clothes occur at the correctional facility prior to arrival at the courthouse. See page 27

14. Implement and drill lockdown procedures for each court facility pursuant to uniform guidelines. See pages 27–28
15. Require that all on-duty firearms carried by uniformed personnel be secured in safe and serviceable holsters with safety ratings of Level III; and require court clerks who carry firearms to do so in holsters with a covered trigger guard and snap closure that securely attaches to the pant belt, and to wear their uniform blazer at all times. See pages 28–29
16. Adopt a policy ensuring that all uniformed officers receive a ballistic-resistant vest. See pages 29–30
17. Ensure that uniformed officers have at their disposal a full range of options along the continuum of force, by continuing to provide designated officers, sergeants and lieutenants with baton and (OC) pepper spray, and evaluating the comparative safety, effectiveness and cost of electric tasers and other force restraint instruments. See pages 30–31
18. Explore technologies to help guard against misuse of court employee identification cards and SecurePass cards (*e.g.*, “smart cards” with embedded digital chips that can be deactivated when reported lost or stolen, and photographs appearing on security monitors when holders pass an entry point). See pages 31–33
19. Establish a program to monitor and assure universal compliance with court security procedures and to identify security gaps before they ripen into threats. See page 33

C. Contract Security

In jurisdictions whose courthouses are secured by county and city law enforcement officials pursuant to contracts with the Judiciary, it is imperative that the State encourage the use of effective security protocols and equipment. Because the systems for operating court facilities, adjudicating cases, summoning jurors and subpoenaing witnesses are systems that are directed or condoned by the State, so too is the State ultimately responsible for the effectiveness of court security — even if security services are provided partly or even entirely by local governments. To that end, the State must take affirmative operational steps to assist these localities in meeting this joint responsibility. The Task Force therefore proposes the following:

20. Ensure that each local law enforcement officer providing court security in a contract jurisdiction has a copy of the protocols governing court security. See page 34
21. Expand and regularize court security training for local law enforcement personnel serving in the courts. See pages 34–35
22. A uniformed court officer at a rank equivalent to lieutenant or higher should be assigned to each judicial district currently without a uniformed court officer supervisor to monitor security practices for adherence to established court security policies and procedures. See page 35
23. The Judiciary should continue to work with representatives of local law enforcement agencies to identify and address problems in the provision of contract court security and to achieve greater consistency in procedures. See page 35

24. When the transfer of court security responsibility to the Judiciary is warranted, court administrators must carefully plan for the additional staffing, expense and administrative responsibilities that the transfer will entail. See pages 35–36

D. Physical Infrastructure

In addition to operational and administrative changes, the Task Force assessed whether the physical design and other infrastructure of New York courthouses are adequate to address the threats facing the courts. Just as public transportation and other critical public services must be “hardened” against bombings and other security breaches, so too must New York State’s court facilities be hardened against physical threats. The Task Force makes the following recommendations to ensure the physical security of courthouses:

25. On each new court construction project, whether building a new facility or renovating an existing one, include court security personnel in the design process from the earliest stages of the project. See pages 37–38
26. Establish a uniform facility assessment instrument to identify physical security weaknesses and breaches, and designate uniform court personnel in each facility to conduct a comprehensive security assessment so every court facility is assessed by April 2006. See page 38
27. Provide each locality with the assessment results, for corrective action, subject to partial reimbursement pursuant to State law. See pages 38–39
28. As needed, retrofit courthouses with duress alarms and judges’ benches with ballistic-resistant shielding at State expense. See pages 38–39
29. Designate a facility security liaison in each courthouse to assure prompt reporting and mitigation of routine facility needs that impact court security. See page 39

E. Judicial Threats

The nationwide spate of courthouse violence demonstrates that judicial threats must be addressed with the utmost speed and seriousness. The Task Force has reviewed the court system’s judicial threat response program and found it strong — as its success in reporting and managing these threats over the years demonstrates. Still, the Task Force has identified several steps that can further bolster the Judiciary’s preparedness in this area, and therefore recommends as follows:

30. Expand judicial escort training for all uniformed court officers. See page 39
31. Provide every judge with a wallet card containing critical information about responding to threats, including telephone numbers to report the threat and seek assistance. See page 40
32. Court security officials should work with local law enforcement agencies to ensure that judges who are threatened receive priority response to 911 assistance calls; where that is not possible, alternative approaches, such as portable home duress alarms and cell phones with global positioning systems, should be employed. See page 40

33. Expand mandatory judicial education to include materials on judicial security, threat assessment and response protocols. See pages 40–41

F. Emergency Preparedness

Ensuring that the courts are safe requires not only preparing for specific, targeted security threats, but also having the ability to respond promptly and effectively to emergencies of all kinds, whether natural or man-made. Efforts to improve the New York courts' disaster and threat response systems began before September 11, accelerated after the World Trade Center attacks, and continue to this day. But more must be done both to comply with legislative changes enacted in the wake of September 11 and to keep our courts as prepared for emergencies as reasonably possible. To these ends, the Task Force recommends as follows:

34. Speed the development of court-related State and local emergency preparedness plans with the Disaster Preparedness Commission, State Emergency Management Office and county governments, as required by statute. See pages 41–42
35. Develop a secure web site for use by executive staff, to provide access to emergency information and another means of communication among court system leadership. See pages 42
36. Establish a back-up computer center. See pages 42–43
37. Each Court should prepare a plan for the protection and recovery of records. See pages 42–43
38. Provide emergency response training for the court system's non-security personnel, especially executive and senior managers. See page 43

G. Justice Court Security

Unlike the nine State-paid trial courts and New York's appellate courts, the Town and Village Justice Courts operating in hundreds of localities across the State are funded and managed entirely by their local governments, generally outside the State's court security system. The Task Force concluded that in many Justice Courts — especially in rural areas with smaller caseloads but also in some highly populated areas with large caseloads including preliminary proceedings in felony cases — court security is seriously deficient. The Task Force urges local governments to act promptly to ensure that their Justice Courts have adequate security. The Task Force makes the following recommendations to assist localities in meeting this essential responsibility:

39. Renew offers to conduct security assessments of Justice Courts, with priority to the largest Justice Courts. See pages 43–44
40. Invite Justice Courts planning to build a new courthouse or renovate an existing courthouse to submit the plans for review and comment by the Judiciary's architects and security personnel. See page 44
41. Offer to train local law enforcement officers providing security in the Justice Courts, through a program coordinated by the Court Officers Academy. See page 44

42. Offer to assist local governments in selecting security equipment and in obtaining favorable “state-rates” in purchasing the equipment. See pages 44–45
43. Increase funding for the Justice Court Aid Program (JCAP) to enable Justice Courts to seek grants for security equipment purchases. See page 45
44. Convene a Working Group on Justice Court Security, with representatives of the Judiciary, Statewide associations of local governments and county, city and local law enforcement officials, to develop a series of best practices for court security. See pages 45–46

H. Legislative Initiatives

Not all of this report’s recommendations can be implemented by the Judiciary or by concerted cooperation among levels of government. In some instances, affirmative changes in State law are necessary to grant statutory authority, provide needed resources or comport substantive law to the modern realities of providing security in our courts. To these ends, the Task Force recommends that the Judiciary propose the following measures for legislative consideration in the 2006 State Legislative session:

45. Make permanent the statutory authority for video court appearances in criminal cases, and expand program authority to all counties and eliminate the requirement of defendant consent. See pages 46–47
46. Amend the Penal Law to specially criminalize offenses committed against judges and nonjudicial employees with specific intent to tamper with the judicial process. See page 47
47. Include in the 2006–2007 Judiciary Budget funds for security improvements, including retrofitting of court facilities and operational enhancements. See pages 47–48

I. Ongoing Monitoring and Response

It is critically important that this report not be the last word on court security in New York. Some recommendations will require close coordination among branches and levels of government over time, and the speed and success of these efforts must be carefully monitored. Other recommendations are, by design, preliminary and conservative, offered in expectation that relatively modest adjustments will suffice and that additional steps will not be necessary; these expectations must be reviewed and confirmed over time. Still other recommendations will surely need to be revisited as technologies, caseloads and security risks evolve.

To these ends, the Task Force recommends that it continue to report biennially on court security issues, with special attention to:

- Jurisdictional impediments to the cost-effective provision of court security services, including improvements made by centralized assessment of court security staffing and redeployment of uniformed court personnel;
- Training and performance standards for uniformed court personnel, including the possible establishment of periodic physical skill assessments to ensure that uniformed personnel on sensitive posts can respond effectively to threats they encounter on the job;

- Alternative instruments for the deployment of physical force by uniformed court officers;
- Standards and procedures for the provision of security by county and city law-enforcement personnel, including the interoperability of equipment and seamless integration of procedures; and, if discussions with local law enforcement agencies do not result in the necessary standardization, whether a legislative solution should be considered; and
- Sufficiency of Justice Court security, including staffing, training, equipment and physical infrastructure.

Fully implementing the recommendations of this report will take time, but because time is of the essence, the Judiciary's efforts must continue and accelerate. Never can the nation's judiciaries, and especially the New York State courts, let down their guard against current and potential threats. Especially in the post-September 11 environment, our courts must be open and ready every day and without interruption. Assuring the safety and security of the courts is indispensable to our response to September 11 and, more generally, to keeping our society free and safe. It is to this essential objective that this report is dedicated.

Background: The State of Court Security

In addition to the intermediate appellate courts and the Court of Appeals, Article VI of the New York State Constitution provides for 11 separate trial courts varying in jurisdictional breadth, case type and docket size. The appellate courts and nine of the State's trial courts — Supreme Court, County Court, Family Court, Surrogate's Court, Court of Claims, New York City Civil Court, New York City Criminal Court, District Courts on Long Island and City Courts outside New York City — are operated entirely with State funds centrally budgeted by the Office of Court Administration (OCA) and appropriated by the State Legislature in accordance with the Unified Court Budget Act.¹ The operation of these nine trial courts, including their management and public safety structures, is primarily supervised by each judicial district's administrative judge with local flexibility to reflect each court's unique dockets, facilities and demographics. The State's two other trial courts — the Town and Village Justice Courts — are funded and operated entirely by the local governments, though the Legislature provides limited financial assistance funds in the Judiciary budget and other restricted grant programs to supplement their operation. Taken together, the Unified Court System comprises over 1,200 State-paid judges and over 15,000 State-paid nonjudicial employees serving hundreds of court facilities, and over 2,300 additional Town and Village judges — one of the largest court systems in the nation.

A discerning characteristic of New York's courts is that its court security system is an operational hybrid. New York State has not one but three court security systems that, though they seek to achieve common goals, are administered quite differently. In some parts of the State, the Judiciary provides security directly in the State-paid courts, employing its own uniformed court officers. In other areas, the Judiciary contracts with county sheriff's departments or municipal police departments to provide security in the State-paid courts. And in the locally-paid Justice Courts, the town or village provides its own security (if any).

Understanding the mechanics of this three-part security system, and the need for improvement, requires separate investigation of each component.

A. State-Provided Court Security

As of this writing, the Judiciary's uniformed court officers are responsible for directly providing public protection services in the following State-paid courts:

- The Court of Appeals;
- The Appellate Divisions of Supreme Court, except the Buffalo and Rochester facilities of the Appellate Division, Fourth Department;
- The Appellate Terms of Supreme Court;
- The trial courts in the City of New York;

¹ See generally L. 1976, c. 966.

- The trial courts in the Tenth Judicial District (Long Island);
- The trial courts in the Ninth Judicial District (lower Hudson Valley);
- In the Third Judicial District, the Family, Supreme and County Courts of Rensselaer, Sullivan and Ulster Counties, and the City Court of Troy;² and
- In the Fourth Judicial District, the Family, Supreme and County Courts except in Hamilton County, and the City Courts of Glens Falls, Gloversville, Plattsburgh, Saratoga Springs and Schenectady.

This section details current personnel and management procedures, security protocols, specialized security programs and budget issues related to State-provided court security in these jurisdictions.

1. Personnel and Management

Recruitment and Training

The Judiciary provides court security through uniformed court officers recruited, trained and managed in many ways similar to other State uniformed public safety officials. Pursuant to State law, prospective candidates for the Judiciary's uniformed positions must take a standard civil service examination administered periodically around the State. Successful examinees are placed on eligibility lists and, subject to employment fill levels authorized in the Judiciary Budget, are selected by examination ranking and undergo careful medical and psychological screening.

Recruits begin their service in the Judiciary's uniformed personnel corps by completing an initial 10-week training program at the New York State Court Officers Academy, with branches in New York City and Albany County, and then an additional two years of on-site training. This extensive program has steadily increased in duration and rigor as the responsibilities of court officers and challenges of court security have evolved.

The 10-week Academy curriculum (see Appendix A), certified by the State Division of Criminal Justice Services and Municipal Police Training Council, prepares recruits for the New York State Peace Officer Examination and then deployment to tours of duty among the State's trial and appellate courts. Implemented by a Deputy Chief for Training and a staff of full-time training instructors certified as police instructors, the Academy curriculum includes:

- Physical training, including defensive tactics, crowd control, dispute resolution and physical restraint;
- Weapons certification, including guidelines for the use of deadly physical force, firearms training, confrontations in low-light conditions and handgun retention/storage procedures;
- Criminal law and procedure, including the law of search and seizure, criminal identification and peace officer investigations;
- Facility security, including magnetometer, metal detector and x-ray machine procedures, bomb threats, weapons of mass destruction and mobile patrols;
- Handling prisoners and emotionally disturbed persons;
- Court procedures and personnel, including indigent defense and prosecution offices;

² The Judiciary and the City of Kingston have concluded an agreement under which responsibility for providing court security services in the Kingston City Court will be transferred from the City to the Judiciary in October 2005.

- Family Court procedures, domestic abuse and other volatile situations; and
- First responder certification, including adult and infant CPR.

After demonstrating weapons proficiency and passing the New York State peace officer certification examination, newly graduated court officer trainees are deployed throughout the courts, typically annexed to a specific court part, and there receive additional training on-site under supervision of local commanding officers. These initial assignments are based on OCA staffing guidelines, the size of each graduating class, and each court's annual staffing requisitions that vary with caseloads and existing personnel fill levels. The training includes:

- Facility and chain-of-command orientation;
- Emergency procedures;
- Local court orders and directives;
- Stop-and-frisk and arrest procedures; and
- Local security post, courtroom post and jury management.

Training continues with rotational assignments within the assigned court or judicial district, and includes assignment to the Court Officers Academy Range where officers must again demonstrate firearms proficiency before their court officer certification is complete.

For the duration of their careers in the Judiciary's uniformed service, court officers must complete annual weapons re-certification and participate in periodic in-service training, which provides refresher courses on core security skills, emergency response, new protocols and emerging threats. The most recent in-service curriculum included a full week of classroom and simulation training that included:

- First response, including CPR, first aid and defibrillator training;
- Updates on criminal law, including the law of justification (Penal Law article 35);
- Situation management and crowd control;
- Equipment training, including use of batons, oleoresin capsicum (OC or "pepper") spray and metal detector procedures;
- Counter-terrorism, bomb response and emergency procedures; and
- Perimeter and prisoner control.

In addition, court officers selected for service on judicial escort details, specific threat response, mobile security patrols and other specialized deployments receive further training appropriate to those assignments.

Staffing Levels

The availability of court officers to serve in a particular part, court or judicial district depends on many factors, including the operational needs of the court or judicial district, the employee fill levels authorized in the Judiciary Budget and the number of graduates from recent Court Officers Academy classes. In light of budgetary restraints arising from the State's economic downturn following the 9/11 attacks, along with the significant number of retirements following the State retirement incentive legislation enacted in 2002, court officer staffing levels had declined modestly in the past several years. However, as a result of the number and size of recent Academy classes, staffing levels Statewide are currently at record levels, both in New York City (over 2,500 court officers) and outside (over 1,000 court officers).

