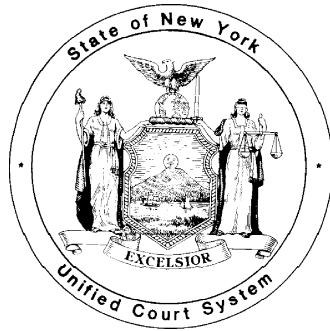


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STATE OF NEW YORK



**Twenty-First Annual Report**  
of  
**The Chief Administrator of the Courts**  
for Calendar Year 1998

STATE OF NEW YORK

**Report  
of  
The Chief Administrative Judge of the Courts**

**For the Calendar Year  
January 1, 1998 - December 31, 1998**

**Court of Appeals**

Judith S. Kaye, Chief Judge

Vito J. Titone  
Joseph W. Bellacosa  
George Bundy Smith

Howard A. Levine  
Carmen Beauchamp Ciparick  
Richard C. Wesley

**Chief Administrative Judge of the Courts**

Jonathan Lippman

**Administrative Board of the Courts**

Judith S. Kaye, Chair

Anthony V. Cardona  
Guy J. Mangano

M. Dolores Denman  
Alfred D. Lerner

UNIFIED COURT SYSTEM  
1998

JONATHAN LIPPMAN  
*Chief Administrative Judge*

JOAN B. CAREY  
*Deputy Chief Administrative Judge  
New York City Courts*

ANN T. PFAU  
*Deputy Chief Administrative Judge  
for Management Support*

JOSEPH J. TRAFICANTI, JR.  
*Deputy Chief Administrative Judge  
Courts Outside New York City*

**Administrative Judges**

JACQUELINE W. SILBERMANN  
Statewide Administrative Judge  
for Matrimonial Matters

MICHAEL GAGE  
Administrative Judge  
New York City Family Court

STEVEN W. FISHER  
Administrative Judge  
Eleventh Judicial District  
Supreme Court

PATRICK D. MONSERRATE  
District Administrative Judge  
Sixth Judicial District

FERN FISHER-BRANDVEEN  
Administrative Judge  
New York City Civil Court

LUIS A. GONZALEZ  
Administrative Judge  
Twelfth Judicial District  
Supreme Court

L. PAUL KEHOE  
District Administrative Judge  
Seventh Judicial District

JUDY HARRIS KLUGER  
Administrative Judge  
New York City Criminal Court

JOSEPH J. TRAFICANTI, JR.  
Acting Presiding Judge  
Court of Claims

VINCENT E. DOYLE  
District Administrative Judge  
Eighth Judicial District

STEPHEN G. CRANE  
Administrative Judge  
First Judicial District  
Supreme Court, Civil Branch

THOMAS W. KEEGAN  
District Administrative Judge  
Third Judicial District

ANGELO J. INGRASSIA  
District Administrative Judge  
Ninth Judicial District

JUANITA BING NEWTON  
Administrative Judge  
First Judicial District  
Supreme Court, Criminal Branch

JAN H. PLUMADORE  
District Administrative Judge  
Fourth Judicial District

EDWARD G. McCABE  
Administrative Judge  
Nassau County

MICHAEL L. PESCE  
Administrative Judge  
Second Judicial District  
Supreme Court

WILLIAM R. ROY  
District Administrative Judge  
Fifth Judicial District

MARY WERNER  
Administrative Judge  
Suffolk County

\*\*\*

MICHAEL COLODNER  
Counsel

## Preface

Welcome to the 21<sup>st</sup> annual report of the Chief Administrator of the Courts. This report, which is submitted to the Governor and the Legislature in accordance with Section 212 of the Judiciary Law, reflects the activities of the courts and the state of the court system during the preceding year.

You will find here an outline of the structure of the courts, a summary of our legislative agenda, significant statistical data and some of the major highlights marked by the courts during the year 1998. The extensive statistical data relating to Family Court that is published each year in accordance with sections 213 and 385 of the Family Court Act is issued separately as Volume II of this annual report.

During 1998, we continued to develop our Criminal, Family and Housing Justice initiatives, which bring innovative methods of case management to the courts, make them more accessible to the public and improve the delivery of court services. We also continued to increase our technological expertise in all aspects of court operations.

I am pleased to report that the Unified Court System's Center for Court Innovation, a public-private partnership that develops and implements new programs to improve court operations, was one of ten recipients of the prestigious Innovations in American Government Award presented by the Ford Foundation and Harvard University's Kennedy School of Government, in recognition of the new court prototypes we have piloted and the structure that has been established for ongoing innovation in the courts.

As always, I am proud of the accomplishments of the Judges and nonjudicial employees that constitute the court system and want to thank them for their dedication and commitment to the Judicial Branch and to serving the people of the State of New York.

I also want to take this opportunity to gratefully acknowledge the assistance and cooperation extended to the Office of Court Administration and to me during 1998 by the Governor and his staff, members of the Legislature, bar associations and individual lawyers and laypersons.



The Derek Photographers Group

**Please Do Not Destroy or Discard This Report.**

When this report is of no further value to the holder, please return it to the Office of Court Administration, 25 Beaver Street, New York, N.Y. 10004, so that copies will be available for replacement in our sets and for distribution to those who may request them in the future.

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## Chapter 1

# Court Structure and Statistics

The Judiciary, with the Executive and the Legislature, is one of the three co-equal branches of New York State government. The responsibility and authority for supervising the courts is vested in the Chief Judge of the Court of Appeals, who also serves as the Chief Judge of the State.

The powers and structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI provides for a unified court system for the State, specifies the organization and the jurisdiction of the courts, establishes the methods of selection and removal of judges and justices, and provides for the administrative

supervision of the courts. The State is divided into four judicial departments.

In New York State, the courts of original jurisdiction, or *trial courts*, hear a case in the first instance, and the *appellate courts* hear appeals from the decisions of those tribunals. The appellate structure of these courts is described herein and is shown in Figures 1a and 1b. This chapter identifies the different courts in the State, defines their jurisdiction, and reflects their caseload activity for the year 1998. In all, there are 1,220 judges and approximately 14,000 nonjudicial personnel throughout the system. Table 1 reflects the number of judges authorized to sit in each of the courts located in the State.

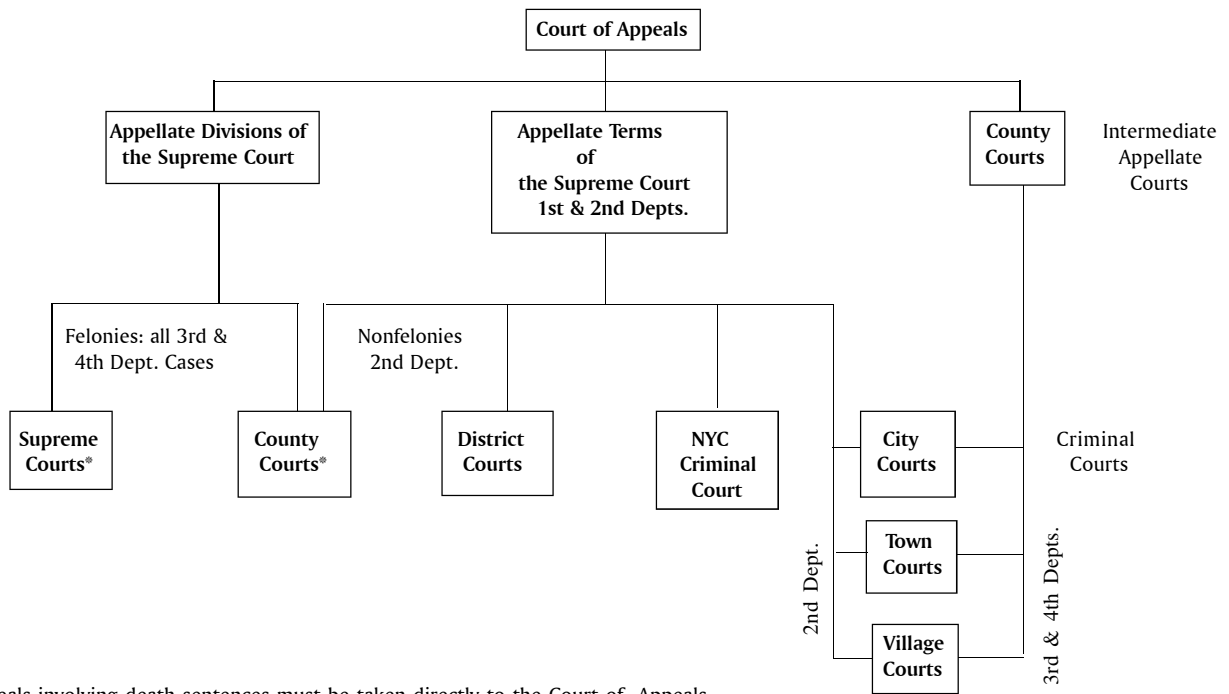


Skip Dickstein

New York State Court of Appeals (as constituted in 1998)