A strictly quantitative measurement of court officer staffing levels, though, does not tell the whole story. Measures instituted after September 11, such as the Mobile Security Patrol (MSP) program and the expanded deployment of uniformed personnel to courthouse perimeter posts, have created a need for additional court officers. On the other hand, the Judiciary has experienced major shifts in recent years in the makeup of its caseloads — felony cases, for example, have declined dramatically in some parts of the State, leading to a reduction in parts in courts handling those cases and a corresponding decrease in those courts' needs for court officers. By contrast, misdemeanor and other quality of life cases have soared during this period, particularly in New York City, imposing significant burdens on courts handling those cases.

What is clear, however, is that court officer staffing imbalances have arisen in some locations. Certain courts and judicial districts have more than enough court officers, while others do not have a sufficient amount. This is caused by a variety of factors, including the shifts in caseloads as well as the fact that when judges are transferred from one court or judicial district to another, they take with them their law clerks and secretaries but not other personnel, such as court officers, who staff their courtrooms. The recommendations section proposes changes to address these imbalances.

Command Structure and Court Security Administration

The highest ranking uniformed officer in the court system is the Chief of the Department of Public Safety. That officer supervises the office that oversees implementation and establishment of the Judiciary's security policies and procedures. The Judiciary's security rank structure includes a range of positions that include the ranks of court officer, and various uniformed supervisory ranks including sergeant, lieutenant, captain, major, security coordinator, assistant chief and deputy chief.

Management of court officers and direct implementation of security procedures at each court facility are the primary responsibility of the commanding officer on site under the overall supervision of the local administrative judge or his or her designee.

2. Budgeting and Finance

Court security accounts for approximately 17% of the Judiciary Budget. Funds for court security functions — including personal costs, fringe benefits, equipment purchases and other necessary expenditures — are allocated in a proposed Judiciary Budget as part of the courts' annual budget process, which evaluates the court security needs of each judicial district's State-paid trial courts and appellate tribunals. As the State Constitution requires, each year the Chief Administrative Judge proposes to the Court of Appeals a comprehensive Judiciary Budget which, after Court approval, is then forwarded to the Governor for inclusion in the annual Executive Budget proposal for the upcoming State fiscal year. For each of the last several years, the Judiciary has proposed a Budget with a rate of growth lower than mandated cost increases, capped by strict vacancy control measures and other cost-containment actions. Recommended appropriations in each year's proposed Judiciary Budget, including court security expenditures, are subject to bicameral hearings and then final Legislative and Executive approval before funds, equipment and personnel are available for deployment in the courts.

As the Judiciary's caseloads and mandated operating expenses have increased over the years, so too have appropriations for security functions in the courts — from approximately \$256 million in fiscal year 2000–2001 to nearly \$342 million in fiscal year 2005–2006.

3. Security Procedures and Protocols

Standard procedures for the provision of court security are contained in the Court Officers Rules and Procedures (“CORP”) Manual (see Appendix B), promulgated April 1, 1989 and amended periodically thereafter by OCA’s Department of Public Safety, and reflecting best-practice procedures of national security agencies, the National Center for State Courts, sheriffs’ departments and local police. The court security protocols described in the CORP Manual, issued to each newly hired court officer-trainee, form the basis for their Academy training and for Judiciary security policy and administration.

As a general matter, the CORP Manual describes in detail the best-practice standards for facility screening and protection, handling prisoners, using and maintaining standard equipment, supervising juries, carrying and using firearms, using physical force generally, responding to emergencies (*e.g.*, fires, bomb threats, natural disasters and hostage situations), conducting investigations incident to peace officer status and effecting arrests. In addition, the CORP Manual governs administrative procedure such as filing incident reports, training, the chain of command, as well as special responsibilities for uniformed supervisors.

For reasons of operational necessity, some security protocols and procedures must be kept confidential to ensure the safety of court officers, court personnel and the public using the courts, so detailed discussion of them is omitted from this report. The following section summarizes basic protocols applicable in the courts to provide context for reform recommendations.

Screening Procedures

Screening procedures in New York State courts were first implemented in 1973. By the early 1990s, all New York City courts screened courthouse visitors, a policy that has since expanded to all New York State courts to ensure that weapons of any sort are discovered and confiscated at entry points so as to protect the judges, uniformed officers, court employees, attorneys and members of the public serving in or using the courts. Especially as caseloads (and thus the number of people using the courts) have steadily increased, and with them the number and types of threats, thorough and efficient entry screening has become absolutely essential for New York’s courts.

With very limited exceptions, all persons seeking entry to a court facility must pass through high-sensitivity magnetometers tested and calibrated at the start of each day (see Appendix C). All uniformed court officers are trained to operate magnetometers and other detection equipment, conduct physical searches and confiscate contraband. Current physical search procedures include not only magnetometers but also portable x-ray detection equipment and, in selected locations, sensitive explosive detection equipment. Persons who trigger alarms on this equipment or who are otherwise determined to present security risks are subject to personal searches by uniformed officers of the same gender as the search target, in accordance with strict guidelines approved by the State Division of Criminal Justice Services that ensure the comfort and safety of both the search target and the uniformed officer.

As technology and threat profiles have evolved, so too have guidelines for the permissible transportation into court facilities of materials that could pose risks to the physical safety of persons in the courthouse or the integrity of court facilities. Weapons of all sorts (*e.g.*, guns, knives, etc.) have long been contraband in court facilities — as in other secure areas such as airports and detention centers — and are immediately confiscated.

Limited classes of persons — court employees, tenants of courthouse facilities, attorneys, government or non-profit agency employees who regularly conduct business

within the courts — generally are not required to pass through magnetometers provided they comply with certain conditions. All court employees are required to wear valid photo identification cards issued by the Judiciary and to present these cards to uniformed court officers on entrance to court facilities. Court employees who do not present their identification are subject to the same physical screening requirements as other members of the public. Likewise, tenants whose offices are located in courthouse facilities may request approval to participate in the Judiciary's SecurePass program (see Appendix D).

Under the SecurePass program, individuals who appear frequently before the courts may apply for special identification cards that, on presentation to uniformed personnel, allow these applicants to bypass magnetometer screening at court facilities for up to two years except during heightened threat contexts during which all persons, including these SecurePass-participating applicants, must submit to magnetometer checks. The SecurePass application process includes a criminal background check on the applicant, and requires attorney or agency consent to comply with SecurePass procedures and to forfeit SecurePass privileges if the applicant faces certain criminal charges, is terminated from employment or violates SecurePass guidelines. These guidelines strictly prohibit the applicant from carrying contraband into any court facility and violations are also sanctionable.

Not only persons but also packages and mail received at court facilities are subject to physical and/or electronic search. All packages and mail are subject to x-ray and manual search pursuant to law enforcement guidelines designed to speedily identify and segregate potentially suspicious packages for further assessment. All uniformed court personnel are trained in these procedures, and have had to apply them in recent years.

Incident Reports

Confrontations with aggressive defendants or other members of the public, use of force, conduct of arrests, reports of threats to judges or nonjudicial employees, discharge of weapons and other officer involvement in security incidents are systematically reported and tracked. As directed by the CORP Manual, uniformed officers involved in such matters must prepare and file Unusual Occurrence Reports (see Appendix E) with their supervisor; individual reports requiring immediate response are forwarded to OCA's Department of Public Safety, OCA's Division of Court Operations, court managers or other supervisors as warranted. These incident reports help inform supervisors and administrators of the security status of the courts, and provide a ready vehicle for assessing compliance with procedures and determining whether one or more security incidents warrant changes in procedure, facility design, training, human resource management or other operational responses.

Technological innovation has allowed Judiciary officials to more speedily report, assess and respond to security incidents by converting the paper reporting system to electronic form. Under the electronic system now in place, uniformed personnel receive advance training to access a secure centralized database to file their unusual occurrence reports, with various levels of secure access based on officer rank and local discretion. This system allows faster transmission of reports, and empowers security policymakers and administrators to search the report database based on any number of criteria, thus allowing speedier identification of trends and thus more targeted responses. By October 2005, this system will be implemented in all courts in which the Judiciary provides its own security.

Important as rapid transmission of information is, however, the sheer size of the New York State Judiciary makes necessary a more systematic examination of incident trends than appears to occur under current practice. Constantly evolving threat profiles, and the obvious need for constant improvement, calls for this more systematic evaluation, especially in light of technological changes that improve the collection and analysis of this information. The recommendations section addresses this matter in some detail.

B. Contract Court Security

In every State-paid court in which the Judiciary does not itself provide public protection services, the Judiciary executes a security contract with the county or city government (see Appendix F) for which the court exercises jurisdiction. These local security arrangements exist both in City Courts with limited jurisdiction and in superior courts (*e.g.*, Supreme Court, County Court). As of this writing, the Judiciary has executed local security contracts for each of the following courts:

- The Buffalo and Rochester facilities of the Appellate Division, Fourth Department;
- In the Third Judicial District, the county-level courts in Albany, Columbia, Greene and Schoharie Counties and all City Courts except the City Courts of Troy and Kingston;
- In the Fourth Judicial District, the courts of Hamilton County and the City Courts of Amsterdam, Mechanicville, Ogdensburg and Johnstown;
- All county- and city-level courts of the Fifth, Sixth, Seventh and Eighth Judicial Districts.

This section summarizes the contracting procedures and protocols governing security in these jurisdictions.

1. Budgeting and Finance

Funds for contract security are allocated as part of the Judiciary's annual fiscal planning process, and are included in the Judiciary's budget. Currently, the Judiciary's annual budget for contract security is approximately \$40 million, which funds the services of a staffing equivalent of 800 full-time local uniformed officers serving in court-protection posts around the State.

The standard security contract between the Judiciary and each participating locality typically provides for reimbursement of authorized expenses, up to a stated amount for each locality, expended by the locality for public protection services in the courts. These expenses include salary and fringe benefits (including uniform maintenance pursuant to collective bargaining agreements), pension costs and training expenses for the number of full-time equivalent uniformed personnel determined to be necessary in each contract year. A system of fiscal audit and control provides needed budgetary oversight, and periodic operational reviews of the contracts help ensure sufficient resources as caseloads and facilities evolve over time. Because State law mandates that the production of prisoners for court proceedings is a local and not State obligation, the Judiciary's security contracts with participating localities do not provide reimbursement for the transportation of prisoners to or from court facilities or the guarding of prisoners within court facilities — costs that, both under law and under the contracts, remain borne by local governments.

2. Training

County sheriffs and local city police departments are responsible for training their officers. Though this local training in certain localities involves some court-specific training, most of the training is standard police training prescribed by the State Division of Criminal Justice Services and provided in each jurisdiction's local academy. The focus of the training is on general law enforcement, as the officers generally have duty assignments other than in the courts that require them to rotate from courthouse assignments to non-

courthouse assignments. To address this discrepancy in training, the Judiciary has offered court-specific training to local uniformed personnel as a supplement to their standard law enforcement training.

3. Uniform Security Procedures

The contractual agreements between the Judiciary and the local governments that are responsible for providing court security services require the local government's law enforcement personnel to comply with the Judiciary's policies and procedures. These policies and procedures are set forth in the Court Officers Rules and Procedures Manual (CORP). Despite this mandate to adhere to Judiciary protocols, there is greater diversity in court security practices in contract jurisdictions than in jurisdictions with uniformed court officer personnel. The recommendations section proposes a series of steps that can be deployed in the contract security area to help localities improve the public protection services they provide in the courts, and to assist the Judiciary in ensuring high standards that public safety interests demand.

In addition, the Judiciary has been working with contract security jurisdictions to standardize policies and procedures in those jurisdictions where there is a lack of uniformity in procedures. Uniform procedures should be consistent with the CORP manual and amendments proposed in this report. Discussions currently taking place between OCA's Department of Public Safety and the New York State Sheriffs' Association and the New York State Association of Police Chiefs are continuing with the focus on identifying and addressing issues to achieve statewide uniform adherence to established policies and procedures.

4. Transfer of Court Security to the Judiciary

Provisions in the New York Civil Service Law (see Appendix G) and the Rules of the Chief Judge (see Appendix H) provide for the transfer of public protection responsibility in the State-paid courts from counties and cities to the Judiciary where both the locality and the Judiciary agree that State assumption of these responsibilities is in the best interests of the courts. Recent years have witnessed selective transfers of court security function in the Third, Fourth and Ninth Judicial Districts. These transfers — which may occur for reasons of operational necessity or other good cause — in all cases preserve statutory local responsibility for the production of prisoners in court (and thus the transportation of prisoners between courts and detention facilities), but otherwise transfer entry screening and other public protection responsibilities in the courts from the locality to the State.

These transfers typically involve not only State assumption of security responsibilities but also the administrative transfer of the locality's uniformed personnel from the locality to the State. This policy seeks to preserve the on-site experience of local uniformed officials and mitigate the administrative implications for the Judiciary's corps of uniformed personnel. Under the Civil Service Law and pursuant to the typical transfer of security function agreement, local uniformed personnel who have served a majority of their tours of duty in the courts during the six months preceding the transfer, and who have completed their training and periodic weapons-certification requirements, may be eligible to become State-paid court officers on the day of transfer. At that time, the procedures of the CORP Manual, as well as the Judiciary's chain-of-command, fiscal and other administrative protocols, go into effect in the subject court in like fashion as other venues in which the Judiciary directly provides security services.

Transfers of court security function are not and cannot be self-executing. Because these agreements involve transfers of uniformed personnel and changes in procedures, the agreements must be carefully managed to be successful. However, effective implementation of transfer agreements often requires far more than State adoption of local personnel and local adoption of State procedures. State and local human resource systems and uniformed personnel salary scales may be quite different; the locality's public safety equipment may differ from standard-issue equipment for the Judiciary's uniformed personnel; implementing different procedures may require staff training; and additional uniformed staff may be necessary to supplement the local personnel transferred to State service.

C. Judicial Threats

New York's court system has well-established protocols and a dedicated Judicial Threats Unit for responding to threats against members of the Judiciary. These protocols and the establishment of a specific unit to implement them have become necessary because threats to the personal safety of judges — including threats of physical violence — have become part of the fabric of our nation's justice systems. Since 1987, OCA has handled over 2,000 reported threats against judges and more than 1,300 in the last decade alone.

This section discusses the Judiciary's current judicial threat response protocols. As a general matter, these procedures include:

- Constant availability of specially trained officers to assess and respond to threats — 24 hours a day, seven days a week;
- Judicial education in procedures for reporting and managing threats;
- Standard threat assessment protocols to ensure that each threat is properly evaluated; and
- A range of security responses to ensure the appropriate level of protection following each particular threat.

Judicial Threat Unit Staffing and Operations

Selected uniformed supervisors are specially trained in assessing and responding to judicial threats. Procedures are in place to ensure that a judge reporting a threat can immediately speak with one of these supervisors. To that end, during off-hours, Unit members are assigned shifts in which they are responsible for answering calls and initiating the response process. In the unusual event that a call is not immediately answered by the designated supervisor, digital technology automatically routes the call to other designated supervisors until answered.

Judicial Education

To ensure that judges are aware of security issues and procedures for reporting threats, a high ranking uniformed court officer participates in training and orientation sessions that the Judiciary provides for new judges. In addition, all State judges receive a copy of the Judicial Threat Guidelines handbook. This handbook sets forth procedures to be followed in the event of threat — many of which are, by design, confidential and thus cannot be disclosed in this report. The handbook also offers recommendations for security awareness and practical steps to enhance each judge's personal security both at home and at the courthouse.