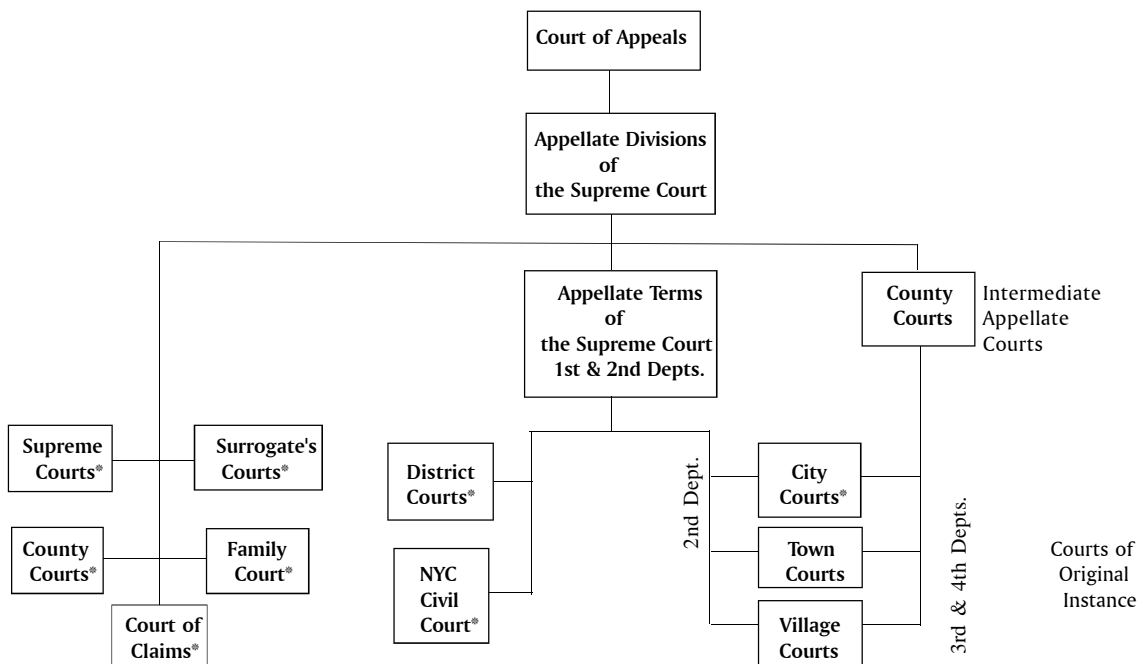
Howard A. Levine, George Bundy Smith, Richard C. Wesley, Carmen Beauchamp Ciparick, Joseph W. Bellacosa  
Vito J. Titone, Judith S. Kaye, *Chief Judge*

**Figure 1a**  
**NEW YORK STATE JUDICIAL SYSTEM**  
**Criminal Appeals Structure**



\*Appeals involving death sentences must be taken directly to the Court of Appeals.

**Figure 1b**  
**NEW YORK STATE JUDICIAL SYSTEM**  
**Civil Appeals Structure**



\*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United States Constitution may be taken directly to the Court of Appeals.

**Table 1**  
**NEW YORK STATE JUDICIAL SYSTEM**  
**Authorized Number of Judges**  
*December 31, 1998*

<i>Number of Judges</i>	<i>Court</i>
7	..... Court of Appeals
56 <sup>a</sup>	..... Supreme Court, Appellate Divisions
292 <sup>b</sup>	..... Supreme Court, Trial Parts
77	..... Supreme Court, Certificated Retired Justices
22	..... Court of Claims
50	..... Court of Claims (15 judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program, as amended by Chapters 500, 501, Laws of 1982; 23 appointed pursuant to Chapter 906, Laws of 1986; 8 appointed pursuant to Chapter 209, Laws of 1990)
30	..... Surrogate's Courts (including 6 Surrogates in the City of New York)
71	..... County Courts* (County Judges outside the City of New York in counties that have separate Surrogate's Court and Family Court Judges)
13	..... County Courts* (County Judges who are also Surrogate's Court Judges)
6	..... County Courts* (County Judges who are also Family Court Judges)
37	..... County Courts* (County Judges who are also Surrogate's and Family Court Judges)
124	..... Family Courts (including 47 Family Court Judges in the City of New York)
107	..... Criminal Court of the City of New York
120 <sup>c</sup>	..... Civil Court of the City of New York
50	..... District Courts (in Nassau and Suffolk Cos.)
158	..... City Courts in the 61 Cities outside New York City including Acting and Part-time Judges
<u>1,220</u>	Total
[2,300	Town and Village Justice Courts]

\* In smaller counties judges may sit in two or three of the county-level courts simultaneously (County, Surrogate's or Family Courts)

a In addition to the 24 Supreme Court Justices permanently authorized, 20 Justices and 12 Certificated Retired Justices are temporarily designated to the Appellate Division.

b Does not include judges of other courts, especially the Civil and the Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year. Includes justices designated to an Appellate Term.

c Does not include the additional 11 Civil Court Judgeships authorized by the 1982 Session Laws, chapter 500, but still not filled.

## Appellate Courts

The *appellate courts* are the Court of Appeals, the Appellate Divisions, the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts in the Third and Fourth Judicial Departments.

### Court of Appeals

#### Structure

The *Court of Appeals* is the highest court in the State and is located in Albany, the capital. The Court consists of the Chief Judge and six Associate Judges. These judges are appointed by the Governor, with the advice and consent of the Senate, for 14-year terms, from among persons found to be well-qualified by the State Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision. In addition to hearing cases, the Court is responsible for establishing rules governing the admission of attorneys to the Bar.

The Court of Appeals hears both civil and criminal appeals. It also hears appeals from determinations by the State Commission on Judicial Conduct, which is responsible for reviewing allegations of misconduct brought against judges.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the

review of questions of law, except in a criminal case in which the sentence is death, or a case in which the intermediate appellate-level court, the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts, and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from a court of original jurisdiction to the Court of Appeals, from a final judgment or order, in an action or proceeding in which the only question is the constitutionality of a State or federal statute. As to other matters, the Constitution provides for an appeal as a matter of right, or upon the leave or permission of the Appellate Division or the Court of Appeals, depending upon the issue.

Decisions of the Court of Appeals are final (cannot be appealed further), except that the United States Supreme Court may be asked to review cases involving questions of federal law or the United States Constitution.

#### Caseload Activity

During 1998, 217 records on appeal were filed and the Court decided 198 appeals and related matters. (See Table 2.) In addition, 1,552 motions and 2,982 criminal leave applications were decided.

The Court of Appeals maintains a current docket. During 1998, the average length of time from the filing of a notice of appeal, or order granting leave to appeal, to the release to the public of a decision was 220 days.

**Table 2**  
**CASELOAD ACTIVITY IN THE COURT OF APPEALS**  
**1998**

Applications Decided [CPL 460.20 (3:b)]	2,982
Records on Appeal Filed	217
Oral Arguments (Includes Submissions)	170
Appeals Decided	197
Motions Decided	1,552
Judicial Conduct Determinations Reviewed	2

**DISPOSITIONS OF APPEALS DECIDED IN THE COURT OF APPEALS**  
**by Basis of Jurisdiction**  
**1998**

<i>Basis Of Jurisdiction</i>	Affirmed	Reversed	Modified	Dismissed	Other	Total
<b>All Cases:</b>						
Reversal, Modification, Dissent in Appellate Division	5	6	1	1	0	13
Permission of Court of Appeals or Judge thereof	63	38	7	1	0	109
Permission of Appellate Division or Justice thereof	20	17	0	4	0	41
Constitutional Question	7	3	0	0	0	10
Stipulation for Judgment Absolute	0	1	0	0	0	1
Other	1	2	1	0	20*	24
<b>Total</b>	<b>96</b>	<b>67</b>	<b>9</b>	<b>6</b>	<b>20</b>	<b>198</b>
<b>Civil Cases:</b>						
Reversal, Modification, Dissent in Appellate Division	5	6	1	1	0	13
Permission of Court of Appeals or Judge thereof	27	23	6	0	0	56
Permission of Appellate Division or Justice thereof	10	10	0	0	0	20
Constitutional Question	7	3	0	0	0	10
Stipulation for Judgment Absolute	0	1	0	0	0	1
Other	1	2	1	0	20	24
<b>Total</b>	<b>50</b>	<b>45</b>	<b>8</b>	<b>1</b>	<b>20</b>	<b>124</b>
<b>Criminal Cases:</b>						
Permission of Court of Appeals or Judge thereof	36	15	1	1	0	53
Permission of Appellate Division or Justice thereof	10	7	0	4	0	21
Other	0	0	0	0	0	0
<b>Total</b>	<b>46</b>	<b>22</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>74</b>

\*Includes anomalies which did not result in an affirmation, reversal, modification or dismissal (e.g. judicial suspensions, acceptance of a case for review pursuant to Court Rule 500.17).

## Appellate Division

### Structure

The *Appellate Divisions of the Supreme Court* are established in each of the State's four judicial departments (see the map at the beginning of this report). The primary responsibilities of the Courts are:

- Resolving appeals from judgments or orders of the superior courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms and the County Courts acting as appellate courts.

- Establishing rules governing attorney conduct and conducting proceedings to admit, suspend, or disbar attorneys.