Threat Assessment

Careful and accurate assessment of the danger posed by a threat is critical to ensure appropriate, prompt and systematic response. Assessment of every individual threat reported is made by the specially trained uniformed supervisors in consultation with the Judiciary's Chief of Public Safety and the local law enforcement agency, all officials with specific training and extensive experience in threat assessment and mitigation. These individualized assessments gauge all the circumstances of the threat, including its precise language, timing and means of delivery (*e.g.*, whether written or oral, and if the latter, whether direct or by telephone); the extent and nature of self-identification by the person conveying the threat; the recipient judge's current docket and assignment; the design of the judge's court facility and the judge's location within the facility, etc. The supervisors use these other threat characteristics to determine, based on prior experience and current conditions, the particularized severity of the threat and thus the range of appropriate responses.

Threat Response

Pending assessment of a particular threat, a variety of responses are available, and enhanced security measures may immediately be implemented as necessary and appropriate. These enhanced security responses range from heightened awareness for court security personnel at the judge's court facility, to full-time security and escort coverage. Intermediate responses along this continuum include:

- Security escorts between the courthouse and the judge's car;
- Security escorts between the courthouse and the judge's residence;
- "Directed patrol" (*e.g.*, periodic vehicular surveillance by local law enforcement at the judge's residence); and
- "Sensitive location" designation of the judge's residence on the local 911 system.

After implementation, the case is periodically reviewed to determine if the response should be modified or terminated.

While the Task Force finds that the present system for assessing and responding to threats against judges works very well, the recommendations section of this report proposes several measures to further strengthen this already effective system. One recommendation the Task Force is proposing relates to whether certain circumstances justify the deployment of duress alarms to judges' homes. After reviewing the efficacy of duress alarms against alternatives, the Task Force concluded that the 911 "sensitive location" protocol already used in New York City and certain other parts of the State serves the same function as home duress alarms, and offers a number of advantages:

- 911-sensitive location procedures eliminate a step between the call and the response. Duress alarms do not communicate directly with the local law enforcement agency, but rather contact a private security company that, in turn, calls the law enforcement agency. In contrast, a 911 call is answered by the local police dispatcher, thus eliminating a step and saving critical response time.
- 911-sensitive location procedures automatically trigger a priority response. When a location has been designated as sensitive, the 911 operator is automatically alerted that the call must receive a priority response, ensuring rapid deployment of law enforcement officers. Under local procedures, a priority response typically also requires the presence of a police supervisor

at the location. By contrast, a duress alarm does not necessarily trigger priority 911 response unless the 911 system designates the location to require priority response. Thus, 911 activation saves a step here as well.

- 911-sensitive location procedures do not require additional installation at the judge's home. When a location is designated as sensitive, every telephone at the location will trigger the priority response.
- A number of logistical issues are posed by home duress alarms. For example, there may be problems in certain parts of the State with respect to duress alarm signal strength and reception.

For the foregoing reasons, the Task Force finds that direct-connection protocols between the court system and local law enforcement, such as the sensitive location procedures, essentially serve the same function as home duress alarms. The recommendations section offers suggestions for improving these direct protocols between local law enforcement and the court system.

D. Emergency Preparedness

In the months after September 11, the New York State court system, like government entities across the nation, undertook a comprehensive review of its plans for responding to and continuing operations in the face of emergencies, whether due to terrorism, natural disasters, or technological failures.³ More recently, Hurricane Katrina has prompted governments at all levels again to examine their disaster readiness.

There is a close nexus between general emergency preparedness planning and the primary focus of this report — court security in the more traditional sense of responding to immediate and targeted threats to public safety. The Task Force examined the Judiciary's emergency preparedness planning — both as it directly relates to everyday courthouse security and as it speaks more generally to the ability of the New York courts to continue serving the public in the face of a disaster — and found the Judiciary's emergency preparedness comprehensive and effective. Among the components of UCS emergency preparedness planning are:

Building-Specific Emergency Plans

Emergency preparedness plans (see Appendix I) have been created for each of the over 350 courthouses in New York State. The plans are based on a template to ensure that each plan is complete and comprehensive. The information from these plans is in database format, allowing for easy updating as telephone numbers or other entries must be changed, as well as permitting reports or searches to be run to find specific information. Among the many items covered by these detailed plans are:

- Contact information for key court and non-court occupants (*e.g.*, building staff) of the courthouse, as well as local law enforcement and other emergency response agencies;
- Identification of a designated assembly site, so that each building occupant knows where to go in the event of an evacuation;
- Facility evacuation plans;

³ As part of that exercise, the New York courts, in collaboration with the National Center for State Courts, hosted the 9/11 Summit on Security in the Courts, which convened court administrators and security personnel from around the nation to share ideas about emergency preparedness in the courts. Session videos, transcripts, and other materials from the Summit are available at <http://www.911Summit.org>.

- Mail handling procedures; and
- A listing of available emergency equipment and information about the facilities emergency announcement systems.

Continuity of Business Plans

The courts must be able to continue operation in the face of any emergency or other disruption, especially because such disruptions — whether in the form of mass protests, natural disasters or terror attacks — have proven likely to increase demand for court services. For this reason, each court has a specific plan for continuing its operations under emergency conditions. Key elements of these plans include:

- Alternate work sites to which court operations can be relocated if necessary;
- Establishment of relocation decision protocols;
- Systems to notify staff, the public, attorneys and justice service providers of the decision to relocate; and
- Copies of forms, records and other sensitive materials to be taken to alternate work sites, stored in a secure portable box for prompt transportation.

Staff Preparedness

To ensure that every court system employee knows what to do in the event of an emergency, three steps have been taken. First, each court employee has been issued a desk card with basic information about procedures in the event of evacuation, as well as a space for entering the designated assembly area for the particular courthouse (see Appendix J). Second, each employee has been issued a wallet card listing the Judiciary’s web site and toll-free telephone number, as well as space for employees to enter their designated assembly area and contact information about co-workers. Third, in consultation with local emergency agencies, court facilities conduct evacuation drills on a regular basis.

Communications

Effective communication in an emergency requires that both infrastructure and procedures are in place to ensure against interruptions in communication when seconds count. A critical aspect of a robust infrastructure is a variety of communications technologies and, in some instances, deliberate redundancy such that interruption in one communication network (whether because of technological failure or because an assailant precludes its use) can seamlessly route to alternatives to call for help or assure continuity of business. For example, after September 11, the analog telephone system in the Manhattan courts failed because of damage to a facility adjacent to the Trade Center. The court system was able to quickly restore some level of communications by deploying hundreds of Voice-Over-Internet Protocol (“VOIP”) telephones, which run over the Judiciary’s data cables, which were not damaged in the attack.

As much as emerging technologies can be part of the solution, sometimes “low-tech” alternatives are also necessary precisely because technology itself can be a target of mischief or attack. For that reason, the Judiciary has supplemented its VOIP technologies with low-tech alternatives, including no-frills analog telephones that continue to operate over low-voltage currents carried by telephone wires even during an electric outage. In addition, the Judiciary has deployed police radios for selected security personnel and satellite telephones for high-level executives to maximize the continuity of communications between courts and managers when immediate response to emergency is most important.

System Hardening and Data Protection

The integrity and safety of information is vital to every modern organization, but especially to a court system. The court system has taken a number of steps to ensure the security of its network (known as Courtnet), individual computers and important data. Continuous progress is being made to achieve a “five-star” network reliability rating in every court facility throughout the state. The components of the five-star system include for each site: a backup generator, sufficient battery backup, diverse network carriers, redundant servers and redundant network switches. In addition, OCA’s Division of Technology has issued a Courtnet Security Policy (see Appendix K), which protects the network by setting standards for hardware and software, email usage, passwords, internet access, firewall protection and connections to and from agencies outside of the court system. Furthermore, important data and programs kept in the court system’s central computer center in Rensselaer are regularly backed up and stored off-site.

The court system has also taken steps to protect the vast amounts of court records maintained in physical formats such as paper and film. Locating or replacing those records in the event of a disaster is imperative for the rapid recovery of the justice system. OCA’s Office of Records Management has prepared a Disaster Planning Manual (see Appendix L) and a Disaster Recovery Workbook (see Appendix M) to guide the courts in planning for and responding to disasters.

Incident Command System

The Incident Command System (“ICS”) has become the predominant model employed by governments at all levels for organizing responses to emergencies and other events that require coordinated effort by a number of different agencies. Under the ICS model, a single entity is designated as the lead agency (depending on the type of event), and a command center is established to coordinate the work of the various responding agencies and to serve as the single point for disseminating information. ICS is designed to improve emergency response, and to eliminate the “turf” wars that sometimes erupt between different government agencies responding to a disaster, by making clear which agency is in charge of a particular emergency, what the role of each non-lead agency is, and how and where information is transmitted. As ICS becomes the dominant incident response model, the court system has taken steps to ensure that its uniformed officers, and particularly uniformed supervisors, are fully conversant with this system, so that, if an emergency at a courthouse requires a multi-agency response, our officers can effectively work with these agencies within the ICS framework.

Emergency Response Training

The Judiciary has expanded emergency response training both in the basic Court Officers Academy curriculum and in-service training programs for veteran officers. Responsive both to natural and man-made emergencies, as well as to system-wide disruptions and pinpointed public safety threats, current training includes general emergency response protocols, building evacuation procedures, hazardous material response, judicial threats and critical infrastructure protection. All supervisory officers also receive on-line training in the Incident Command System. In addition, selected officers are receiving advanced training in “table-top” exercise format — exercises in which managers are evaluated on their responses to on-site simulated emergency conditions.

Networked Security Cameras

The Judiciary's sophisticated automation infrastructure has been wedded to courthouse security cameras to produce a low-cost, high-tech system that the New York Times hailed as one of the most sophisticated security systems in the nation.⁴ With the benefit of high-security firewalls, complex encryption and other signal-protection protocols, images are transmitted real-time from courthouses over the Judiciary's own network to the Communications/Command Center (discussed below) and to other court security personnel with the required clearance, allowing them to monitor courthouses remotely at any time of day, without jeopardizing the integrity or privacy of the transmissions. Critically, these cameras are posted only at entries, or other security-sensitive points in public places, and operated only to provide real-time monitoring of public events — thus protecting the privacy interests of persons in and around courthouses. Also, the storage of video records, necessary for law-enforcement purposes in the event of incident, is secured by sophisticated technologies that guard against intrusion, diversion and misuse, thus providing further assurance of privacy.

These networked security cameras supplement uniformed and plain-clothed law enforcement officers posted in and around court facilities to deter threats and other crimes against persons working in or using the courts. In addition, the cameras, by providing a digital record of entries into and through public parts of court facilities, can greatly assist court officers and other law enforcement officials to identify assailants and respond to threats.

Mobile Security Patrols

Recognizing that fixed-location security patrols cannot alone secure court facilities against outside and mobile threats, the Judiciary has established Mobile Security Patrols (MSPs) to conduct perimeter patrols around selected court facilities after hours and on weekends, and to be available for immediate dispatch in the event of an incident. MSPs not only monitor on-the-ground security conditions but also help prevent threats before they manifest inside court facilities, thus reflecting the more proactive approach to court security required in the post-9/11 era.

Communications/Command Center

Because increasingly complex court security has required expanded monitoring and coordination of security resources, the court system has established a Communications/Command Center at a courthouse in Manhattan. The Center, open 24 hours a day and seven days a week, is staffed by uniformed court officers, and serves the following functions:

- Monitoring networked security cameras;
- Coordinating MSPs, thus allowing central dispatch in response to the appearance of a threat detected by the networked cameras or via another source;
- Service as an already-established, networked command center in the event an incident requires deployment of ICS protocols;
- Monitoring and managing responses to security bulletins and other communications from the U.S. Department of Homeland Security, Federal Bureau of Investigation, State Office of Emergency Management, NYC Office of Emergency Management and other law-enforcement and emergency-response agencies.

⁴ Seth Scheisel, *Justice is Blind, but a Court Surveillance System Sees All*, N.Y. Times, September 2, 2004, at G5 (see Appendix N).

Automated Building Plans

Ready access to accurate and detailed building plans is critical in a wide variety of emergencies. In the late 1990s, as part of its facilities management program, the Judiciary undertook the ambitious project of creating a CAD (computer assisted drawing) database of its over 350 courthouses. A 2003 construction accident at an occupied courthouse made clear the value of these plans in an emergency. Courthouse floor plans in CAD format have been loaded onto laptop computers and made available to selected court security supervisors. To further enhance the availability of these plans in emergencies, the CAD plans are being placed on portable data storage devices (“USB drives”) that will be given to selected personnel and will also be placed on the Secure Web Site discussed below (page 42).

Intergovernmental Cooperation

In the days and months following September 11, the Judiciary worked closely with various governmental partners to assist the families of attack victims, provide rapid transmittal of court-related information to the public, and restore the courts in lower Manhattan to full operations. Since that time, the Judiciary has taken a number of steps to formalize and strengthen its relationships with other public entities in the area of emergency preparedness and response.

For example, since September 11, the Judiciary has designated one or more officials to serve full-time at the NYC Office of Emergency Management (OEM), and another at the New York City Police Department Counter-Terrorism Task Force. The benefits of these arrangements are many:

- Officers assigned to these emergency agencies serve as points of contact, able to provide Judiciary managers and affiliated justice agencies with accurate information in real time about threats and coordinated responses;
- In the event of an emergency, the Judiciary already has a “seat at the table” in the command center;
- Coordinated training opportunities, including intergovernmental threat-response simulations, have been expanded to include the Judiciary and its uniformed officers;⁵ and
- Perhaps most importantly, the presence of court officers at these emergency agencies constantly reminds other branches and levels of government that courts perform essential roles in emergency responses, helping ensure the courts are not overlooked in the emergency planning process.

The Judiciary has also taken steps to raise the level of intergovernmental cooperation outside of New York City. This task is, by sheer dint of the number of governments to deal with, a daunting one. Toward that end, in 2004 the Judiciary proposed and the Legislature adopted an amendment to the Executive Law providing for the inclusion of Judiciary-related concerns in the statute’s mandatory State and local disaster plans.⁶ Under this

⁵ In addition to traditional classroom-based sessions, some of these training opportunities have involved fully-staged, on-site emergency simulations. Two such exercises will be sited at New York City courthouses in 2005. The exercises are multi-agency (involving, among others, the Police and Fire Departments), and will be coordinated by NYC OEM. The scenario for one exercise includes a mace release in a courthouse, while the other involves white powder in a letter delivered to a courthouse. Selected uniformed court officers and supervisors will participate in these exercises. Last spring, court officers participated in a similar exercise, coordinated by the U.S. Department of Homeland Security, involving a simulated bomb threat at a courthouse in Nassau County.

⁶ See L. 2004, ch. 42. Article 2-B of the Executive Law, as amended by Chapter 42, is attached as Appendix O.

legislation, the Disaster Preparedness Commission (DPC), State Emergency Management Office (SEMO), NYC OEM and each county disaster agency must consult with the Chief Administrative Judge and OCA's Department of Public Safety to assure the adequacy of their emergency-response plans for the Judiciary and court-related functions. The Judiciary is currently implementing this expansion of the State threat-response system to further ensure the safety of court personnel and the public, and to ensure the continuity of critical court operations in the face of any emergency. The recommendations section offers further observations on how best to proceed.

E. Justice Court Security

Though constitutionally part of the New York State Unified Court System, the Town and Village Justice Courts are operationally, financially and administratively independent of the State Judiciary and the Office of Court Administration. Each Justice Court is controlled and managed by its own local government (i.e., the Supervisor and Town Board of each Town, the Mayor and Board of Trustees of each Village), operated pursuant to local appropriations levels and subject generally to local standards for administration and security.