Each Appellate Division has jurisdiction over appeals from final orders and judgments, and from some intermediate orders rendered in county-level courts, and has original jurisdiction over selected proceedings.

As prescribed by Article VI, Section 4, of the Constitution, the Governor designates the Presiding and Associate Justices of each Appellate Division. The Presiding Justice serves for the remainder of the length of his or her term, while Associate Justices are designated for five-year terms, or for the remainder of their terms of office, whichever period is shorter.

### Caseload Activity

During 1998, there were a total of 11,761 records on appeal filed in the four Appellate Divisions, while 19,227 appeals reached case disposition. (See Table 3.)

**Table 3**  
**CASELOAD ACTIVITY IN THE APPELLATE DIVISION**  
**1998**

	First Department	Second Department	Third Department	Fourth Department	Total
Records on Appeal Filed	3,258	4,456	2,244	1,803	11,761
Dispositions on Appeals:					
Disposed of Before Argument or Submission (e.g. Dismissed, Withdrawn, Settled)	422	6,143	61	54	6,680
Disposed of After Argument or Submission:					
Affirmed	2,476	2,981	1,680	1,081	8,218
Reversed	429	860	187	220	1,696
Modified	299	410	188	224	1,121
Dismissed	164	510	92	271	1,037
Other	154	276	31	14	475
Subtotal	3,522	5,037	2,178	1,810	12,547
<b>Total Dispositions</b>	<b>3,944</b>	<b>11,180</b>	<b>2,239</b>	<b>1,864</b>	<b>19,227</b>
Oral Arguments	1,543	2,190	952	931	5,616
Motions Decided	7,567	13,647	5,228	4,574	31,016
Admission to Bar	2,634	2,444	1,852	384	7,314
Attorney Disciplinary Proceedings Decided	89	138	37	31	295



## Trial Courts

### Caseload Overview

The trial courts of superior jurisdiction are the Supreme Courts, the Court of Claims, the Family Courts, the Surrogate's Courts and, outside New York City, the County Courts. In New York City, the Supreme Court exercises both civil and criminal jurisdiction. Outside New York City, Supreme Court exercises civil jurisdiction, while County Court generally handles criminal matters.

The Chief Administrator has established *Standards and Goals* to provide performance measures for the courts reflecting the time elapsed from case filing to disposition. Standards and Goals have been established for felony cases in the Supreme and County Courts, civil cases in the Supreme Courts, and proceedings in the Family Courts. The Standards and Goals performance for each of these courts during 1998 is reported later in this chapter.

In 1998, there were 3,949,691 new cases filed in the trial courts<sup>1</sup> of the UCS.<sup>2</sup> Of these, 3,543,795 filings reached court calendars. Excluding parking tickets, there were 3,275,116 filings as follows: 41% (1,351,371) in criminal courts, 34% (1,101,871) in civil courts, 20% (654,602) in the Family Courts, and 5% (167,272) in the Surrogate's Courts. (See Figure 2.)

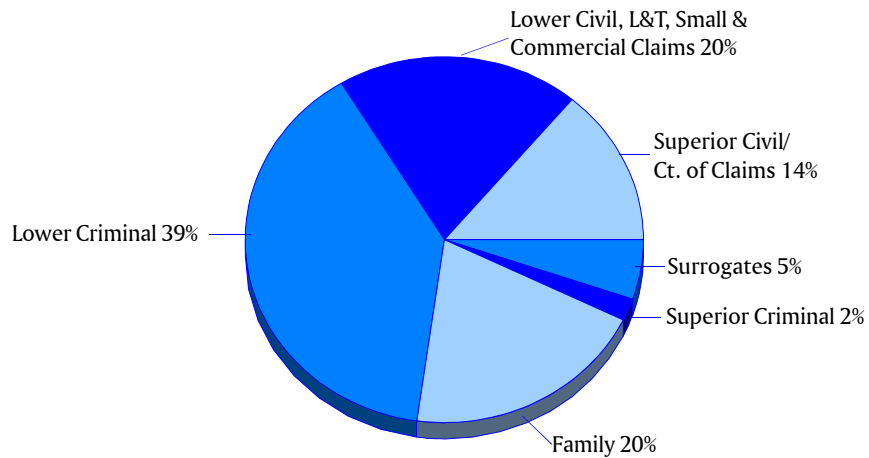
During 1998, there were 3,560,812 dispositions in the trial courts. Excluding parking tickets, there were 3,292,133 dispositions, as follows: criminal courts - 40%, civil courts - 36%, Family Courts - 20%, and Surrogate's Courts - 4%.

Table 5 shows a breakdown of filings and dispositions during 1998 in the trial courts by type of court.

<sup>1</sup> Does not include locally-funded Town and Village Courts.

<sup>2</sup> All data in this chapter is from the Caseload Activity Reporting System of the UCS. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrator of the Courts (22 NYCRR §115).

**Figure 2**  
**TRIAL COURT FILINGS**  
**by Case Type - 1998**



**Table 5**  
**FILINGS & DISPOSITIONS IN THE TRIAL COURTS**  
**1998**

<b>Court</b>	<b>Filings</b>	<b>Dispositions</b>
<i>CRIMINAL</i>		
Supreme and County Courts	63,329	66,835
Criminal Court of the City of New York:		
Arrest Cases	394,428	403,005
Summons Cases	309,261 <sup>a</sup>	273,009
City and District Courts Outside New York City:		
Arrest Cases	302,754	287,929
Uniform Traffic Tickets	281,599 <sup>b</sup>	281,599
Parking Tickets	268,679 <sup>b</sup>	268,679
<b>Criminal Subtotal</b>	<b>1,620,050</b>	<b>1,581,056</b>
<i>CIVIL</i>		
Supreme Courts:		
New Cases	181,566	205,877
<i>Ex Parte</i> Applications	157,537	157,537
Uncontested Matrimonial Cases	46,694	46,296
Civil Court of the City of New York:		
Civil Action	128,356 <sup>c</sup>	120,795 <sup>d</sup>
Landlord/Tenant Actions and Special Proceedings	225,052 <sup>e</sup>	260,121
Small Claims Cases	40,967	48,314
Commercial Claims	10,224	11,084
City and District Courts Outside New York City:		
Civil Actions	115,437	110,548
Landlord/Tenant Actions and Special Proceedings	68,997	70,038
Small Claims	43,483	44,049
Commercial Claims	13,000	13,103
County Courts	18,131	18,469
Court of Claims	2,143	2,341
Arbitration Program	9,377 <sup>e</sup>	9,811
Small Claims Assessment Review Program	50,284	65,269
<b>Civil Subtotal</b>	<b>1,101,871</b>	<b>1,183,652</b>
<i>FAMILY</i>	654,602	653,812
<i>SURROGATE'S</i>	167,272	142,292 <sup>f</sup>
<b>Total</b>	<b>3,543,795</b>	<b>3,560,812</b>

<sup>a</sup> Calendared summonses only. An additional 179,390 summonses were filed in which defendant did not appear.

<sup>b</sup> The disposition figure is used as the number of filings. An additional 31,136 uniform traffic tickets were filed in which defendants did not respond. An additional 7,646 parking tickets were filed in which defendant did not respond.

<sup>c</sup> Calendared cases and default judgements only. An additional 86,564 civil actions were filed but not calendared or defaulted; an additional 101,160 landlord-tenant cases were filed but not calendared or defaulted.

<sup>d</sup> Does not include dispositions in the Arbitration Program.

<sup>e</sup> Shown here for reference only and not included in totals. Included as intake in the civil courts listed above.

<sup>f</sup> Surrogate's Court dispositions include orders and decrees signed.

## Courts of Superior Jurisdiction

### Supreme Court

#### Structure

The *Supreme Court* has unlimited, original jurisdiction, but generally hears cases outside the jurisdiction of other courts, such as:

- Civil matters beyond the monetary limits of the lower courts' jurisdiction
- Divorce, separation, and annulment proceedings
- Equity suits, such as mortgage foreclosures and injunctions
- Criminal prosecutions of felonies

Supreme Court justices are elected by judicial district to 14-year terms.

#### Caseload Activity

##### *Civil Cases*

During 1998, there were 385,797 total civil filings in the Supreme Courts in New York State. This number includes 181,566 requests for judicial intervention; 157,537 *ex parte* applications; and 46,694 uncontested matrimonial cases. A total of 409,710 matters reached disposition in 1998, including 205,877 requests for judicial intervention; 157,537 *ex parte* applications; and 46,296 uncontested matrimonial cases. Table 6 lists the number of actions filed and disposed of in each county of the State. In addition, Supreme Court hears appeals from administrative proceedings brought under the Small Claims Assessment Review Program ("SCAR"). These proceedings are commenced by owners of one-, two-, or three- family owner-occupied residences to challenge their real property tax assessments. In 1998, 50,284 SCAR petitions were filed in Supreme Court and there were dispositions in 65,269 cases. Table 7 reflects filings and dispositions for each judicial district.

Civil actions are commenced in the Supreme Court with the filing of a Request for Judicial Intervention. Figure 3 shows a breakdown of these filings by type of case: motor vehicle - 24%, medical malpractice - 2%, other tort - 19%, tax certiorari - 11%, contract - 8%, contested matrimonial - 9% and other - 27%. (See Figure 3.) Two-thirds of the cases are disposed of before the trial note of issue is filed—either by settlement (14%) or on some other basis, *e.g.* dismissal, default, or consolidation (52%). The remaining third of the cases are disposed of after the note of issue is filed: settlements - 22%, verdict or decision - 4%, transfer to lower court - 1%, motion - 1%, or other - 6%. (See Figure 4.)

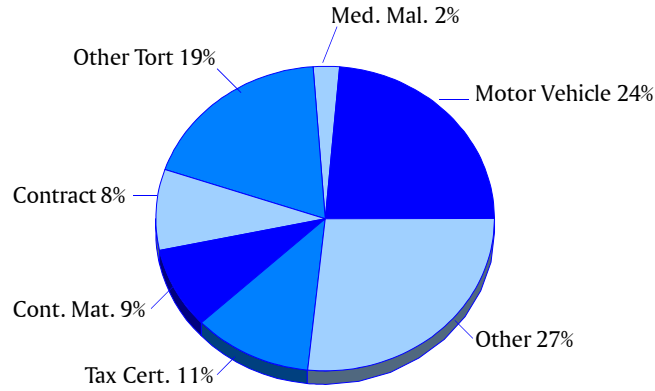
For purposes of Standards and Goals compliance, there are three complementary standards which apply to all civil cases and measure the length of time from filing an action to disposition. The first, or "pre-note" standard, measures the time from filing the Request for Judicial Intervention, or RJI (the point at which the parties first seek some form of judicial relief), to filing of the trial note of issue (indicating readiness for trial). The second, or "note" standard, measures the time from filing the trial note of issue to disposition. The third, or "overall" standard, covers the entire period from filing of the RJI to disposition.

Non-complex cases (which include most tort and contract matters) must meet the first standard within 12 months, the second within 15 months, and the third within 27 months. Complex cases (*e.g.*, medical malpractice cases) must meet the first standard within 15 months, the second within an additional 15 months, and the third within 30 months. The only exceptions to these rules are for matrimonial cases, which must meet the first standard within six months, the second within an additional six months, and the third within a total of 12 months; and tax certiorari cases, which must meet the first standard within 48 months, the second within an additional 15 months, and the third within 63 months.

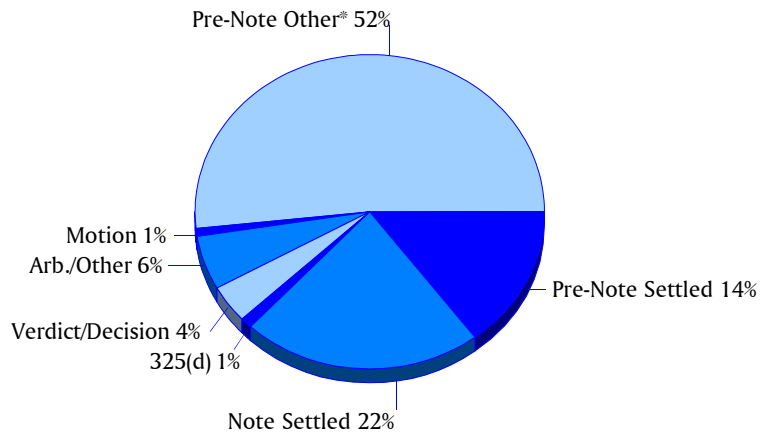
**Table 6**  
**SUPREME COURT CIVIL**  
**Filings & Dispositions**  
**1998**

Location	-----Filings-----		-----Dispositions-----					
	New Case Filings	Note Filings	Total Dispositions	Pre-Note Settlements	Other Pre-Note Dispositions	Post-Note Settlements	Jury Verdicts/ Decisions	Other Note Dispositions
<b>Total State</b>	<b>181,596</b>	<b>72,991</b>	<b>205,889</b>	<b>29,752</b>	<b>106,576</b>	<b>46,297</b>	<b>7,983</b>	<b>15,281</b>
<b>NYC</b>	<b>87,143</b>	<b>37,441</b>	<b>94,763</b>	<b>7,954</b>	<b>54,553</b>	<b>22,349</b>	<b>3,263</b>	<b>6,644</b>
New York	27,865	12,432	31,632	2,736	19,436	6,695	972	1,793
Bronx	12,472	4,893	14,720	692	9,852	3,287	290	599
Kings	25,210	10,116	24,329	2,549	12,344	6,457	1,225	1,754
Queens	18,362	8,320	19,784	1,323	11,176	4,724	579	1,982
Richmond	3,234	1,680	4,298	654	1,745	1,186	197	516
<b>Outside NYC</b>	<b>94,453</b>	<b>35,550</b>	<b>111,126</b>	<b>21,798</b>	<b>52,023</b>	<b>23,948</b>	<b>4,720</b>	<b>8,637</b>
Albany	3,690	848	3,838	352	2,716	436	57	277
Allegany	171	56	196	61	98	29	4	4
Broome	973	338	1,128	103	779	113	32	101
Cattaraugus	246	71	402	211	124	42	6	19
Cayuga	940	111	1,002	22	857	49	50	24
Chautauqua	716	277	784	291	156	206	1	130
Chemung	501	109	640	63	489	62	10	16
Chenango	133	70	160	17	63	49	12	19
Clinton	554	89	660	63	491	59	17	30
Columbia	444	111	470	54	307	42	5	62
Cortland	129	51	129	6	75	25	3	20
Delaware	209	70	207	9	140	11	6	41
Dutchess	3,074	799	3,484	2,181	502	666	77	58
Erie	6,240	1,771	6,505	1,224	3,618	1,121	178	364
Essex	196	61	228	27	136	37	8	20
Franklin	256	85	292	70	134	62	16	10
Fulton	314	175	410	58	165	76	19	92
Genesee	187	89	215	10	66	101	3	35
Greene	464	127	585	136	324	70	15	40
Hamilton	0	0	0	0	0	0	0	0
Herkimer	291	149	361	84	130	60	21	66
Jefferson	516	206	589	53	362	144	13	17
Lewis	148	29	208	15	150	18	18	7
Livingston	271	94	300	19	188	58	8	27
Madison	281	121	334	49	164	79	10	32
Monroe	3,366	1,716	5,502	1,075	2,313	1,233	88	793
Montgomery	288	140	441	26	272	76	16	51
Nassau	20,520	9,014	23,489	5,509	7,595	7,100	1,916	1,369
Niagara	1,543	406	1,506	410	756	244	22	74
Oneida	3,018	823	3,205	302	2,057	392	312	142
Onondaga	3,510	1,254	3,525	327	1,898	611	173	516
Ontario	403	206	506	78	244	146	10	28
Orange	3,310	1,084	4,469	636	2,597	755	176	305
Orleans	298	69	316	113	152	30	1	20
Oswego	606	296	729	116	329	93	163	28
Otsego	287	116	354	42	221	71	13	7
Putnam	664	277	1,106	214	465	162	31	234
Rensselaer	934	313	1,159	126	700	233	23	77
Rockland	2,779	1,178	3,231	93	1,991	911	118	118
Saratoga	1,332	501	1,164	239	532	271	59	63
Schenectady	962	434	1,188	256	516	271	20	125
Schoharie	166	52	140	22	52	34	2	30
Schuyler	86	16	94	14	72	5	1	2
Seneca	164	67	213	11	120	36	1	45
St Lawrence	601	220	539	78	242	87	16	116
Steuben	388	176	701	65	467	58	6	105
Suffolk	13,928	5,245	17,206	5,755	5,802	3,571	507	1,571
Sullivan	852	208	1,010	215	629	120	18	28
Tioga	169	62	148	20	80	31	4	13
Tompkins	315	155	439	21	250	45	5	118
Ulster	1,543	543	1,732	302	875	380	32	143
Warren	361	120	656	336	170	119	10	21
Washington	425	69	413	48	302	31	2	30
Wayne	346	158	569	48	308	45	2	166
Westchester	10,091	4,666	11,739	88	7,388	3,123	383	757
Wyoming	184	14	377	4	349	20	0	4
Yates	70	45	133	31	45	29	1	27

**Figure 3**  
**SUPREME CIVIL NEW CASE FILINGS**  
**by Case Type - 1998**



**Figure 4**  
**SUPREME CIVIL DISPOSITIONS**  
**by Type of Disposition - 1998**



\*This item includes matters that were transferred pursuant to CPLR 325(d), disposed by motion, transferred to arbitration, transferred to other jurisdictions, discontinuances, defaults and consolidations.