This is so even though the Justice Courts enjoy jurisdiction in many ways indistinguishable from the civil and criminal jurisdictions enjoyed by City Courts, whose funding and operations are State responsibilities and whose security is provided either directly by the State or pursuant to State contract with the locality. As with the State-paid courts, Justice Courts possess not only misdemeanor trial jurisdiction but also preliminary jurisdiction over felonies committed within the court's jurisdiction. Accused felons are therefore routinely arraigned on charges before local Justice Courts. Like many State-paid courts, Town and Village Judges issue orders of protection in contentious family situations and penalize their violation. Civil cases, though subject to lower jurisdictional monetary caps in the Justice Courts than in City Courts, can implicate strong feelings between litigants that have led to outbursts and even violence.

Unfortunately, in many Justice Courts across the State, existing security procedures and resources are simply not commensurate with the threats these courts face. Many Justice Courts with relatively high criminal caseloads have either deficient screening equipment and procedures or no screening at all. Some Justice Courts employ insufficient uniformed security personnel or no such personnel at all. Even Justice Courts with small dockets, where local judges sit only once or twice each month, should take reasonable precautions against violence and other threats to public safety that invariably arise in any justice system.

Whether because the possible risks in the Justice Courts are not fully understood or local governments do not feel they can muster sufficient resources to better manage these risks, New York State's Justice Courts — unlike the State-paid courts — are generally ill-equipped and ill-prepared to address their security challenges. Unfortunately, under these circumstances the risk of avoidable tragedy is high.

For this reason, the Judiciary has already taken a series of steps to assist local governments in securing their Justice Courts. OCA has offered to conduct security assessments for Justice Courts around the State and has conducted a number of such assessments over the last three years. The Judiciary has assisted in training local police on court security issues. The Judiciary has also made available to Justice Courts limited grants, through the Justice Court Assistance Program, that localities can use to offset

certain equipment and operational expenses, thus freeing up limited local funds for investment in security and other operational needs.

The Task Force finds that more is needed to upgrade security lacking in the Justice Courts. Local justices, attorneys, litigants and court employees deserve courts that are secure against preventable threats. The recommendations section proposes a series of measures to assist local governments in meeting their essential responsibility to ensure the safe operations of their courts.

Recommendations

Over the last six months, this Task Force has conducted a systematic, top-to-bottom review of security preparedness in New York's courts and in each of their three security management systems (i.e., State-provided, State-subsidized, Justice Court). As noted, the Task Force concludes that existing procedures in the State-paid courts — refined over time and especially after September 11 — are effective and that uniformed personnel generally perform admirably on the job. Conversely, assessment of security in the locally-administered Justice Courts reveals significant gaps that, for the sake of all who serve in or use these courts, must be speedily closed.

Even in the State-paid courts, however, there is much work to do. Resources must be allocated and reallocated, procedures must be modernized and oversight systems must be streamlined — all to more completely and efficiently protect those who use and work in our courts. With annual new case filings exceeding four million annually, the New York courts are among the busiest in the nation. Because New York sees it all, security risks unfortunately promise to be continuing facts of life in New York's courts. Adding to the complexity of responding to the court security challenge, as noted above, are the inherent difficulty of balancing security with the openness essential to protecting core constitutional liberties and the State's great diversity of court facilities and dockets.

The following recommendations reflect and accommodate these dynamics of our State's justice system. Many of these recommendations are designed to improve specific security procedures in response to nationwide events that have revealed their inadequacy. Others seek to improve the efficiency or administration of systems that work well but where targeted improvements will free precious time or resources for investment in other important security-related initiatives. Still others plug gaps in State law to make our courts safer. These recommendations run the gamut from budgeting to management to operational planning, including:

- **Security Staffing and Management**
- **Security Protocols and Equipment**
- **Contract Security Reforms**
- **Physical Infrastructure**
- **Judicial Threats**
- **Justice Court Security Reforms**
- **Legislative Initiatives**
- **Ongoing Monitoring and Response**

The following recommendations — and the enhanced collaboration among branches and levels of government they advocate — should be implemented swiftly and together, as part of a comprehensive, system-wide and ongoing response to the court security challenge. The Task Force also notes that because time is of the essence, the Task Force did not await release of this report to propose several of these steps; as of this writing, numerous recommendations have already been implemented to speed the improvement of court security as much as reasonably possible within existing resources and statutory authorizations.

A. Security Management and Administration

Redeployment of Uniformed Personnel

As previously discussed (see pages 3–4), court officers can be allocated inefficiently among the courts, sometimes fueling imbalances that impair the effective delivery of essential public safety services in the courts. Staffing imbalances typically result from caseload changes. It is an axiom of court security that public protection staffing needs follow caseloads: as caseloads and case types evolve over time, so too do the staffing needs of the courts. For instance, the decline in felony prosecutions in many parts of the State coupled with the increase in quality-of-life and other misdemeanor prosecutions necessarily shifts security needs from felony tribunals (i.e., the Criminal Term of Supreme Court and County Courts) to misdemeanor forums (i.e., the Criminal Court of the City of New York, District Court and City Courts). Another example is Family Court, which in recent years has experienced a steady, unyielding increase in its caseload; this has created greater security needs, particularly in proceedings in which court attorney-referees are assigned to preside.

Despite this, the operational reality is that uniformed court personnel generally do not follow the ebb and flow of caseloads among New York State’s nine State-paid trial courts. Judges and their staff may be reassigned among different courts as caseloads and staffing needs evolve, but court officers typically are attached to individual courts, notwithstanding sea changes in caseloads that might require more or less personnel in a particular court location. This condition significantly impairs the capacity of individual local court administrators, and the entire system, to ensure adequate security in the courts because it effectively bars even temporary reassignment of uniformed officers to the areas of greatest need. This condition can also frustrate the courts’ collective capacity to respond to rapidly changing security conditions by artificially fragmenting precisely the personnel who are the courts’ first responders to emergencies and other security threats.

Operational difficulties flowing from this administrative limitation clearly reveal their impairment of effective protection of the courts. In many court facilities in New York State, multiple courts occupy a single building or a series of adjacent or nearby buildings. Yet because uniformed officers are attached to individual courts, personnel generally are not sent upstairs or across the street to address temporary shortages in different courts. Instead, local administrators in a staff-deficient court must remedy temporary shortages without recourse to standard management tools such as surplus resources in adjacent facilities — often at considerable extra cost and with considerable operational burden — even if there are “extra” uniformed personnel downstairs or across the street who are properly trained and unquestionably able to fill the unmet need.

This policy is indefensible, wasteful, and potentially dangerous if the result is even a brief security gap in the staff-deficient court. If the skills and experience of providing public protection and other security services in the courts are transferable among courts, and by design they are, then so too should the officers who possess those important skills and experience. The foundational importance of assuring security of the courts — and the corresponding necessity to assure proper security staffing so uniformed officers can keep the courts and themselves safe — demands nothing less.

Recognizing that allocations of uniformed personnel among the courts may not always reflect priorities and areas of greatest need, the Task Force recommended, and OCA has begun, a systematic security staffing utilization review for all State-paid courts to determine, based on objective staffing guidelines that vary with the facility and its

caseloads, the optimal staffing levels in each court and the most efficient allocation of limited uniformed staff among the courts. This review is ongoing and its first complete pass-through will be complete shortly.

The Task Force now recommends that OCA, using the results of this review, develop a simpler, more streamlined process for reassigning court officers where staffing imbalances exist. This process would permit assignment and reassignment of personnel among courts where case types and necessary skills are sufficiently comparable to allow effective movement of officers. Only this approach can rectify staffing imbalances within existing resources and empower court managers and uniformed personnel together to ensure that all courts are protected as efficiently and effectively as possible. Moreover, only this approach can ensure that adequate protection services are available in each court and each court part to ensure the safety of the courts' first responders — the uniformed officers themselves — on whom the courts and the public rely.

- 1. Recommendation: Develop a simpler, more streamlined process for reassigning uniformed personnel where staffing imbalances exist between courts.**

Special Response Teams

Deployment of uniformed officers to fixed operational posts (*e.g.*, magnetometer posts) is necessary for routine, day-to-day court security. But New York State's courts often must respond to situations far beyond the routine. In recent years, high-profile trials have attracted national media attention and large crowds. High-profile events (*e.g.*, political conventions, international summits, etc.) have triggered protests and rapid caseload spikes. Specific threats to judges and nonjudicial staff have required escorts and other safety accommodations, and myriad other occurrences have called on uniformed court officers to draw on unique skills ranging from criminal investigation to crowd control to counter-terrorism.

While some of these important public protection skills are cultivated at the Court Officers Academy, many others are not and are not routinely developed on the job. For that reason, the Judiciary has begun the process of establishing in each region — whether in each court facility, jurisdiction or judicial district — a limited corps of uniformed officers who receive advanced, specialized training in these important threat-response skills and who will be available for deployment on special assignments that require them. Under day-to-day conditions, these officers will remain at their usual posts but can be temporarily re-assigned either individually or in teams as required — thus developing important Statewide operational flexibility to respond to special needs as they arise.

These specially trained officers will be designated members of new Special Response Teams (SRT) within the Judiciary's corps of uniformed personnel. Though within the existing chain of command for local staffing and administrative purposes, SRT members will be subject to deployment wherever their unique services are needed.

This innovation will enhance the skill base of the Judiciary's uniformed force and assure constant preparedness for special circumstances.

- 2. Recommendation: Establish and train a Special Response Team of uniformed officers for flexible deployment in response to special events, emergencies and serious judicial threats.**

Residential Training Facility

For many years, the Judiciary trained court officer recruits at a single Court Officers Academy in lower Manhattan. Recently, the Judiciary established an Academy location in Cohoes outside Albany to train more officers, particularly officers from and for upstate districts. In both locations, recruits attend classes and participate in simulations only during the business day, and many recruits' commuting schedules make scheduling flexibility and additional training opportunities difficult or impossible to accommodate.

Helpful as the Cohoes Academy initiative is in training new recruits and uniformed officers from upstate regions for service in the upstate courts, the Judiciary lacks a residential training facility similar to residential facilities that the State Police and the State Department of Correctional Services have long provided for their recruits. Location of a residential training facility in the Capital District region would facilitate important cross-training with the State Police and State Corrections (whose facilities are in the Capital District) in law enforcement skills indispensable to keeping our courts safe, enhance Academy flexibility in accommodating larger recruit classes and be particularly responsive to the staffing needs of the upstate courts.

Planning for a state-of-the-art residential training facility is already underway, and will require further study as well as funds ultimately to acquire and develop a location with suitable facilities for housing, feeding and training peace officer recruits. Planning should continue with the goal of opening a new facility next year to train the first class of recruits from the anticipated new court officer list.

3. *Recommendation:* Establish a residential Court Officers Academy.

Physical Skill Assessments

Unlike for certain other categories of uniformed officers in New York State, there are no ongoing physical skill assessments for court officers. Physical skills are assessed during recruitment and improved during Academy training, but following graduation from the Academy physical skill assessments of court officers simply do not occur.

Recent events across the nation demonstrate that uniformed court personnel must be constantly prepared to subdue persons — whether defendants or members of the public — who threaten security in the courts. In and around court facilities, the law obliges court officers to conduct investigations, effect arrests and pursue assailants. Moreover, in most facilities, court officers are the first responders to any threat situation and therefore bear primary responsibility for mitigating threats until other law-enforcement officials arrive for backup.

Accordingly, at the very least, there should be reasonable assurance that court officers on assignments that call for physical skills — especially the transportation and securing of prisoners and the operation of entry screening/security posts — are able to perform their duties if they must physically restrain someone. The Task Force recommends that the Judiciary consider establishing periodic physical skill assessments for all uniformed court officers, both newly recruited and veterans of the force.

The Task Force recognizes that this issue is sensitive and implicates collective bargaining agreements and other legal considerations. The Task Force also recognizes that if adopted, physical skill assessments would represent a significant change in current practice, with numerous administrative and operational complexities that must be carefully planned. For these reasons, the recommendation at this time is only to study the issue against the backdrop of New York's public safety needs in the courts.

4. **Recommendation: Establish a study group to assess feasibility and need for periodic physical skill assessments for uniformed court officers, with a mandate to report back by April 1, 2006.**

Court Officers Academy Duration

While the current 10-week duration of training at the Court Officers Academy reflects a slow but steady increase in skills and standards expected of uniformed officers over the years, it is not clear that 10 weeks of training is enough, however efficient the training process may be. The State Police initial training process requires fully six months of classroom and physical training. While the law-enforcement responsibilities of State Police recruits differ markedly from the roles of court officers, the common duty to respond to emerging public safety threats highlights the disparity in training duration. Given the courts' emerging threats, court officer recruits would benefit from additional physical training and simulations to drill core incident-management skills. This is especially so if, as recommended herein, the Judiciary establishes a residential training facility to enhance cross-training with allied law-enforcement agencies and/or intends to implement a system of ongoing physical skill assessments for court officers deployed to selected security posts.

Accordingly, the Task Force proposes that to accommodate the foregoing recommendations, recruit training at the Academy be expanded from 10 weeks to 14 weeks commencing with establishment of the new court officer list, and that in the interim OCA develop curriculum enhancements in the areas of physical training and simulations.

5. **Recommendation: Expand recruit training at the Court Officers Academy from 10 weeks to 14 weeks to facilitate additional training in areas such as physical skills and emergency response, and to allow additional simulations and cross-training with affiliated law enforcement agencies.**

In-Service Training

Like emergency preparedness plans, security skills are generally only effective if kept up-to-date and practiced. In many professions and especially in the law enforcement community, continuing education is a necessary fact of life. As noted above, periodic in-service training for uniformed court officers includes at least 35 hours of skill-building and updates on new procedures and emerging threats; officers must also keep their weapon certifications current or risk losing their authorization to carry firearms.

The in-service training requirement must be systematically promoted and enforced throughout the courts. While some local administrators may be reluctant to send officers for in-service training because of the consequential need to backfill those positions during the officers' temporary absence for training purposes, in-service training is absolutely indispensable to keeping the uniformed force strong and its preparedness current.

Local court administrators should be accountable for the in-service training status of uniformed personnel serving in their courts. To assist in promoting this level of accountability, the Task Force recommends that each administrative office be required to prepare training reports no less than quarterly indicating the number of uniformed officers in the court or judicial district who have and have not completed required in-service training for the applicable reporting period.

6. **Recommendation: Require local court administrators to provide OCA with periodic reports on compliance with mandatory in-service training requirements by uniformed court officers.**

Incident Reports

As noted (see page 6), the inauguration of electronic filing of Unusual Occurrence Reports has made possible the efficient collection and more precise analysis of incident data across the courts. The reports are reviewed by security staff when they are received, and appropriate action is taken. However, because these incident reports together offer a window into the operational effectiveness of security protocols and the sufficiency of staffing levels, the Judiciary should more systematically harness the data in these reports as a check against the security system falling behind.

To this end, OCA's Department of Public Safety should analyze incident reports, at least on an annual basis, for any trends they reveal, and based on these trends recommend appropriate changes in procedure, staffing and other policies.

7. **Recommendation: Annually review security incident reports and propose policy and procedure changes responsive to incident trends.**

B. Security Protocols and Equipment

Analysis of recent events in courthouses across the nation, most notably the Fulton County, Georgia incident, underscores the importance of strictly following procedures in the Court Officers Rules and Procedures (CORP) Manual and revising certain Manual procedures to minimize risks from prisoners. Several of the following recommendations for reform of security services provided directly by the Judiciary seek to streamline the chain of command and to more clearly empower uniformed officers — who are trained specifically to manage court security risks — in rapid-response situations when seconds count. Other recommendations seek to pre-empt risks that experience demonstrates can be avoided with simple precautions. Where appropriate, these recommendations should be implemented wherever the Judiciary directly provides public protection services in the courts, and strongly encouraged in all other contexts by means recommended in later sections of this report.