**Table 7**  
**SMALL CLAIMS ASSESSMENT REVIEW FILINGS & DISPOSITIONS**  
**by Judicial District**  
**1998**

	Filings	Dispositions	Pending
New York City:			
1 <sup>st</sup>	1	9	1
2 <sup>nd</sup>	507	49	695
11 <sup>th</sup>	1,574	717	1,574
12 <sup>th</sup>	9	114	40
<b>Subtotal</b>	<b>2,091</b>	<b>889</b>	<b>2,310</b>
Outside New York City:			
3 <sup>rd</sup>	649	642	10
4 <sup>th</sup>	465	479	0
5 <sup>th</sup>	396	411	32
6 <sup>th</sup>	201	201	0
7 <sup>th</sup>	210	211	0
8 <sup>th</sup>	415	415	0
9 <sup>th</sup>	4,278	4,580	1,703
10 <sup>th</sup> - Nassau	32,652	46,618	8,444
10 <sup>th</sup> - Suffolk	8,927	10,823	5,936
<b>Subtotal</b>	<b>48,193</b>	<b>64,380</b>	<b>16,125</b>
<b>Total State</b>	<b>50,284</b>	<b>65,269</b>	<b>18,435</b>

**Criminal Cases**

Criminal felony cases are heard in the Supreme Court in New York City and predominantly in the County Courts outside of New York City. In 1998, there were a total of 63,329 filings of felony cases in the Supreme and County Courts. Table 8 shows 1998 filings and dispositions for each county. Although most cases reach disposition by plea (85%), the majority of judicial time is spent conducting trials - both jury and non-jury. (See Figure 5.)

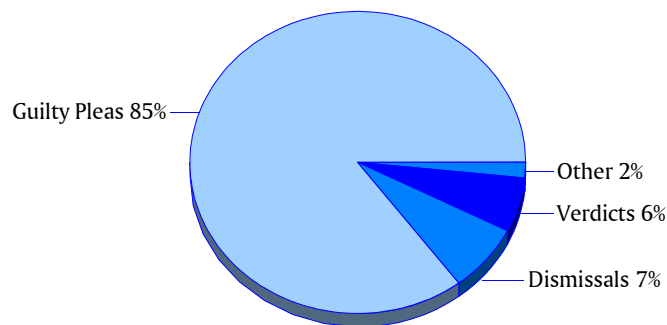
The court system's performance standard for felony cases is disposition within six months from filing of the indictment, excluding periods when a case is not within the active management of the court (e.g. warrant outstanding). In 1998, 83% of

felony case dispositions statewide (in both Supreme and County Courts) were achieved within the six-month standard.

**County Court**

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecutions of both felonies and lesser offenses committed within the county, although in practice most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases, generally involving amounts up to \$25,000. County Court judges are elected to terms of 10 years. The statistical data for County Court's criminal felony caseload is reported in Table 8, in conjunction with those for the Supreme Court.

**Figure 5  
FELONY DISPOSITIONS  
by Type of Disposition - 1998**



**Table 8**  
**SUPREME & COUNTY CRIMINAL COURTS**  
**Filings & Dispositions**  
**1998**

Location	-----Filings-----			-----Dispositions-----						
	Total	Indictments	Superior Court Informations	Total	Guilty Pleas	Jury Convictions	Jury Acquittals	Non-Jury Verdicts	Dismissals	Other
<b>Total State</b>	<b>63,329</b>	<b>40,777</b>	<b>22,552</b>	<b>66,835</b>	<b>57,074</b>	<b>2,253</b>	<b>888</b>	<b>700</b>	<b>5,007</b>	<b>913</b>
<b>Total NYC</b>	<b>36,212</b>	<b>26,986</b>	<b>9,226</b>	<b>38,799</b>	<b>31,953</b>	<b>1,469</b>	<b>648</b>	<b>400</b>	<b>3,617</b>	<b>712</b>
New York	12,470	10,489	1,981	13,394	10,911	566	191	81	1,380	265
Bronx	9,192	6,417	2,775	9,689	8,134	270	223	132	761	169
Kings	8,065	6,373	1,692	8,503	6,856	319	90	129	924	185
Queens	5,869	3,381	2,488	6,440	5,378	290	129	51	511	81
Richmond	616	326	290	773	674	24	15	7	41	12
<b>Outside NYC</b>	<b>27,117</b>	<b>13,791</b>	<b>13,326</b>	<b>28,036</b>	<b>25,121</b>	<b>784</b>	<b>240</b>	<b>300</b>	<b>1,390</b>	<b>201</b>
Albany	812	403	409	745	672	39	2	1	31	0
Allegany	96	39	57	109	96	1	2	0	6	4
Broome	835	361	474	824	743	23	8	2	42	6
Cattaraugus	195	116	79	175	166	6	1	0	2	0
Cayuga	196	105	91	220	206	10	0	0	2	2
Chautauqua	506	257	249	423	402	4	2	2	10	3
Chemung	328	315	13	309	267	9	5	11	17	0
Chenango	62	58	4	56	51	0	0	0	5	0
Clinton	195	81	114	222	204	8	2	0	6	2
Columbia	164	84	80	182	160	13	5	2	2	0
Cortland	152	91	61	174	151	1	3	0	11	8
Delaware	44	15	29	64	53	4	2	0	5	0
Dutchess	476	182	294	469	430	8	1	0	26	4
Erie	2,419	1,326	1,093	2,654	2,322	83	20	97	122	10
Essex	85	54	31	88	72	5	3	0	7	1
Franklin	96	54	42	106	93	2	0	0	9	2
Fulton	110	44	66	112	105	1	1	0	5	0
Genesee	213	93	120	215	193	14	2	1	4	1
Greene	86	68	18	100	72	9	2	1	15	1
Hamilton	14	10	4	10	8	0	0	1	1	0
Herkimer	156	89	67	180	171	4	0	0	5	0
Jefferson	327	190	137	376	323	6	6	0	41	0
Lewis	80	45	35	75	62	2	0	0	11	0
Livingston	267	209	58	267	252	2	2	1	10	0
Madison	113	53	60	131	120	2	0	1	8	0
Monroe	2,259	886	1,373	2,224	1,973	104	23	39	82	3
Montgomery	117	47	70	123	117	2	1	1	0	2
Nassau	3,273	692	2,581	3,914	3,352	62	19	50	376	55
Niagara	399	240	159	381	330	23	7	0	21	0
Oneida	818	626	192	904	818	18	12	0	54	2
Onondaga	1,163	723	440	1,169	1,020	40	17	4	82	6
Ontario	358	194	164	360	334	17	2	3	4	0
Orange	768	504	264	783	707	15	5	6	30	20
Orleans	129	102	27	127	101	5	5	0	14	2
Oswego	254	90	164	257	252	1	1	1	1	1
Otsego	93	56	37	87	77	2	1	0	6	1
Putnam	127	56	71	123	117	3	1	1	1	0
Rensselaer	455	215	240	522	459	20	10	1	16	16
Rockland	624	477	147	607	569	12	8	3	15	0
Saratoga	320	70	250	321	313	6	0	0	2	0
Schenectady	521	256	265	549	512	14	2	0	20	1
Schoharie	27	8	19	38	33	2	1	0	2	0
Schuyler	48	25	23	47	45	0	0	1	1	0
Seneca	99	61	38	89	84	1	1	1	2	0
St Lawrence	287	185	102	283	256	14	5	0	8	0
Steuben	389	248	141	323	296	6	2	0	15	4
Suffolk	3,162	1,955	1,207	3,058	2,837	50	5	17	124	25
Sullivan	251	100	151	241	219	16	3	1	2	0
Tioga	117	102	15	107	101	2	2	1	1	0
Tompkins	173	134	39	171	141	7	5	0	16	2
Ulster	313	170	143	388	369	5	2	1	9	2
Warren	147	55	92	146	130	4	1	0	11	0
Washington	203	169	34	207	185	5	3	0	12	2
Wayne	274	180	94	236	217	6	3	3	4	3
Westchester	1,733	731	1,002	1,787	1,607	58	19	46	47	10
Wyoming	119	45	74	120	103	4	4	0	9	0
Yates	70	47	23	58	53	4	1	0	0	0

## Trial Courts of Limited Jurisdiction in New York City

### New York City Civil Court

#### Structure

The *New York City Civil Court* has jurisdiction over civil cases involving amounts up to \$25,000. It includes a Small Claims Part and a Commercial Small Claims Part for the informal disposition of matters not exceeding \$3,000. It also has a Housing Part for landlord-tenant proceedings.

New York City Civil Court judges are elected to 10-year terms. Housing judges are appointed by the Chief Administrator of the Courts to 5-year terms.

#### Caseload Activity

In 1998, there were 594,029 filings and 440,314 dispositions in Civil Court. (See Table 9.) The large difference between the number of filings and dispositions is due to the number of cases filed but never pursued by the filing party. Figure 6 shows the proportion of actions filed in each part of the Court during 1998: general civil - 36%, housing - 55%, small claims - 7%, and commercial claims - 2%.