Prisoner Handling Procedures

The securing and transportation of prisoners in courthouses is essential to protecting against security breaches. Tragic firearm incidents in courthouses around the nation witnessed prisoners grabbing and successfully firing the firearm of the nearest uniformed officer assigned the task of guarding the prisoner. Deploying holsters with security ratings of Level III or higher will help ensure against this danger (see pages 28–29), but guarding procedures must also be tailored to further minimize risks to court employees and the public.

In collaboration with the New York State Sheriffs' Association, OCA's Department of Public Safety developed and distributed to all sheriffs a survey (see Appendix P) requesting information on current court security procedures. The survey results underscore two important principles of securing prisoners. The first is that, generally speaking, the prisoner escort court officer in control proximity to the prisoner should be unarmed. This policy is the current practice in courts within New York City and the recommended standard procedure for all courts throughout the State where uniformed personnel serve in secure environments (*e.g.*, prisons, courthouse pens) to minimize the risk that detained persons can obtain weapons. This standardization of policy is necessary because in some courts, under current procedures, when uniformed personnel transport prisoners directly

from the court facility's holding cells to the courtroom, at times the officer in closest proximity to the prisoner is armed — creating an unnecessary security risk both to the court and the prisoner.

Second, the number of uniformed officers transporting prisoners must be commensurate with the security risk presented, which varies with the number of prisoners being transported and the security characteristics of the location. The physical design of many New York courthouses makes necessary the transport of prisoners through public hallways. Some court facilities are designed such that prisoners arriving at court from detention facilities are transported to individual courtrooms entirely through secure areas, but others require prisoners to pass through hallways used by the public, jurors and court employees. In those facilities, uniformed officers guard prisoners in the hallways — both to protect the public and to protect the prisoners themselves — and often transport multiple prisoners at a time. The Task Force recommends that incarcerated defendants escorted through public areas must be escorted by a minimum of two officers.

A policy requiring a minimum of two escort officers is a starting point for escorting multiple prisoners. The transfer of a group of prisoners creates enhanced risks. As these transport situations call for additional escort officers, the risks need to be assessed and addressed with measures consistent with operational and safety needs. The on-site uniformed supervisor has the relevant operational knowledge to assess the risk and determine the degree of custodial supervision necessary. That supervisor is responsible for assigning the appropriate number of uniformed escort officers needed to safely transport multiple prisoners.

- 8. Recommendation: Require that when transporting a prisoner directly from secure holding pens into a courtroom, the uniformed officer in closest proximity to the prisoner must be unarmed.**
- 9. Recommendation: Require that prisoners transported through public areas of courthouses be escorted by no fewer than two uniformed officers.**

Classification of Prisoners

Uniformed officers handle and escort thousands of prisoners per day in New York's courts. Frequently, court security personnel must handle prisoners who present elevated risks of violence, suicide or escape. For the protection of court personnel, the prisoners and the public, it is critical that local correction departments notify the Judiciary of any special-category prisoners prior to transportation to court, or at the very least on arrival at the court facility.

In a number of areas of the State, including New York City, there are effective protocols to inform Judiciary officers of high-risk prisoners. Currently, the New York City Department of Correction (DOC) notifies the court when a violent or escape-risk prisoner will be transported from the correctional facility to the courthouse. As a standard practice, DOC issues special inmate cards (see Appendix Q) to differentiate and identify to the courts prisoners that do not present elevated risks ("blue cards") from other prisoners who present elevated risks of violence, whether due to gang affiliation or owing to a record of violence, suicide or escape ("red cards"). In Suffolk County, inmate cards are not used but there is on-going communication between the county correction department and the court regarding violent high risk prisoners. Additionally, at least one upstate correction department provides local court security officials with an "inmate sheet" that details every infraction committed by that inmate while at the correctional facility.

A comprehensive system for classification of prisoners identifying violent, suicidal or escape-risk prisoners will allow the courts to implement additional security measures, when appropriate. These added security measures may include assignment of additional officers, use of alternative prisoner restraints or video court appearance in routine pre-trial matters. Implementation Statewide of a procedure for classification of prisoners will be a major step toward improving security in courthouses.

- 10. Recommendation: In those jurisdictions without such protocols, work with local correction agencies to establish a classification system for prisoners so that the courts will be notified of special category information (e.g., assaultive prisoner, escape risk, suicide watch, gang affiliation).**

Handcuffing

Current procedures direct that prisoners transported to court from local correction agencies be placed in the court's holding pens, then rear-handcuffed and escorted from the holding pens into the courtroom for court appearances. Cuffs are generally removed whenever a prisoner appears before a jury or otherwise when the presiding judge so instructs.

Review of other jurisdictions' court security protocols demonstrates the predominant policy that prisoners appearing before judges are restrained at all times except as protection of defendants' rights may otherwise require. Given the speed with which threats may materialize in criminal courts, this precaution especially makes sense where court officers are armed or where courtrooms are small. Restraints are necessary not only because prisoners may attempt to unsecure weapons but also because they can use their arms as weapons, with sometimes tragic results.

Though judges historically have exercised a certain amount of discretion in this area, the overriding interests of enhancing public security — protecting judges, jurors, officers and defendants themselves — direct a more uniform policy. The Task Force therefore recommends that the CORP Manual be amended to require rear-handcuffing of prisoners at all times except when appearing before a jury or during extended hearings. The Task Force further recommends that judges be advised of this policy change to promote compliance and thereby to enlist judges' assistance in protecting their courtrooms.

- 11. Recommendation: Require that prisoners be rear-handcuffed at all times except when appearing before the jury and during extended hearings.**

Alternative Prisoner Restraints

Traditionally, the restraints routinely used on prisoners in State courts are the standard metal handcuffs. Uniformed court officers receive detailed and specific training on handcuffing equipment, procedures and policies. At times, uniformed escort personnel must use other forms of prisoner restraints to deter attempted escapes and disruptive behavior from high escape risk or violent prisoners and to ensure the safety of the escort officers, public and prisoner. Alternative restraints include leg irons, ankle restraints, waist chains, transport belts and custody belts. Though these restraints are occasionally used in downstate courts, security personnel responsible for security in some upstate courts routinely employ alternative prisoner restraints.

The survey that OCA's Department of Public Safety distributed to New York State's sheriffs included inquiries regarding the type and use of alternative restraints on prisoners

during calendar calls, hearings and jury trials. The responses revealed that the type and use of alternative prisoner restraints vary significantly throughout the State. Because there is not yet definitive data as to the relative safety and effectiveness of these alternative restraints, or the conditions under which they should be used, the Task Force recommends that the Judiciary continue to research and evaluate the feasibility of using alternative restraints and standardize the use and the type of equipment employed.

12. Recommendation: Evaluate alternative restraint devices and standardize the use and type of equipment employed.

Prisoner Courthouse Clothes Change

For sound legal reasons, prisoners coming to court from detention facilities routinely change from detention facility clothes into civilian attire when appearing before a jury. Correction departments — including the New York City Department of Correction — allow and encourage prisoners to arrange with families, attorneys or friends to bring clothing to the correctional facility where the prisoner is housed on the day before scheduled court appearances. After inspecting the clothes for contraband, the correction department then allows prisoners to change clothes at the correctional facility, under proper supervision, to ensure against security breaches at court.

By contrast, in other jurisdictions, correction departments do not allow or encourage clothes changes at the detention center and often transport prisoners to court facilities in the clothing worn at the detention center. Such prisoners then change clothing at the courthouse, thus requiring their family, counsel or friends to bring clothes to court. Under current practice, if directed by the presiding judge, uniformed officers receive such clothing and supervise the prisoner's clothes change immediately before court proceedings begin.

This policy undermines court security and operations in several respects. The transportation of clothes requires court officers rather than correction officials to inspect the clothing for contraband, imposing a further duty on court officers that diverts them from their primary responsibilities. Moreover, for the prisoner's own comfort and protection, private rooms must be provided for the clothes changes and/or uniformed officials supervising the clothes change must be the same gender as the prisoner — requirements that create numerous operational burdens. Most importantly, many court facilities are simply not properly structured, equipped or staffed to ensure the secure measures properly to supervise clothes changes that exist in correction environments. Accordingly, the Task Force recommends that the changing of clothes by prisoners at court facilities be strictly prohibited and that the CORP Manual be amended to reflect this policy change. To facilitate compliance and minimal burden on prisoners and their families and attorneys, all correction departments, sheriffs, chiefs of police and indigent defense agencies should be notified of the policy change.

13. Recommendation: Require that any prisoner change of clothes occur at the correctional facility prior to arrival at the courthouse.

Lockdown Procedures

In the event that a potential threat materializes — whether a prisoner escapes, a judge is threatened or a secured weapon is freed and discharged — immediate steps must be taken to protect lives and prevent normal entry and exit throughout the court facility so uniformed personnel can respond as quickly as possible. To this end, each court facility

must have procedures to “lock down” part or all of a courthouse and to secure all persons inside as immediate response to significant threat. In the recent Fulton County Courthouse tragedy, the failure to lock down the courthouse allowed the assailant to leave the facility, greatly multiplying the threat to public safety.

Upon the preliminary recommendation of the Task Force, the Judiciary developed and has already implemented lockdown protocols (see Appendix R) to promptly secure persons in the court and shut down access in, out or through the court facility during the pendency of significant threat. Such procedures, necessarily tailored to the physical design and case types of each facility, were developed pursuant to uniform standards promulgated by OCA’s Department of Public Safety. It is essential that facility-specific lockdown procedures be in place in every courthouse, that court personnel be familiar with the procedures and that the procedures be drilled, so that, if necessary, they can be implemented promptly.

14. Recommendation: Implement and drill lockdown procedures for each court facility pursuant to uniform guidelines.

Gun Holsters

The most secure holsters are equipped with weapon restraints along multiple dimensions and are designed to harness an assailant’s momentum to minimize the possibility of weapon discharge. Critically, these enhanced protections do not slow a uniformed officer’s response to public safety threats: officers trained on these weapon restraints can speedily obtain them and discharge their weapons when necessary to protect life.

Not all uniformed personnel, however, carry their weapons in these modern holsters. Older holsters restrain weapons along one or two dimensions and thus make it easier for would be assailants to obtain and discharge them. By contrast, Level III holsters restrain weapons along three dimensions, and recently developed Level IV holsters have an additional restraint to further minimize the chance of assailant capture and discharge of weapons. While Level IV holsters are being tested by selected uniformed personnel and may someday become standard, Level III holsters are readily available and should be standard for all court officers.

Ensuring secure holsters is important not only for uniformed court officers but also for court clerks who carry weapons in the courts. Court clerks assigned to courts in the First and Second Judicial Departments are peace officers and therefore authorized to carry guns. Identifiable to the public by their uniform blazers with “court clerk” emblems, court clerks work in courtrooms or back-office support units where they perform a variety of operational and administrative functions. Court clerks authorized to carry firearms on-duty⁷ should not be required to secure their firearms in Level III holsters, which are extremely bulky and designed to attach to a duty belt that is thicker and wider than a normal pant belt. They should, however, carry their firearms in a holster with a covered trigger guard and snap enclosure that securely attaches to the pant belt. Moreover, it is critical that court clerks who carry their firearm wear their uniform blazer at all times. The blazer will conceal the firearm, providing an important and effective safety measure.

⁷ Court clerks are statutorily required to attend peace officer training to meet legal and educational requirements (*see* CPL 2.30). In addition, to meet firearms qualification, they must attend initial and annual firearms training. Only once all the requirements are met may a court clerk be authorized to carry an on-duty firearm.

- 15. Recommendation: Require that all on-duty firearms carried by uniformed personnel be secured in safe and serviceable holsters with safety ratings of Level III; and require court clerks who carry firearms to do so in holsters with a covered trigger guard and snap enclosure that securely attaches to the belt, and to wear their uniform blazer at all times.**

Ballistic-Resistant Vests

Uniformed officers serving at magnetometers, at internal security posts and on external patrols serve particularly critical functions for court security. These officers often are the Judiciary's first line of defense against incoming threats and are the courts' first responders in case of emergency. These officers are also among the most vulnerable because they interact directly with the public typically before security risks can be determined and mitigated by entry screening. As recent courthouse incidents around the nation amply demonstrate, a violent assailant wielding a gun or knife must not be allowed to incapacitate the very uniformed officers on whom the Judiciary relies to prevent armed persons from entering the courts and injuring unarmed, unprotected court employees and members of the public using or serving in the courts. Officers must be able to withstand an attack long enough to reduce both the risk of injury to others and the risk of assailant escape.

For these essential reasons — to ensure officers can meet their critical responsibilities under difficult circumstances and to better protect officers' own safety — the Task Force recommends that OCA take steps to implement a policy requiring court officers serving in these sensitive posts to wear ballistic-resistant vests approved by the Judiciary.

Implementing this policy necessarily raises the question of how uniformed officers should obtain these ballistic-resistant vests. Historically, the purchase of ballistic-resistant vests has been funded through the Quality Through Participation (QTP) program provided for in labor contracts with unions representing uniformed court officers. This program has not, however, guaranteed an even and timely distribution of ballistic-resistant vests because it is tied to the uncertainties of the collective bargaining process. The Task Force therefore recommends that OCA develop a different source of funding that ensures that uniformed personnel assigned to sensitive posts receive vests. One approach that should be explored is a "quartermaster" system, in which the court system itself procures and pays for all required equipment for court officers, including ballistic-resistant vests. Other agencies employing uniformed personnel, such as the State Police, currently use this approach. Quartermastering could begin with newly graduated recruits, and then be expanded to veteran court officers.

Effective implementation of this policy also raises the question of whether ballistic-resistant vests should become standard issue. Two operational realities convince the Task Force that ballistic-resistant vests should become standard issue for all uniformed court officers. Court officers serve in rotating posts throughout the courts — sometimes at magnetometers and other "sensitive" posts that would require ballistic-resistant vests — and other times directly in courtrooms and other posts that, under this policy, would not require vests. Thus, providing vests only to uniformed court officers who work at these "sensitive" posts would require a near complete operational bifurcation of uniformed personnel into groups able and not able to be deployed to these important positions. That result would undermine protection of the courts by impairing the flexibility of officers and court managers to respond to needs as they evolve.

An alternative might be feasible were vests able to be transferred between wearers. Were this the case, limited supplies of vests could be distributed to each court facility for

distribution among officers when deployed to specific posts at specific times; officers leaving these posts might then remove the vests and hand them to their replacements. This alternative is not feasible, however, because of a second operational reality: ballistic-resistant vests must be fitted to each officer to ensure proper size and coverage without unduly restraining freedom of physical movement. Thus, the Task Force concludes that each officer must have his or her own vest.

Taken together, these operational realities — assignment flexibility and individual fitting — strongly recommend a policy in which every court officer obtains a ballistic-resistant vest. Accordingly, for State-paid officers, the Task Force proposes that OCA deem ballistic-resistant vests to be standard equipment for all court officers and explore a process for assuring that all court officers eventually receive them.