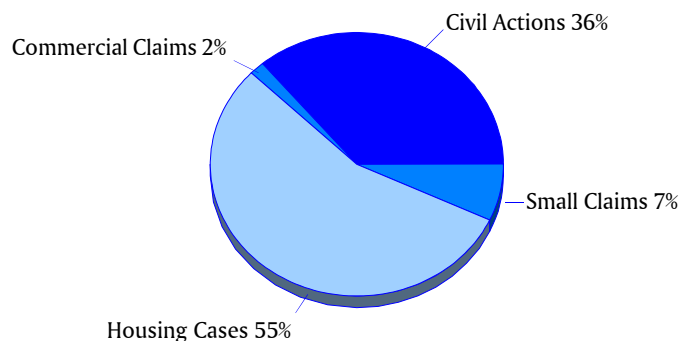
**Table 9**  
**NEW YORK CITY CIVIL COURT**  
**Filings & Dispositions by Case Type**  
**1998**

	---Civil Actions---		---Housing Cases---		---Small Claims---		---Commercial Claims---	
	Filings*	Dispo- sitions**	Filings*	Dispo- sitions**	Filings	Dispo- sitions	Filings	Dispo- sitions
<b>New York City</b>	<b>214,920</b>	<b>120,795</b>	<b>326,212</b>	<b>260,121</b>	<b>40,967</b>	<b>48,314</b>	<b>10,224</b>	<b>11,084</b>
New York	45,680	24,738	79,179	61,745	9,893	12,416	3,946	4,674
Bronx	27,658	18,513	101,083	88,662	5,834	5,705	872	809
Kings	77,751	33,081	91,942	70,554	11,358	12,069	2,125	1,888
Queens	56,640	38,338	48,812	34,917	11,376	15,375	2,491	2,901
Richmond	7,191	6,125	5,196	4,243	2,506	2,749	790	812

\*Includes both answered and unanswered cases.

\*\*Includes courtroom dispositions and default judgments.

**Figure 6**  
**NYC CIVIL COURT FILINGS**  
**by Case Type - 1998**



## New York City Criminal Court

### Structure

The *New York City Criminal Court* handles misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for felonies. New York City Criminal Court judges are appointed by the Mayor to 10-year terms.

### Caseload Activity

During 1998, there were 394,428 filings in the New York City Criminal Court. (See Figure 7.)

Half of the cases reached disposition by plea; 36% were dismissed; 6% were sent to the grand jury; 5% other; and 2% pled to a superior court information. Only 0.2% of the dispositions in the Criminal Court are by verdict after trial. (See Figure 8.)

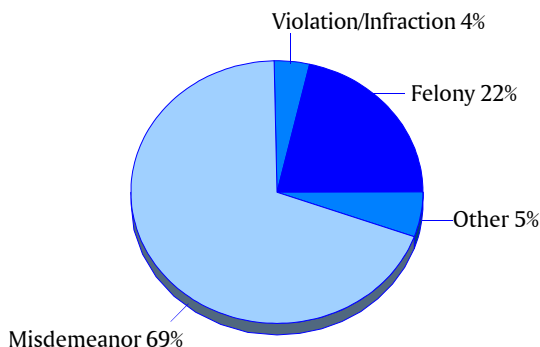
During 1998, 309,261 summons cases (cases in which an appearance ticket, returnable in court, is issued to the defendant) were filed and placed on the calendar. An additional 179,390 summons cases were filed but were not added to the calendar because the defendant failed to appear. There were 273,009 dispositions. (See Table 10.)

**Table 10**  
**NEW YORK CITY CRIMINAL COURT**  
**Filings & Dispositions**  
**1998**

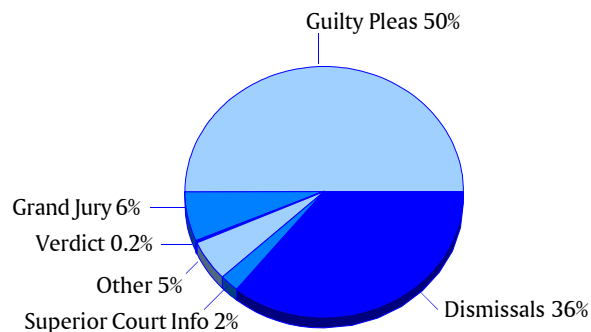
	-----Arrest Cases-----		-----Summons Cases-----	
	Filings	Dispositions	Filings*	Dispositions
<b>New York City</b>	<b>394,428</b>	<b>403,005</b>	<b>488,651</b>	<b>273,009</b>
New York	131,692	134,095	136,146	87,385
Bronx	81,514	82,850	100,919	58,496
Kings	103,025	106,296	136,175	53,212
Queens	65,429	66,978	89,911	53,517
Richmond	12,768	12,786	25,500	20,399

\*Includes both answered and unanswered cases.

**Figure 7**  
**NYC CRIMINAL COURT FILINGS**  
**by Case Type - 1998**



**Figure 8**  
**NYC CRIMINAL COURT DISPOSITIONS**  
**by Type of Disposition - 1998**



## Trial Courts of Limited Jurisdiction Outside New York City

### District and City Courts

The trial courts of lesser jurisdiction outside New York City are the City Courts and District Courts.

### Structure

City Courts have civil jurisdiction to a maximum of \$15,000. Some City Courts have a Small Claims Part for the informal disposition of matters not exceeding \$3,000, and a Housing Part for hearing housing violations and landlord-tenant disputes. In addition, City Courts exercise criminal jurisdiction over misdemeanors, uniform traffic tickets, and parking tickets in jurisdictions without a parking violations bureau. The judges in these courts serve as criminal magistrates, with the power to arraign for felonies and to issue warrants. City Court judges are either elected or appointed, depending upon the particular city. The term of office for full-time

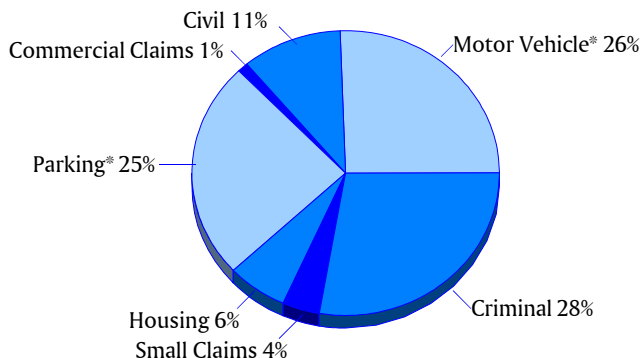
judges is 10 years, and for part-time judges, six years.

District Courts exist in Nassau County and in the five western towns of Suffolk County. District Court jurisdiction extends to civil cases involving amounts up to \$15,000 and to small claims matters not in excess of \$3,000. In criminal cases, District Courts have jurisdiction over misdemeanors, violations and offenses, and conduct arraignments in felony cases. District Court judges are elected to six-year terms.

### Caseload Activity

There were 240,917 filings and 237,738 dispositions of civil actions in the City and District Courts in 1998. Figure 9 contains a comparison of the filing of different types of these actions. During 1998, there were a total of 302,754 criminal filings in the City and District Courts and 287,929 dispositions. See Table 11 for a breakdown of the caseload activity in the courts of limited jurisdiction outside New York City.

**Figure 9**  
CITY & DISTRICT COURT FILINGS  
by Case Type - 1998



\*Does not include cases in which defendants did not respond.

Table 11  
CITY & DISTRICT COURTS  
Filings by Case Type  
1998

Court	Criminal	Motor Vehicle*	Parking*	Civil	Small Claims	Housing	Commercial Claims
Total State	302,754	312,735	276,325	115,437	43,483	68,997	13,000
City Court of Albany	11,552	17,364	0	2,658	1,271	3,253	283
City & Recorder's Court Johnstown	556	1,184	0	283	94	37	22
City Court of Amsterdam	1,057	3,350	0	370	231	67	55
City Court of Auburn	2,149	2,647	0	680	720	474	104
City Court of Batavia	1,276	2,081	0	212	300	121	33
City Court of Beacon	870	2,457	171	128	119	163	87
City Court of Binghamton	3,981	5,544	757	1,881	807	899	315
City Court of Buffalo	28,054	3,700	17	10,046	3,513	6,629	1,075
City Court of Canandaigua	772	1,584	0	469	98	78	92
City Court of Cohoes	1,288	1,299	647	281	91	220	21
City Court of Coming	954	2,589	0	412	190	61	86
City Court of Cortland	2,287	2,355	0	582	267	91	32
City Court of Dunkirk	1,186	1,379	0	183	232	48	53
City Court of Elmira	2,503	3,338	0	2,086	547	1,666	302
City Court of Fulton	1,196	2,382	0	559	77	152	14
City Court of Geneva	1,259	3,154	0	145	117	126	22
City Court of Glen Cove	674	3,967	5,151	60	171	248	70
City Court of Glens Falls	1,452	1,773	0	638	140	150	62
City Court of Gloversville	1,530	3,304	0	491	166	118	43
City Court of Hornell	802	1,156	0	65	112	125	11
City Court of Hudson	1,240	1,283	5	186	174	92	109
City Court of Ithaca	2,441	5,586	0	526	262	158	76
City Court of Jamestown	2,765	3,249	0	990	568	211	254
City Court of Kingston	2,863	5,091	97	439	189	317	148
City Court of Lackawanna	1,398	4,756	0	446	358	321	89
City Court of Little Falls	413	521	134	235	118	14	43
City Court of Lockport	1,844	3,867	1	711	368	94	83
City Court of Long Beach	2,297	2,951	14,735	5	157	459	32
City Court of Mechanicville	251	770	0	171	73	42	98
City Court of Middletown	1,661	2,467	0	841	373	592	271
City Court of Mount Vernon	2,732	7,098	0	788	444	2,123	161
City Court of New Rochelle	5,252	13,377	62,321	2,010	457	1,187	153
City Court of Newburgh	4,705	8,778	0	893	224	1,550	75
City Court of Niagara Falls	5,401	12,378	22,789	1,321	563	838	199
City Court of North Tonawanda	989	6,329	250	302	352	100	70
City Court of Norwich	799	790	0	392	257	35	49
City Court of Ogdensburg	1,064	1,304	0	331	119	17	170
City Court of Olean	1,180	1,458	0	373	230	87	45
City Court of Oneida	817	1,272	80	746	142	53	36
City Court of Oneonta	1,495	2,090	0	237	332	59	58
City Court of Oswego	2,234	4,720	658	841	169	53	45
City Court of Peekskill	2,286	3,048	1	391	150	510	67
City Court of Plattsburgh	1,558	2,892	0	553	294	171	109
City Court of Port Jervis	1,271	1,908	0	117	84	120	41
City Court of Poughkeepsie	2,673	3,148	1,778	768	405	1,615	126
City Court of Rensselaer	785	1,718	0	278	86	133	14
City Court of Rochester	22,217	9,699	0	9,190	3,486	5,811	900
City Court of Rome	2,011	7,979	1	1,037	423	222	58
City Court of Rye	321	2,607	0	81	100	9	40
City Court of Salamanca	720	886	0	45	84	39	25
City Court of Saratoga Springs	1,870	3,082	0	920	494	100	14
City Court of Schenectady	5,553	6,392	0	1,937	964	1,574	211
City Court of Sherrill	114	667	0	48	11	0	8
City Court of Syracuse	14,877	25,959	143,720	6,444	1,649	5,291	419
City Court of Tonawanda	1,674	4,692	0	112	164	45	55
City Court of Troy	2,967	6,233	0	1,067	292	3,735	155
City Court of Utica	5,248	6,356	3,177	2,470	836	518	234
City Court of Watertown	2,397	1,929	0	735	341	234	94
City Court of Watervliet	501	2,991	0	181	47	114	21
City Court of White Plains	3,043	10,207	0	741	756	725	224
City Court of Yonkers	14,053	28,822	238	1,734	1,005	8,805	323
Nassau District Court	38,567	24,778	25	26,040	8,467	7,967	2,393
Suffolk District Court	68,809	0	19,572	25,535	8,153	8,131	2,423