The discussion thus far addresses only the provision of ballistic-resistant vests to State-paid court officers. While the rationale for the recommendation applies equally to local law enforcement officers who provide courthouse security pursuant to contract, achieving that goal is far more challenging in those courts than in courts with State-paid officers. As explained above, the officers in the contract jurisdictions work for a total of 69 different local law enforcement agencies. Many of these officers work in the courts only part-time and are otherwise assigned to non-court related posts. Moreover, many of these officers are part of a larger force, some of whose officers are never assigned to the courts. Furthermore, some of these officers have already been outfitted with ballistic-resistant vests. Under these circumstances, it does not seem appropriate or practical for the State Judiciary either to require that every local law enforcement officer assigned to the courts wear a vest or to provide a vest for each such officer. On the other hand, the proper outfitting of the court security force is, for the reasons discussed above, a matter of public safety, which calls for a uniform solution and is not appropriately a matter of local preference or financial resources. The Task Force therefore urges local law enforcement agencies to work jointly to develop and implement a uniform policy with respect to ballistic-resistant vests, and perhaps also to jointly approach the Legislature seeking funding to ensure the proper equipping of their officers, not only for their court-related duties, but for all of their public safety functions.

16. Recommendation: Adopt a policy ensuring that all uniformed officers receive a ballistic-resistant vest.

Continuum of Force

Court officers and local law enforcement officials serving in the courts have at their disposal a continuum of options to respond to physical threats. Uniformed officials can use their hands (either defensively or offensively), numerous non-lethal instruments (*e.g.*, batons) to deter or immobilize assailants, or when absolutely necessary to protect life, guns to deliver potentially lethal force.

Longstanding experience with lesser non-lethal instruments along the force continuum instructs that their careful, discriminate use can provide uniformed personnel enhanced options to respond to physical threats, and thus not only minimize the use of deadly physical force but also reduce the probability of injury to all persons — assailant, prospective assault victim, uniformed officer — involved in an incident.

The Task Force has examined in particular the use of three of these intermediate instruments of force: batons, O.C. (oleoresin capsicum) pepper spray, and electric tasers. The use of batons and O.C. pepper spray is strictly regulated under law and by the CORP

manual. Under current procedures, only designated officers and supervisors (i.e., ranked sergeant and above) are authorized to carry batons and O.C. spray. The Task Force has concluded that, at this time, all uniformed court officers need not carry batons or O.C. spray. Like deadly physical force, these instruments should be used only when there is no lesser alternative effective to defend against imminent threat, and if possible, only by experienced personnel in supervisory capacities to ensure that all reasonable lesser alternatives are attempted before deploying these instruments.

To that end, the Task Force recommends that, consistent with CORP Manual guidelines authorizing supervisors to carry these instruments, the Judiciary should continue to provide all sergeants and lieutenants with batons and O.C. spray, and continue to provide the biennial training to ensure their proper use. Officers carrying these instruments must strictly comply with CORP Manual rules governing their use, especially the mandate to attempt de-escalation of situations before using either a baton or O.C. spray, and should only use the spray under the following limited circumstances:

- To protect one's self from assault or other unlawful use of force;
- To establish physical control over a subject resisting arrest;
- To establish physical control over a subject attempting to flee from arrest or custody; or
- To establish physical control over an emotionally disturbed person under circumstances that otherwise would threaten the safety of the persons or others.

The Task Force is aware that some jurisdictions, including at least one county in New York, authorize the use of electric tasers to incapacitate persons in the courts as an alternative to deploying other instruments of force. At this time, the Task Force has insufficient data to conclude whether electric tasers or other alternative instruments are sufficiently effective compared to existing force instruments to propose their deployment, or conversely their prohibition, in the courts. The Task Force therefore recommends that OCA's Department of Public Safety continue evaluating these alternative instruments for comparative safety, effectiveness and cost, in collaboration with other law enforcement agencies, and report back with recommendations.

- 17. Recommendation: Ensure that uniformed officers have at their disposal a full range of options along the continuum of force, by continuing to provide designated officers, sergeants and lieutenants with batons and (OC) pepper spray, and evaluating the comparative safety, effectiveness and cost of electric tasers and other force restraint instruments.**

Enhanced Security for Judiciary-issued Identification Cards

As noted above (see pages 5–6), all persons entering courthouses are subject to physical and magnetometer search except Judiciary employees presenting proper government identification cards and attorneys and other persons presenting SecurePass cards. Because entry screening is essential to guard against importation of weapons and other contraband materials into courthouses and because these identification cards are designed to permit bypass of some of these screening procedures, it is essential that the system for granting and monitoring use of these identification cards be as secure as possible.

The Judiciary has already taken numerous steps to assure the efficacy of this process. All court employees are subject to criminal background checks during their hiring processes, and identification cards are subject to confiscation for violations of their terms

of use. Likewise, applicants for SecurePass cards must submit to a criminal background check, and cards are denied for commission of certain types of offenses and subject to confiscation for commissions of certain crimes or other violations of card rules. These identification cards are personalized with names and pictures of their authorized holders, and approved holders who fail to present their cards must submit to physical and magnetometer screening.

The Task Force finds, however, that these procedures are not sufficient to guarantee against misuse of these identification cards, and thereby protect the integrity of the entrance search process. First, like all identity cards, employee identification cards and SecurePass cards can be lost or stolen and, in these events, might be used by unauthorized individuals despite protocols that require uniformed officers deployed at checkpoints to manually determine that the picture on the card matches the cardholder.

Second, identification cards can be forged, and persons who would forge security cards to gain access to secure facilities, free of screening for weapons and contraband, inherently present the security risks that entry screening systems are designed to identify. Under current procedures, however, the only way to check the authenticity of these cards is by physical inspection by uniformed officers who are not trained, and do not have time, to detect complex document fraud.

Third, if a cardholder becomes disqualified to carry a card, whether by being charged with a crime or otherwise violating card rules, there is no sure way to deactivate or guarantee surrender of the cards and thereby prevent misuse. Under current rules, persons found to violate card rules or who are charged with committing certain offenses may be required to surrender identification cards to the local Administrative Judge or another designee. However, if a cardholder disobeys a surrender order and presents his or her card at an entry checkpoint, the court officer or other law enforcement official at the checkpoint may not know and allow the holder to enter a courthouse without submitting to a magnetometer check. Neither is there a sure way to determine, under current procedures, whether a cardholder has been charged with an offense that might temporarily or permanently disqualify him or her from bypassing the magnetometers.

For these reasons, the Judiciary must develop a system to monitor card use electronically and, if necessary, deactivate individual cards to prevent misuse. The Task Force therefore recommends the development of a technologically advanced “smart card” system for all SecurePass holders and court employees. Under this system, cards would be embedded with tamper-proof electronic chips to help guarantee authenticity. These electronic chips would transmit a unique encrypted signal detectable by terminals at each courthouse entry checkpoint, so uniformed court officers and other law enforcement officials can speedily determine the identity of entrants and the validity of their entry credentials. In addition, this electronic system would automatically detect fraudulent cards and allow the Judiciary automatically to suspend cards reported as lost or stolen, thus preventing their misuse while at the same time assuring card users’ reasonable expectations of privacy by protecting the confidentiality of the electronic signals and the data they transmit.

To achieve automatic suspension of these unauthorized cards, however, there must also be developed a sufficient information infrastructure to transmit data about disqualifying arrests and other activities to the “smart card” system. For example, standard criminal justice databases must be programmed such that arrest of a court employee or SecurePass holder for certain offenses generates an automatic notification to administrators directing them to recall the card and, pending such recall, automatically suspend it electronically. That way, if a card holder fails to turn in a recalled card, the “smart card” system receivers at

courthouse entrances will detect the recall order, alerting law enforcement officers to confiscate the card and direct the card holder through the magnetometers.

The Task Force recommends that OCA's Division of Technology collaborate with the Department of Public Safety and Division of Court Operations to develop and implement this program as soon as possible.

- 18. Recommendation: Explore technologies to help guard against misuse of court employee identification cards and SecurePass cards (e.g., “smart cards” with embedded digital chips that can be deactivated when reported lost or stolen, and photographs appearing on security monitors when holders pass an entry point).**

Quality Control

Just as security protocols must be carefully taught and practiced, so too must compliance be checked, departures addressed and accountability maintained. One of the greatest risks in any security system is complacency. The paradox is that particularly because New York courts are generally safe — thanks to tough procedures and diligent personnel — some may be lulled into a false sense of security and thus underestimate security risks and fail strictly to apply the security procedures that deter violence and protect life. Because threats can materialize in an instant and because a moment's lack of awareness at a magnetometer checkpoint or other security post can mean the difference between life and death for anyone in a court facility, the Judiciary must take all reasonable steps to assure that court procedures are, in fact, scrupulously followed.

To that end, the Task Force recommends the establishment of a quality control program to test compliance with security procedures, root out gaps in security before they can manifest in threats to life, and hold court managers accountable for the performance of uniformed personnel under their supervision. Recognizing that court security is a collective responsibility, the core purpose of this quality control program must be to encourage cooperation and compliance whenever possible, but there must also exist a mechanism to detect, deter and remedy violations of critical security procedures. Only such a mechanism can provide ongoing confidence in the faithful implementation and sufficiency of the security procedures that keep New York's courts safe.

- 19. Recommendation: Establish a program to monitor and assure universal compliance with court security procedures and to identify security gaps before they ripen into threats.**

C. Contract Security

This section offers a series of recommendations in the area of contract security in the 37 counties in which local governments provide security in the courts in lieu of the Judiciary's court officers.

The contract between the Judiciary and each local government that provides court security services requires that the local government “abide by all policies and procedures for court security personnel established by [the Judiciary] concerning the delivery of security services.” (Agreement, section II.A.3, copy attached as Appendix F). Despite this mandate, there is generally greater diversity in court security practices in the contract jurisdictions than in those courts with the Judiciary's own uniformed officers.

This situation is not surprising for a variety of reasons — *e.g.*, the officers did not receive their basic training at the Judiciary’s Court Officers Academy, the officers are not under the direct command of the Judiciary’s uniformed supervisors, the officers are employed by a total of 69 different law enforcement agencies, and many of the officers work not only in the courts but also in non-court assignments where the Judiciary’s protocols do not govern. This situation, while understandable, is not desirable. To the greatest extent possible court security procedures should be uniform state-wide.

The Task Force offers four recommendations for achieving greater consistency of security practices in contract jurisdictions, and then a fifth recommendation as how best to proceed in those situations where it has been determined that the Judiciary should assume direct responsibility for providing court security.

Written Copies of Court Security Procedures

Upon entering the Court Officers Academy, every member of the Judiciary’s own uniformed force is issued, and signs an acknowledgment of receipt of, a copy of the CORP Manual. There has not been a similar systematic, universal distribution of copies of the protocols governing court security to local law enforcement officers who provide court security pursuant to inter-governmental agreement. Portions of the CORP Manual are not relevant to the officers in the contract jurisdictions, and therefore it is not necessary or appropriate to issue the entire CORP Manual to these officers. Moreover, in certain jurisdictions, the relevant provisions of the CORP Manual have been incorporated into other written materials provided to the officers.

It is important that each officer in the contract jurisdictions have written copies of the court security protocols, and OCA’s Department of Public Safety should work with each of the local law enforcement agencies whose officers provide court security to ensure that these officers have written copies of the governing court security protocols.

- 20. Recommendation: Ensure that each local law enforcement officer providing court security in a contract jurisdiction has a copy of the protocols governing court security.**

Training

Deputy sheriffs and police officers assigned to court security in contract jurisdictions have a range of court-specific training. These officers are generally trained as law enforcement officers rather than as court officers. While many of the skills and duties relevant to beat patrols and other local law enforcement activities are transferable to the courts, other skills are not. For precisely that reason, the Judiciary’s own court officers require and receive specialized training in court procedures and administration. While some officers in the contract jurisdictions, particularly those assigned exclusively to the courts, receive adequate training in court security protocols, others, especially those who rotate between court and non-court assignments, do not.

The Judiciary offers court-specific training to local uniformed officers to supplement the police training they receive at their local police academies. This in-service training is typically provided at the request of local court administrators or the local law enforcement agency. This training should be expanded, standardized and mandated, to ensure that all necessary topics are covered, the training is offered on a regular cycle, and all officers assigned to the courts are trained.

21. Recommendation: Expand and regularize court security training for local law enforcement personnel serving in the courts.

Oversight

It is critical that the Judiciary exercise effective oversight of court security provided by local law enforcement agencies pursuant to contract. In four judicial districts where contract security is utilized — the Fifth, Sixth, Seventh, and Eighth, which together comprise 32 counties — there are currently no uniformed court officer supervisors assigned to the district office to perform this function.⁸ The Task Force proposes that a uniformed court officer at a rank equivalent to lieutenant or higher be assigned to the district office in each of these districts. That officer would work closely with local law enforcement agencies to identify security problems, review and evaluate the agencies' performance under their contracts and recommend, develop and institute corrective action plans that may include additional court-specific training.

22. Recommendation: A uniformed court officer at a rank equivalent to lieutenant or higher should be assigned to each judicial district currently without a uniformed court officer supervisor to monitor security practices for adherence to established court security policies and procedures.

Uniform Security Procedures

As noted above, it is not surprising that there is some lack of uniformity in the procedures followed by the 69 different local law enforcement agencies providing contract court security. In addition to enhanced training and closer oversight, an ongoing dialog with representatives of the law enforcement agencies providing court security would be helpful in achieving greater consistency. OCA's Department of Public Safety has begun discussions with the New York State Sheriffs' Association and the New York State Association of Police Chief on issues relating to court security. These discussions should continue and focus on identifying and addressing issues of concern to either the Judiciary or the local governments, and on means of ensuring that best security practices are followed in every courthouse.

23. Recommendation: The Judiciary should continue to work with representatives of local law enforcement agencies to identify and address problems in the provision of contract court security and to achieve greater consistency in procedures.

Transfer of Court Security to the Judiciary

Current law authorizes the Judiciary, by mutual agreement with affected localities, to dispense with security contracts and assume direct responsibility for providing public protection services in the courts. As noted above, these transfers of security function shift law enforcement personnel serving in the courts from local employment to State employment as part of the Judiciary's uniformed personnel force. In general, where

⁸ In the two other judicial districts where contract security is used, the Third and Fourth Districts, there are uniformed court officer supervisors on staff who can perform this contract oversight function, in addition to their primary duties of supervising uniformed court officers in those courts where the Judiciary provides security directly.

compelling operational or other reasons exist and where the locality and the Judiciary agree, transfer of court security to the Judiciary is beneficial and should be encouraged. Court security transfers, however, can be administratively complex, and must be carefully planned and proactively managed.

A plan to transfer security to the Judiciary must ensure that sufficient numbers of uniformed personnel will be available to provide the highest quality security for the courts. Experience has shown that not all of the local law enforcement personnel serving in the courts at the time of transfer may be legally eligible to transfer to State employment, and others, for personal reasons, may not be interested in doing so. The resulting staffing deficiencies must then be met with existing Judiciary uniformed personnel who are willing to be reassigned from security posts in other parts of the State.⁹ Additionally, after security is transferred to the Judiciary, court officers may retire or otherwise leave employment with the State, and their positions similarly must be filled through transfer of existing Judiciary uniformed personnel assigned elsewhere. Unfortunately, the number of court officers interested in relocating to upstate districts where the Judiciary has taken over security has seriously diminished, leaving those districts with security staffing shortages. This problem, however, should be largely eliminated once the new list resulting from the fall 2005 court officer examination is available — it appears that the exam, which was widely advertised throughout the State, will for the first time be taken by substantial numbers of people from all regions of the State. Accordingly, the wisest course for the Judiciary is to await establishment of the new court officer list before proceeding with plans to transfer security in additional jurisdictions, particularly in more sizeable jurisdictions.

A plan to transfer security must also adequately budget for the increased costs that typically accompany the transfer. State-paid security usually proves to be more expensive than contract security. Judicial districts in which the court system has assumed responsibility for security often conclude that the staffing that had been provided by local government is inadequate, and thus take steps to increase the number of court officers assigned. In addition, uniformed personnel employed by the Judiciary generally receive higher salaries than those employed by local governments, and the Judiciary's security rank structure, with supervisory positions at higher salary levels, adds to the cost as well.