\* Includes both answered and unanswered cases.

## Family Court

### Structure

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. Its jurisdiction includes:

- Adoption
- Guardianship
- Foster care approval and review
- Delinquency
- Persons in need of supervision
- Family offense (domestic violence)
- Child protective proceedings (abuse and neglect)
- Termination of parental rights
- Custody and visitation
- Support

Family Court judges are elected to 10-year terms in each county outside New York City, and are appointed to 10-year terms by the Mayor in New York City.

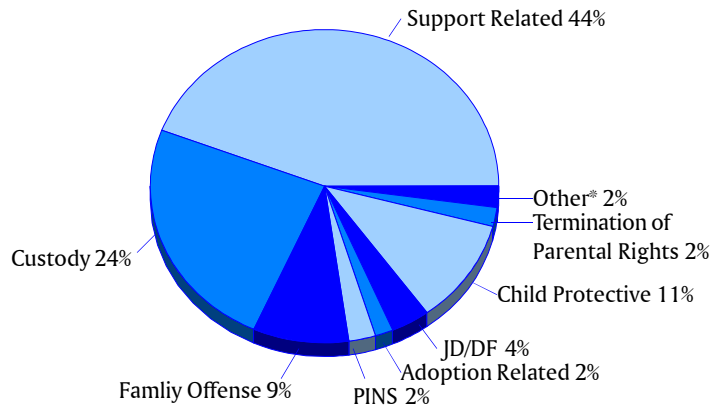
### Caseload Activity

During 1998, there were 654,602 cases filed in the Family Courts throughout New York State. A total of 653,812 cases reached disposition. A breakdown of filings and dispositions is contained in Table 12. The statistical data included in the annual report pursuant to sections 213 and 385 of the Family Court Act can be found published separately as Volume II of this report.

The different types of cases filed in Family Court during 1998 are reflected in Figure 10. Cases involving paternity, support, custody, and family offenses comprised 77% of the caseload. The remaining cases involved child abuse and neglect (11%), juvenile delinquency or designated felony cases (4%), persons in need of supervision (2%), adoption (2%), termination of parental rights cases (2%), and all other case types (2%).

The court system’s performance standard for Family Court cases is disposition within 180 days of the commencement of the proceeding, excluding periods when a case is not within the active management control of the Court. In 1998, 95% of dispositions statewide were reached within the standard.

**Figure 10**  
**FAMILY COURT FILINGS**  
**by Case Type - 1998**



\*Includes Guardianship, Foster Care, Physically Handicapped, Consent to Marry, Other.

**Table 12**  
**FILINGS & DISPOSITIONS IN FAMILY COURTS**  
**Statewide by Type of Petition**  
**1998**

TYPE OF PETITION	-----STATE-----		---NEW YORK CITY---		---OUTSIDE NYC---	
	Filings	Dispositions <sup>a</sup>	Filings	Dispositions	Filings	Dispositions
Termination of Parental Rights	11,390	11,009	8,948	8,727	2,442	2,282
Child Protective (Neglect & Abuse)	71,234	67,365	33,559	30,451	37,675	36,914
Juvenile Delinquency	23,482	23,651	7,947	7,952	15,535	15,699
Designated Felony	999	945	705	629	294	316
Persons in Need of Supervision	16,158	16,174	3,575	3,547	12,583	12,627
Adoption	6,050	6,246	3,562	3,650	2,488	2,596
Adoption Certification	545	521	167	164	378	357
Surrender of Child	3,465	3,378	2,360	2,350	1,105	1,028
Guardianship	4,565	4,387	2,992	2,833	1,573	1,554
Custody of Minors	157,848	155,953	38,689	36,833	119,159	119,120
Foster Care Review	6,350	6,394	2,582	2,659	3,768	3,735
Approval for Foster Care	2,646	2,749	1,693	1,791	953	958
Physically Handicapped	19	1	0	0	19	1
Family Offense	58,958	58,500	27,068	26,947	31,890	31,553
Paternity	90,951	93,653	51,009	52,859	39,942	40,794
Support	186,824	188,731	41,515	43,197	145,309	145,534
Uniform Interstate Family Support Act	12,627	13,605	5,172	5,265	7,455	8,340
Consent to Marry	37	111	10	8	27	103
Other	454	439	117	116	337	323
<b>Total</b>	<b>654,602</b>	<b>653,812</b>	<b>231,670</b>	<b>229,978</b>	<b>422,932</b>	<b>423,834</b>

<sup>a</sup>Petition type may change between filing and disposition

## Surrogate's Court

county outside New York City and to 14-year terms in each county in New York City. (See Figure 11.)

### Structure

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, and adoptions. Surrogates are elected to 10-year terms in each

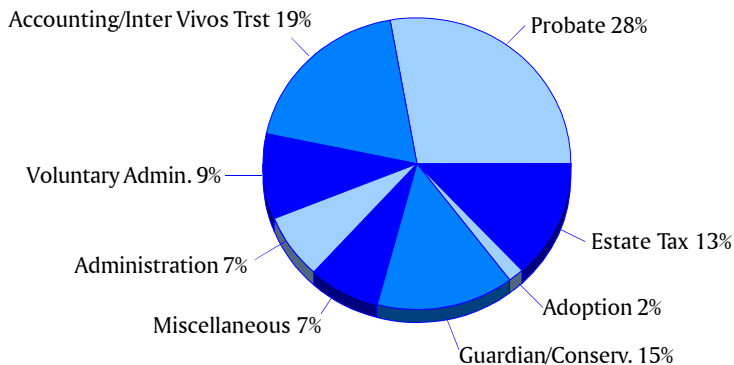
### Caseload Activity

During 1998, there were 167,272 petitions filed and 142,292 dispositions in Surrogate's Court statewide. (See Table 13.)

**Table 13**  
**SURROGATE'S COURT**  
**Proceedings by Case Type**  
**1998**

	—STATE—		—NEW YORK CITY—		—OUTSIDE NYC—	
	Filings	Dispositions	Filings	Dispositions	Filings	Dispositions
Probate	46,875	48,420	13,965	13,142	32,910	35,278
Administration	12,076	12,466	5,179	5,089	6,897	7,377
Voluntary Admin.	15,690	15,690	4,401	4,401	11,289	11,289
Accounting	31,378	10,295	2,667	1,729	28,711	8,566
Inter Vivos Trust	251	283	0	0	251	283
Miscellaneous	12,278	12,127	4,615	1,896	7,663	10,231
Guardian/Conser.	24,525	16,486	7,860	3,804	16,665	12,682
Adoption	2,770	4,873	636	2,003	2,134	2,870
Estate Tax	21,429	21,652	4,903	4,903	16,526	16,749
<b>Total</b>	<b>167,272</b>	<b>142,292</b>	<b>44,226</b>	<b>36,967</b>	<b>123,046</b>	<b>105,325</b>

**Figure 11**  
**SURROGATE'S COURT**  
**Proceedings by Case Type - 1998**



## Arbitration

of \$6,000 or less, while in New York City, cases are limited to \$10,000 or less.