Court security transfers also create significant new administrative responsibilities for the courts, which must adapt to supporting a uniformed corps of employees for the first time.

Court security transfers can yield significant benefits for the courts and court users. In planning for a transfer of security, however, court administrators must carefully account for additional staffing needs, higher costs and increased administrative burdens that arise out of such transfers.

24. Recommendation: When the transfer of court security responsibility to the Judiciary is warranted, court administrators must carefully plan for the additional staffing, expense and administrative responsibilities that the transfer will entail.

⁹ Very few individuals on the current court officer eligibility list have shown interest in accepting employment in upstate regions. This condition has arisen apparently because at the time the last court officer examination was administered in 2001, few court officer positions were expected to be available in the upstate region, and therefore the test attracted relatively few applicants from that region. Accordingly, the vast majority of individuals on the current eligibility list reside in the downstate region.

D. Physical Infrastructure

In addition to operational and administrative changes, the Task Force assessed whether the physical design and other infrastructure of New York courthouses are adequate to address the threats facing the courts. Just as public transportation and other critical public services must be “hardened” against bombings and other security breaches, so too must New York State’s court facilities be hardened against physical threats. This section discusses the Task Force’s proposals to improve the physical security of court facilities.

Courthouse Design

Under New York law, the provision and maintenance of court facilities is the obligation of local governments. The Legislature has directed that New York’s counties and cities must provide courthouses “suitable and sufficient for the transaction of the business of the courts.”¹⁰ To assist localities in determining the requirements of this obligation, the Chief Judge promulgated guidelines for court facilities that cover a wide range of design issues, including security.¹¹

In many respects, design principles set forth in the Rules of the Chief Judge presaged many national best-practice standards and significantly contributed to the safety of New York’s courts. The Task Force finds that the basic security concepts embodied in the Rules of the Chief Judge retain their relevance and force. Among the Chief Judge’s design principles especially important to implement are:

- Minimizing points of entry into courthouses;
- Providing public spaces with uninterrupted lines of sight;
- Separating patterns of circulation for judges and court staff, prisoners, and the public;
- Situating judges’ parking to provide direct access to the judges’ entrance to the courthouse;
- Zoning the courthouse to permit areas or floors to be locked off; and
- Incorporating into courtroom design such security features as duress alarms, a shielded judge’s bench, and a separate point of entry for prisoners away from the bench and jury box.

While these principles provide general guidance, each courthouse project is unique, and the details of the appropriate security design for any specific courthouse will depend on a variety of local factors and conditions. To ensure that the courthouse design incorporates effective and appropriate security features, it is crucial that localities and their design teams include court security representatives in the design process for each court construction or renovation project as early as possible, and preferably from project inception.

¹⁰ Judiciary Law § 39(1). Under the Court Facilities Act, a locality’s plan for meeting its court facilities obligations is subject to approval by the Court Facilities Capital Review Board, a body that includes representatives of the three branches of State government (*see* Public Authorities Law § 1680-c[1], [3]). By statute, final approval of the design for a particular courthouse is within the jurisdiction of the Chief Administrative Judge.

¹¹ Rules of the Chief Judge (22 NYCRR) Part 34, copy attached as Appendix S.

- 25. Recommendation: On each new court construction project, whether building a new facility or renovating an existing one, include court security personnel in the design process from the earliest stages of the project.**

Courthouse Security Assessments

New York's court facilities run the gamut from brand new to over 200 years old; built with significant State oversight to no State oversight at all; from significant criminal dockets to none. Court facilities built to modern security specifications need relatively little hardening to respond to current and emerging security threats. By contrast, older court facilities may present significant physical security weaknesses. Because no two court facilities are constructed identically or face precisely the same threat profile, every single court facility in New York must be independently assessed for physical preparedness.

To that end, the Task Force has created a uniform assessment instrument against which all court facilities in New York can be objectively assessed for compliance with security specifications and physical security weaknesses identified (see Appendix T). Assessment of all existing courthouses using this instrument should be pursued with all deliberate speed and completed no later than April 2006.

Uniformed officers familiar with security protocols, design standards, and physical design of the courthouse in a particular geographic area should be selected to complete these assessments at each facility. With this comprehensive approach and by harnessing local expertise, every court facility in New York State can be speedily and objectively reviewed, needs assessed facility by facility, and corrective action taken to avoid problems before they occur.

- 26. Recommendation: Establish a uniform facility assessment instrument to identify physical security weaknesses and breaches and designate uniform court personnel in each facility to conduct a comprehensive security assessment so every court facility is assessed by April 2006.**

Facility Retrofitting

The foregoing security assessments are expected to document a variety of physical security issues. Some of these physical weaknesses can be adequately addressed operationally. Other physical problems, such as broken locks, can only or best be addressed with physical changes. The correction of such deficiencies falls within the statutory obligation of the responsible local government to provide suitable and sufficient court facilities. The results of these assessments should therefore be provided to local governments for corrective action. Such corrective action would, generally, be considered court facility maintenance, subject to partial State reimbursement.¹²

The Task Force identified two issues that warrant a somewhat different approach. While some courthouses have ballistic-resistant shields in judges' benches and working duress alarms in courtrooms and chambers, others do not. These protections should be standard in every New York courthouse and should therefore be installed in all facilities currently lacking them. For purposes of speed, uniformity and administrative efficiency, installation of these two items should be managed centrally and performed by the Judiciary rather than by localities owning or operating the court facilities in question.

¹² The current reimbursement rate is 25%.

27. **Recommendation:** Provide each locality with the assessment results, for corrective action subject to partial reimbursement pursuant to State law.
28. **Recommendation:** As needed, retrofit courthouses with duress alarms and ballistic-resistant shielding at State expense.

Security Liaisons

Because gaps in facility security can develop at any time, there must be a clear system to address them on an ongoing basis. Sometimes security gaps can take the simple form of a security door that will not lock, a window that will not close or an alarm that will not function. To ensure speedy responses to these relatively routine but important security issues, a security liaison should be designated at each court facility designated to receive notifications of these kinds of basic needs and to follow through in meeting them, and every person working in the court facility should know to direct their observations to that security liaison. With this simple step, every facility will be assured clear oversight and responsibility for ensuring that facility protections are in proper working order.

29. **Recommendation:** Designate a facility security liaison in each courthouse to assure prompt reporting and mitigation of routine facility needs that impact court security.

E. Judicial Threat Response

As discussed above (see pages 9–11), the Judiciary has developed a comprehensive policy for reporting, assessing and responding to judicial threats, and the Task Force has concluded that this comprehensive system works well. Several additional measures, however, can further aid the Judiciary's response to these threats.

Escort Training

One of the more common responses to a personalized threat against a judge is to assign one or more uniformed or plain-clothed officers as escorts — under some circumstances only within the courthouse or between the courthouse and the judge's car, and in other circumstances more comprehensive escort. Escort duty calls on skills somewhat different from those needed for more routine court officer assignments. While the Special Response Team, discussed on page 21 above, will receive particular training in judicial protection, it is neither practical nor necessary that every judicial escort be conducted by a SRT officer. For example, an escort limited to accompanying the judge between the courthouse and the parking area should be well within the capability of the local court administration and thus not likely to be conducted by SRT. To ensure this capability, the Task Force recommends expanded judicial escort training, both at the Court Officers Academy and during in-service training, to ensure that all officers are familiar with the basic skills needed for such assignments.

30. **Recommendation:** Expand judicial escort training for all uniformed court officers.

Communication

Every judge in New York receives a copy of the Judicial Threats Handbook, which contains comprehensive information about judicial threats, including the steps a judge should take upon receiving a threat and the telephone numbers the judge should call to report the threat and seek assistance. The listing of telephone numbers and an outline of crucial first steps should also be given to each judge in a more convenient, portable form, such as a wallet card, to help ensure that judges have this critical information available at all times.

To a judge subject to a specific and credible threat, a reliable means of calling for emergency assistance is crucial. Emergency communications within a courthouse, by means of duress alarms, is discussed above in connection with physical infrastructure. Emergency communication when the judge is at home or traveling is a more challenging matter, both logistically and technically.

As discussed above, the Task Force finds that the use of a “sensitive location” indicator in the local 911 system, which ensures a priority response to a 911 call from a judge’s home, has proven very effective in New York City and a number of other regions in the State. In areas of the State where a sensitive location protocol is not in place, court security officials should work with local law enforcement officials to determine if it can be established. Where that is not possible, alternatives such as portable home duress alarms should be considered. In addition, the use of cell phones with Global Positioning System (“GPS”) technology should also be evaluated as this technology evolves and becomes increasingly available. The Federal Communication Commission has mandated that, by December 31, 2005, all cell phones have the ability to permit law enforcement agencies to determine the location from which a call is made, thus permitting an emergency response even if the caller does not know or is not able to tell the dispatcher precisely where the caller is (see FCC Regulations, section 05-116). Cell phones with GPS capability, programmed to dial automatically to the local police department, could prove an effective means of emergency communications, especially if an emergency arises when the judge is not at home.

There is no single answer here. The best approach in any particular case depends on a variety of factors, including the resources and capability of the local law enforcement agency and the strength of cell phone signals in the geographic area. OCA’s Department of Public Safety should continue to work with local law enforcement agencies and to monitor and evaluate developments in technology to ensure that judges subject to credible threats have the means to summon prompt emergency assistance.

- 31. Recommendation: Provide every judge with a wallet card containing critical information about responding to threats, including telephone numbers to report the threat and seek assistance.**
- 32. Recommendation: Court security officials should work with local law enforcement agencies to ensure that judges who are threatened receive priority response to 911 assistance calls; where that is not possible, alternative approaches, such as portable home duress alarms and cell phones with global positioning capacity, should be employed.**

Judicial Education

Judges themselves play an important role in their own protection. Appreciating the scope and extent of risks they face, and learning how best to respond, can assist uniformed

court officers and others to protect judges and their families from harm. No less than every two years, all State-paid judges must complete continuing education modules in their areas of jurisdiction and other skill programs mandated by the Chief Judge, typically at seminars held at the Judicial Institute and elsewhere throughout the State. These continuing education programs would be ideal forums to brief judges on the state of judicial security and the ways they themselves can contribute to their own protection.

Accordingly, the Task Force recommends inclusion of judicial security materials, including threat assessment and response protocols, as part of mandatory judicial education. Syllabi should be developed by the Judicial Institute in consultation with the Department of Public Safety, Division of Court Operations and district administrative judges' offices, and expanded seminars should commence as soon as these judicial security syllabi are complete.

33. Recommendation: Expand mandatory judicial education to include materials on judicial security, threat assessment and response protocols.

F. Emergency Preparedness

As noted (see pages 11–16), emergency preparedness plans for natural and man-made disasters have been developed for all court facilities and have especially been reviewed, updated and drilled after September 11. Many of these plans also assist in preparing the courts for more targeted public safety threats. Effective implementation of these emergency plans, however, often relies on the cooperation of other branches and levels of government that, under emergency conditions, are themselves challenged to respond to the demands that emergencies place on them. For the courts, whose operations and emergency readiness are necessarily interdependent with the operations of local law enforcement, corrections, social services, transportation, medical service and public utility agencies, it is critical that emergency plans and administrative systems reflect this interdependence to ensure continuity of business and effective implementation of emergency plans. It is also essential that all court personnel — not just first responders officially recognized as such — are prepared to assist in the event of emergency.

In some cases, however, these necessary conditions are not in place. Many local emergency plans do not reflect the needs of the courts or assure the deployment of assets needed to keep the justice system operating. Improving these conditions will require greater coordination among branches and levels of government both in advance of emergencies and in response to emergencies. The Task Force has also concluded that the Judiciary itself must do more to prepare its employees to predict and respond to emergencies. This section offers several recommendations in these areas.

Intergovernmental Cooperation

The 2004 legislation that expanded the scope of Disaster Preparedness Commission (DPC) and State Emergency Management Office (SEMO) planning for Judiciary emergencies has not yet been fully implemented. This legislation mandated enhanced State and local emergency planning for the civil and criminal justice systems by expanding disaster plans required by Article 2-B of the Executive Law (see Appendix O). To date, however, these State and local plans do not fully provide for the prompt securing of court facilities and court employees, jurors, defendants, the mentally incapacitated and other key groups in the event of emergency disruption. As existing disaster plans properly

recognize, the causes of such disruptions may range from a natural disaster (*e.g.*, blizzard, flood, tornado), to a mechanical disruption in basic utilities (*e.g.*, major water main break), to a nuclear accident or terror attack. Especially when minutes count, the prompt assistance of law enforcement and other first responders is critical to evacuate court facilities, protect court employees and users, and secure detainees. This is especially true for the Judiciary, whose operations rely so directly on the work of State and local corrections departments, county sheriffs, city police departments, social service agencies and other State and local entities.

For this reason, it is imperative that State and local disaster plans be updated immediately to reflect the needs of the justice system, in consultation with the Chief Administrative Judge as required by statute. To this end, the Task Force calls on DPC, SEMO and each county government to speedily complete these plans in consultation with the Chief Administrative Judge. Collaboration between the Judiciary and State agencies, and between the Judiciary and local governments, will further assist in developing and implementing the uniform procedures that this report recommends, and in channeling the flow of funds, personnel and information among the branches and levels of government responsible for keeping our courts safe.

- 34. Recommendation: Speed the development of court-related State and local emergency preparedness plans with the Disaster Preparedness Commission, State Emergency Management Office and county governments, as required by statute.**

Secure Web Site

The Judiciary has made significant progress toward ensuring that court leadership will be able to communicate in, and have access to the information needed to respond to, any emergency. These efforts would be enhanced by the development of a secure web site, accessible only to selected court executives and senior security personnel. The site would provide another avenue for communication among these senior officials. In addition, the site could include copies of various materials that might be needed in an emergency, such as contact lists and emergency plans, continuity of operations plans, and CAD floor plans for each courthouse.

- 35. Recommendation: Develop a secure web site to be used by executive staff, to provide access to emergency information and another means of communication among the court system leadership.**

Protecting Data

Without information, the courts cannot function. Protecting data, and the systems for transmitting data, is therefore a crucial component of preparedness.

A vast amount of data — both case and administrative — now resides on computers located at the Judiciary's data center in Rensselaer County in upstate New York. The entire court system's dependence on the data and computer applications located in Rensselaer is increasing with the rollout of the statewide Universal Case Management Systems and the statewide budget and human resources applications. The remote siting, as well as the emergency power, water-less fire suppression and various other emergency systems, make this a very secure facility. Nonetheless, as the court system becomes increasingly reliant on automation, a back-up data center becomes increasingly critical. In the unlikely event

of a failure of the Rensselaer facility, statewide court operations would be difficult, if not impossible. OCA's Division of Technology (DOT) has been evaluating options for providing a back-up computer center to assure continued court operations in the event the main site fails. DOT should move forward with a plan to provide an emergency computer center in the most cost-effective manner.

Much of the court system's data is in non-electronic form, including paper documents, as well as documents in microfiche and other formats. OCA's Office of Records Management has prepared a Disaster Manual and a Disaster Recovery Workbook to guide the courts in preparing for and recovering from a disaster. Consulting these guides after a disaster is not enough. Planning and preparation are crucial. Each court should review the Disaster Manual and Recovery Workbook and prepare a specific plan to prepare its records for, and to recover or replace those records in the event of, a disaster.

36. Recommendation: Establish a back-up computer center.

37. Recommendation: Each Court should prepare a plan for the protection and recovery of records.

Emergency Response Training for Non-Uniformed Personnel

As detailed above (see page 13), significant efforts have been made to ensure that the court system's uniformed personnel, particularly supervisory officers, receive training in emergency response procedures. The Task Force has found, however, that many non-uniformed personnel, including many high level managers, are not sufficiently familiar with the emergency procedures. Because managers in non-security positions often play key roles in emergency situations, the Task Force recommends that training programs in security and emergency procedures be developed for the court system's non-security personnel, particularly executive and senior managers. Consideration should also be given to including simulated, on-site exercises in this training.

38. Recommendation: Provide emergency response training for the court system's non-security personnel, especially executive and senior managers.

G. Justice Court Security

As explained above, (see pages 16–17), security in many of the Justice Courts is significantly deficient relative to these courts' jurisdiction and corresponding threat profiles. The Task Force considers the upgrade of security in the Justice Courts to be an immediate necessity and a high priority. The Task Force therefore calls upon town and village governments to take prompt action to provide security commensurate with the risks faced in these courts. The following recommendations evoke a common theme of assisting these governments — through financial assistance, training and other forms of collaboration — in meeting this essential responsibility.

Security Assessments

For years, OCA's Department of Public Safety has offered its services to town and village governments to conduct security assessments of the Justice Courts. To date, only 20 of the State's hundreds of localities have accepted the Judiciary's offer. Just as every State-paid court should be assessed for compliance with modern physical design and other

security standards, so too should every Justice Court be assessed for design and operational preparedness.

To that end, the Task Force recommends that the Judiciary again offer its security assessment services to local governments. This offer should be made immediately, with a goal of assessing the largest Justice Courts first. For every locality that accepts the offer, the Judiciary's security experts should tour the facility, collaborate with local Justice Court administrators, and prepare a confidential written assessment to the local government with recommendations for design, equipment and/or operational upgrades where indicated. These services should be strictly free of charge to the participating locality.

39. Recommendation: Renew offers to conduct security assessments of Justice Courts, with priority to the largest Justice Courts.

Courthouse Design

From time to time, OCA's staff architects and the Judiciary's uniformed officers have reviewed plans for new or renovated Town and Village courthouses, just as they routinely review and comment on courthouse plans for State-paid courts. Just as the Task Force urges that Justice Courts take advantage of the offer of security assessments of existing courthouses, the Task Force recommends that Justice Courts submit plans for new or renovated courthouses to OCA's Office of Court Facilities Management for review by the court system's architects and security personnel.

40. Recommendation: Invite Justice Courts planning to build a new courthouse or renovate an existing courthouse to submit the plans for review and comment by the Judiciary's architects and security personnel.

Training

The Judiciary has also offered training to local law enforcement personnel providing security in the Justice Courts. This practice should be encouraged, expanded and formalized. Toward that latter goal, requests for training should be made by a Justice Court to the Court Officers Academy, so that the training provided can be coordinated and standardized. It is expected that the training itself would be provided by a combination of training instructors from the Academy and local uniformed court officers.

41. Recommendation: Offer to train local law enforcement officers providing security in the Justice Courts, through a program coordinated by the Court Officers Academy.

Procurement

The sheer size of the New York court system and corresponding breadth of its equipment needs accord OCA significant market leverage in purchasing magnetometers and other security equipment. The Judiciary's experience in the area of court security, and its relationships with other law enforcement agencies across the State and nation, also accord OCA unique expertise in selecting equipment for purchase. The Judiciary's market leverage and expertise should be harnessed to benefit towns and villages as these local governments rise to the court security challenge.

First, OCA's Department of Public Safety should offer to advise Justice Courts in the selection of security equipment for purchase. In addition, the Department of Public Safety

has already obtained the agreement of two security equipment vendors to offer Justice Courts the same terms and prices afforded to the state-paid Judiciary. The Department of Public Safety should continue to work with vendors to assist Justice Courts in obtaining security equipment at favorable “state-rates.”

- 42. Recommendation: Offer to assist local governments in selecting security equipment and in obtaining favorable “state-rates” in purchasing the equipment.**

JCAP Expansion

For years, the Legislature has funded, and the Judiciary has administered, a Justice Court Assistance Program (JCAP) to help local governments in making equipment purchases (*e.g.*, computers, printers, fax machines) for their Justice Courts (see Appendix U). Because it is essential that Justice Courts — especially those with relatively high criminal caseloads — begin adopting security precautions commensurate with the jurisdiction they possess, the Task Force recommends that JCAP be expanded to provide State reimbursement for designated Justice Court security purchases. This will assist local governments to close critical gaps in court security without unduly burdening local budgets.

- 43. Recommendation: Increase funding for the Justice Court Aid Program (JCAP) to enable Justice Courts to seek grants for security equipment purchases.**

Justice Court Security Working Group

Towns and villages have broad discretion in determining how best to secure their Justice Courts. The result is a far greater diversity in security procedures in the Justice Courts than in the State-paid courts. In some instances Justice Court security is satisfactory, while in many others it is significantly deficient, and in others there is little or no security at all. To be sure, the limited caseloads in many Justice Courts do not justify the same level of protections that State-paid courts require, but it remains apparent that Justice Court security must be significantly improved.

Because Justice Courts are generally independent from the Judiciary’s budgetary, operational and administrative systems, there exists under current law no way to mandate adoption of best-practice security protocols, especially given that some Justice Courts have little or no security apparatus in place to implement these protocols. Moreover, the Justice Courts’ budgetary independence provides little way to incentivize these improvements (other than the JCAP program). Neither does the diversity of Justice Court facilities and caseloads suggest a singular security protocol suitable for all Justice Courts.

Recognizing this diversity of Justice Court environments and legal relationships, but also recognizing the critical need to improve and standardize Justice Court security protocols, the Task Force recommends as an initial step that the Judiciary convene a Justice Court Security Working Group to draw together representatives of the Judiciary, Statewide associations of local governments (*e.g.* New York State Association of Towns), and county and city law enforcement agencies providing security in Justice Courts, to develop best practices for implementation in the Justice Courts. This Working Group can use as a model the protocols recommended in this report and the consensus approaches developed among county and city governments providing security in their courts. If the Working Group determines that further resources and/or legal powers are required to effectuate these

improvements, the Working Group and its local constituencies would be best suited to develop and advocate any such recommendations. The Working Group should be established as soon as practicable, with a view toward issuing initial findings no later than April 2006.

- 44. Recommendation: Convene a working group on Justice Court Security, with representatives of the Judiciary, statewide associations of local governments and county, city and local law enforcement officials, to develop a series of best practices for court security.**

H. Legislative and Intergovernmental Initiatives

Many of the foregoing recommendations can be implemented under current law and out of existing funds, and therefore do not require assistance from other branches of government. Other recommendations to keep New York's courts safe require the active cooperation of the Legislature and Executive Branch. This section details those areas in which statutory changes and budget appropriations are needed to respond adequately to New York State's court security challenge.

Video Court Appearances

Article 182 of the Criminal Procedure Law (see Appendix V) authorizes criminal defendants in certain counties to appear in court electronically, by secure closed-circuit television, under certain limited circumstances. Current law, which has twice sunset and twice been renewed, allows these video court appearances only for routine pre-trial matters and does not allow the entry of a plea by these means — limitations designed to vindicate defendants' core rights. This program significantly reduces the costs and operational burdens on the criminal justice system — including on the courts themselves and on localities that transport prisoners between jails and courts. Moreover, by making some prisoner transports and custody transfers unnecessary, the video appearance system significantly reduces the risk of escape and other court security threats, and thus aids in keeping courts and law enforcement personnel safe.

The Task Force recommends that the video court appearance statute be amended in three respects. First, the statute will expire in December 2006 and must be renewed lest the State and local governments lose the system's many operational and fiscal benefits. Based on the duration and successful history of the program, the Legislature should make permanent the authorization for video appearances rather than impose yet another sunset. Second, current law allows video appearances only in 23 counties; in much of New York State and primarily in the rural counties that could benefit from them, video appearances are not authorized.¹³ This must be corrected by expanding Article 182 authority statewide. Third, current law requires express defendant consent to appear by video, with such consent to be delivered on the record and only after opportunity to consult with counsel. Given the limited class of proceedings in which video appearances may occur, the significant advances in audio-visual technology over the many successful years of Article 182 proceedings and the assurance of unrestrained and confidential communication

¹³ Current law authorizes electronic appearances only in Albany, Bronx, Broome, Cattaraugus, Clinton, Chautauqua, Erie, Franklin, Kings, Montgomery, New York, Niagara, Oneida, Onondaga, Ontario, Queens, Rensselaer, Richmond, St. Lawrence, Tompkins, Montgomery, Warren and Westchester Counties (see CPL 182.20[1]).

between defendants and their counsel during video appearances, the legislative requirement of express defendant consent is outdated and should be removed.

The establishment of permanent Article 182 authority, its expansion to all counties in New York State and the elimination of consent provisions will reduce State and local burdens in transporting prisoners to and from court, and thereby contribute significantly to court security by reducing opportunities for flight, assault and other threats to public safety in the courts.

45. Recommendation: Make permanent statutory authority for video court appearances in criminal cases, and expand program authority to all counties and eliminate the requirement of defendant consent.

Threats to the Judicial Process

There is a significant gap in State law that the Legislature should correct. Under current law, crimes committed against witnesses, jurors, crime victims and uniformed court officers on duty in the courts are aggravated offenses for sentencing purposes when committed with intent to impede the judicial process. Likewise, threats to bomb courthouses are punishable in like fashion as terrorism. By contrast, crimes committed against judges and nonjudicial employees with specific intent to tamper with the judicial process (*e.g.* prevent, impede or retaliate for official conduct) are not aggravated offenses under New York law. Existing State law thus offers special protection for every participant in the justice process except the judge and the court employee who are specifically targeted precisely because they do their duties to uphold the law.

This omission in State law should be corrected, especially in light of the nationwide spate of incidents against court personnel and New York's particular record of over 1,300 crimes and other threats against judges and nonjudicial staff over the last decade, all apparently committed with specific intent to disrupt the judicial process. In 2005, the Judiciary proposed comprehensive legislation to fill these gaps in State law;¹⁴ the bill unanimously passed the Senate but has not yet passed the Assembly.

The Task Force urges the Legislature to take up this matter at the first possible opportunity, and to enact legislation to accord judges and nonjudicial employees the protection against assaults and other crimes that their high-profile positions and public confidence in the judicial process require.

46. Recommendation: Amend the Penal Law to specially criminalize offenses committed against judges and nonjudicial employees with specific intent to tamper with the judicial process.

Court Security Appropriations

Policy changes are essential, but so too are investments in public safety — and as governments across the nation know from recent experience in the area of homeland security, investments cost money. Recent years have witnessed significant increases in federal, state and local appropriations for public protection in areas ranging from infrastructure modernization and equipment purchases to personnel overtime, hiring and training.

Like other government entities, judiciaries nationwide have been seeking appropriations to upgrade facilities, purchase security equipment and fund expanded

¹⁴ See S. 4170/A. 8289-A.

public safety positions necessary to meet the emerging court security challenge. Too often, however, as a recent National Center for State Courts convocation on the subject concluded, delays in securing funds have exposed the public to avoidable risks. While court facilities have been repeatedly targeted and though it is the judicial branch that adjudicates the proceedings that so often attract and motivate public safety threats, public protection grant programs sponsored by the U.S. Department of Homeland Security have systematically disqualified judiciary investments from federal financial assistance. Likewise, in New York State, though the Judiciary proposed and the Legislature adopted an amendment to the Executive Law including Judiciary concerns in State and local emergency preparedness plans, New York State's courts remain uniquely outside critical State public protection funding streams disbursed by the Disaster Preparedness Commission and State Emergency Management Office.

There is simply no way to make needed enhancements to court security with administrative changes alone. In the homeland security area above all others, there is no substitute for effective investments in physical infrastructure and human resources. For years, Judiciary cost-cutting measures, responsive to State budget needs and expectations of the Legislature and Executive Branch, have controlled the Judiciary Budget such that annual increases have consistently been below increased costs mandated by law. In this austere environment, many essential investments in court security simply cannot occur.

For this reason, the Task Force urges that the 2006–2007 Judiciary Budget include funds for at least the following items, with subsequent future-year appropriations as needed:

- Purchase and installation of ballistic-resistant barriers and duress alarms for all State-paid courts;
- Research and development of a “smart card” system for court employees and SecurePass holders, using encrypted card readers;
- Development of a residential training facility for court officers; and
- Expansion of the Justice Court Assistance Program to include aid for the purchase of magnetometers, x-ray machines and other basic security equipment.

47. Recommendation: Include in the 2006–2007 Judiciary Budget funds for security improvements, including retrofitting of court facilities and operational enhancements.

I. Ongoing Monitoring and Response

This report cannot and must not be the last word on the status of court security in New York. Threats evolve, crime patterns and caseloads shift, technological developments both increase risk and increase capacity to address risk, and changing fiscal climates alter government's capacity to speedily respond to these developments. In this ever-changing environment, there must be constant assessment, re-evaluation and adaptation. Likewise, continued scrutiny is required to ensure that the recommendations of this report are in fact implemented, and that they achieve their intended objectives. Only time will tell if these proposals are sufficient to keep New Yorkers and their courts safe from reasonably preventable threats.

For these reasons, the Task Force's final recommendation is perhaps its most important. This Task Force should stay in business and report back to the Chief Judge and

the Chief Administrative Judge on the status of court security in New York State. Hopefully future reports will not need to be as extensive as this one, but the future will certainly call for monitoring compliance with security protocols and assessing their sufficiency; gauging the adequacy of physical infrastructure standards against current threats and design/material capacities; and determining whether the various branches and levels of government responsible for court security are properly cooperating and properly funded to achieve core court-security objectives. Future reports of this Task Force should especially focus on:

- **Jurisdictional impediments to the cost-effective provision of court security services, including improvements made by centralized assessment of security staffing and redeployment of uniformed court personnel;**
- **Training and performance standards for uniformed court personnel, including the possible establishment of periodic physical skill assessments to ensure that uniformed officers on sensitive posts can respond effectively to threats they encounter on the job;**
- **Alternative instruments for the deployment of physical force by uniformed court officers;**
- **Standards and procedures for the provision of security by county and city law-enforcement personnel, including the interoperability of equipment and seamless integration of procedures, and, if discussions with local law enforcement agencies do not result in the necessary standardization, whether a legislative solution should be considered; and**
- **Sufficiency of Justice Court security, including staffing, training, equipment and physical infrastructure.**

A state as large and diverse as New York — an international center of commerce and government with one of the nation’s largest and most complex judicial systems — will require the cooperation of every branch and level of government to assure the security of its court facilities in the 21st century. The dedication of the Judiciary’s uniformed security personnel, trendsetting standards in operational management and modern facility designs together have helped assure that New York’s courts remain safe. But in the shadow of September 11, events around the world and especially among the nation’s courts underscore that New York cannot afford to rest on its laurels. The safety of all who use and work in New York’s courts, and therefore the integrity of New York State’s judicial proceedings, demand reforms to the security system and unquestionably are worth the effort and expense of implementing the recommendations of this report.

The foregoing recommendations — covering nearly every facet of court operations — are a good start, but only a start. Constant vigilance will require constant re-examination, revisiting old assumptions and sometimes changing old ways. Like this report and the work of this Task Force, the future’s unceasing efforts to secure the courts must be motivated by single objective: to anticipate the unexpected on behalf of all New Yorkers who rely on us to keep them safe.

With careful management, constant vigilance and the cooperation of the Judiciary’s partners in government, New York can do just that: guarantee that its courts are open for business every day, serving their justice missions and keeping people safe while remaining second to none in assuring the transparency and constitutional liberties that are all New Yorkers’ birthrights.