### Description

Part 28 of the Rules of the Chief Judge (22 NYCRR), provides for the establishment of mandatory arbitration programs. Thirty-one counties operate such programs. Outside New York City, the programs involve damages claimed

### Caseload Activity

Statewide, 9,377 cases were received for arbitration in 1998. There were 9,811 dispositions, followed by 759 demands for trial *de novo*. (See Table 14.)

**Table 14**  
**INTAKE, DISPOSITIONS & TRIALS *DE NOVO* IN ARBITRATION PROGRAM**  
**1998**

District	Intake	Dispositions	Demands for Trial <i>De Novo</i>	<i>De Novo</i> Rate
1 <sup>st</sup>	1,909	2,070	389	19%
2 <sup>nd</sup>	0	0	0	0%
3 <sup>rd</sup>	25	22	1	5%
4 <sup>th</sup>	21	42	0	0%
5 <sup>th</sup>	130	131	9	7%
6 <sup>th</sup>	58	62	2	3%
7 <sup>th</sup>	3,817	3,798	186	5%
8 <sup>th</sup>	163	185	16	9%
9 <sup>th</sup>	205	247	0	0%
10 <sup>th</sup> - Nassau	1,493	1,384	35	3%
10 <sup>th</sup> - Suffolk	1,556	1,870	121	6%
11 <sup>th</sup>	0	0	0	0%
12 <sup>th</sup>	0	0	0	0%
<b>Total State</b>	<b>9,377</b>	<b>9,811</b>	<b>759</b>	<b>8%</b>

## Community Dispute Resolution Centers Program

### Description

The Community Dispute Resolution Centers Program (“CDRCP”) provides financial support and program oversight to nonprofit community organizations that offer dispute resolution services in all 62 counties in the State. These centers provide cost-effective dispute resolution alternatives to court for the resolution of civil and family disputes and minor criminal matters.

Case workload in each center includes walk-in clients and referrals from courts and other

agencies. Dispositions include cases conciliated without mediation, cases mediated, and cases arbitrated. Depending upon the matter in dispute or the choice of the parties, the CDRCP can be used instead of court or after the start of court proceedings. Where appropriate, agreements constructed by parties during the ADR process serve as legally binding contracts or are reviewed by judges to be entered into a court-ordered document.

### Caseload Activity

In 1998, the centers received a total of 40,693 cases for review, of which 23,341 cases were determined to be appropriate for ADR. (See Table 15.)

**Table 15**  
**COMMUNITY DISPUTE RESOLUTION CENTERS<sup>1</sup> WORKLOAD**  
**New York State by County**  
**1998**

County	Name of Program	Cases Screened Appropriate for Mediation	Total Conciliation/ Mediation/ Arbitration Dispositions	Dispositions				
				Conciliations	Mediations	Arbitrations	Other <sup>2</sup>	
<b>All Counties</b>	<b>All Programs</b>	<b>40,693</b>	<b>23,341</b>	<b>6,788</b>	<b>15,862</b>	<b>691</b>	<b>17,352</b>	
Albany	Center for Alternative Dispute Resolution	700	449	19	430	0	251	
Allegany	Dispute Settlement Center	47	25	17	8	0	22	
Bronx	Institute for Mediation & Conflict Resolution	3,414	1,487	538	933	16	1,927	
Broome	ACCORD	1,853	946	109	831	6	907	
Cattaraugus	Dispute Settlement Center	251	115	78	36	1	136	
Cayuga	Cayuga County Dispute Resolution Center, Inc.	185	119	37	82	0	66	
Chautauqua	Dispute Settlement Center	497	270	175	91	4	227	
Chemung	Dispute Resolution Center	275	102	62	40	0	173	
Chenango	Dispute Resolution Center	246	69	31	37	1	177	
Clinton	Northern New York Center for Conflict Resolution	296	169	81	83	5	127	
Columbia	Common Ground	213	126	14	112	0	87	
Cortland	New Justice	275	169	31	138	0	106	
Delaware	Dispute Resolution Center	82	43	8	34	1	39	
Dutchess	Community Dispute Resolution Center	593	399	16	383	0	194	
Erie	Dispute Settlement Center	5,388	3,283	2,749	348	186	2,105	
Essex	Northern New York Center for Conflict Resolution	42	26	9	16	1	16	
Franklin	Northern New York Center for Conflict Resolution	242	228	209	16	3	14	
Fulton	Tri-County Mediation Center	61	20	0	20	0	41	
Genesee	Dispute Settlement Center	73	33	26	5	2	40	
Greene	Common Ground	451	346	248	95	3	105	
Hamilton	Northern New York Center for Conflict Resolution	1	0	0	0	0	1	
Herkimer	Community Dispute Resolution Program	308	146	103	30	13	162	
Jefferson	Jeff-Lewis Mediation Center	1,013	569	152	415	2	444	
Kings	Victim Services Agency	3,145	1,374	123	1,251	0	1,771	
Lewis	Jeff-Lewis Mediation Center	118	66	27	38	1	52	
Livingston	Center for Dispute Settlement	276	171	10	161	0	105	
Madison	New Justice	30	11	4	7	0	19	
Monroe	Center for Dispute Settlement	1,144	595	123	397	75	549	
Montgomery	Tri-County Mediation Center	125	90	8	79	3	35	
Nassau	Mediation Alternative Project	4,261	3,248	262	2,911	75	1,013	
New York	Institute for Mediation & Conflict Resolution	3	2	0	2	0	1	
New York	Victim Services Agency	1,463	659	75	584	0	804	
New York	Washington Heights-Inwood Coalition	194	127	40	87	0	67	
Niagara	Dispute Settlement Center	248	153	136	15	2	95	
Oneida	Justice Center for Oneida County	643	482	89	269	124	161	
Onondaga	New Justice	690	349	101	231	17	341	
Ontario	Center for Dispute Settlement	169	115	8	107	0	54	
Orange	Dispute Resolution Center of Orange & Putnam Counties	1,039	898	11	881	6	141	
Orleans	Dispute Settlement Center	23	14	13	1	0	9	
Oswego	New Justice	125	54	15	39	0	71	
Otsego	Mediation Services, Inc.	430	225	23	202	0	205	
Putnam	Dispute Resolution Center of Orange & Putnam Counties	283	228	46	166	16	55	
Queens	Community Mediation Services	2,622	1,233	190	1,025	18	1,389	
Rensselaer	Community Dispute Settlement Program	237	102	2	95	5	135	
Richmond	Staten Island Community Dispute Resolution Center	1,346	856	52	804	0	490	
Rockland	Center for Conflict Resolution	250	160	6	137	17	90	
St. Lawrence	Northern New York Center for Conflict Resolution	268	207	111	80	16	61	
Saratoga	Mediation of Saratoga, Warren & Washington Counties	257	82	2	72	8	175	
Schenectady	Conflict Resolution Services of Schenectady County	461	180	32	143	5	281	
Schoharie	Tri-County Mediation Center	46	19	12	6	1	27	
Schuyler	Community Dispute Resolution Center	31	20	7	13	0	11	
Seneca	Center for Dispute Settlement	42	29	6	23	0	13	
Steuben	Center for Dispute Settlement	303	54	33	21	0	249	
Suffolk	Community Mediation Center	784	656	1	622	33	128	
Sullivan	Ulster-Sullivan Mediation, Inc.	188	124	7	115	2	64	
Tioga	ACCORD	216	91	31	60	0	125	
Tompkins	Community Dispute Resolution Center	653	301	99	195	7	352	
Ulster	Ulster-Sullivan Mediation, Inc.	630	349	57	292	0	281	
Warren	Mediation of Saratoga, Warren & Washington Counties	116	61	4	55	2	55	
Washington	Mediation of Saratoga, Warren & Washington Counties	303	170	4	160	6	133	
Wayne	Center for Dispute Settlement	199	112	13	97	2	87	
Westchester	Westchester Mediation Center of CLUSTER	684	431	268	157	6	253	
Wyoming	Dispute Settlement Center	45	24	19	5	0	21	
Yates	Center for Dispute Settlement	97	80	6	74	0	17	

**Notes:**

<sup>1</sup>Chapter 847 of the Laws of 1981 created this program, which has provided alternative mechanisms for the resolution of minor disputes, both criminal and civil.

<sup>2</sup> "Other" includes: Case Inappropriate for Mediation, Party/ies Declined, Party/ies No-Show, and Unable to Contact Party/ies.

SOURCE: New York State Unified Court System, StateADR Office

## Chapter 2

# The Administration of the Courts

## Court Administration

Section 28 of Article VI of the State Constitution provides that the *Chief Judge* of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a *Chief Administrator of the Courts* (or Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The *Administrative Board* consists of the Chief Judge as chair and the Presiding Justices of the four Appellate Divisions of the Supreme Court. The *Chief Judge* establishes statewide administrative standards and policies after consultation with the Administrative Board and approval by the Court of Appeals.

The *Court of Appeals and the Appellate Divisions* are responsible for the administration of their respective courts. The Appellate Divisions also oversee several appellate auxiliary operations: candidate fitness, attorney discipline, assigned counsel, law guardians, and the Mental Hygiene Legal Service.

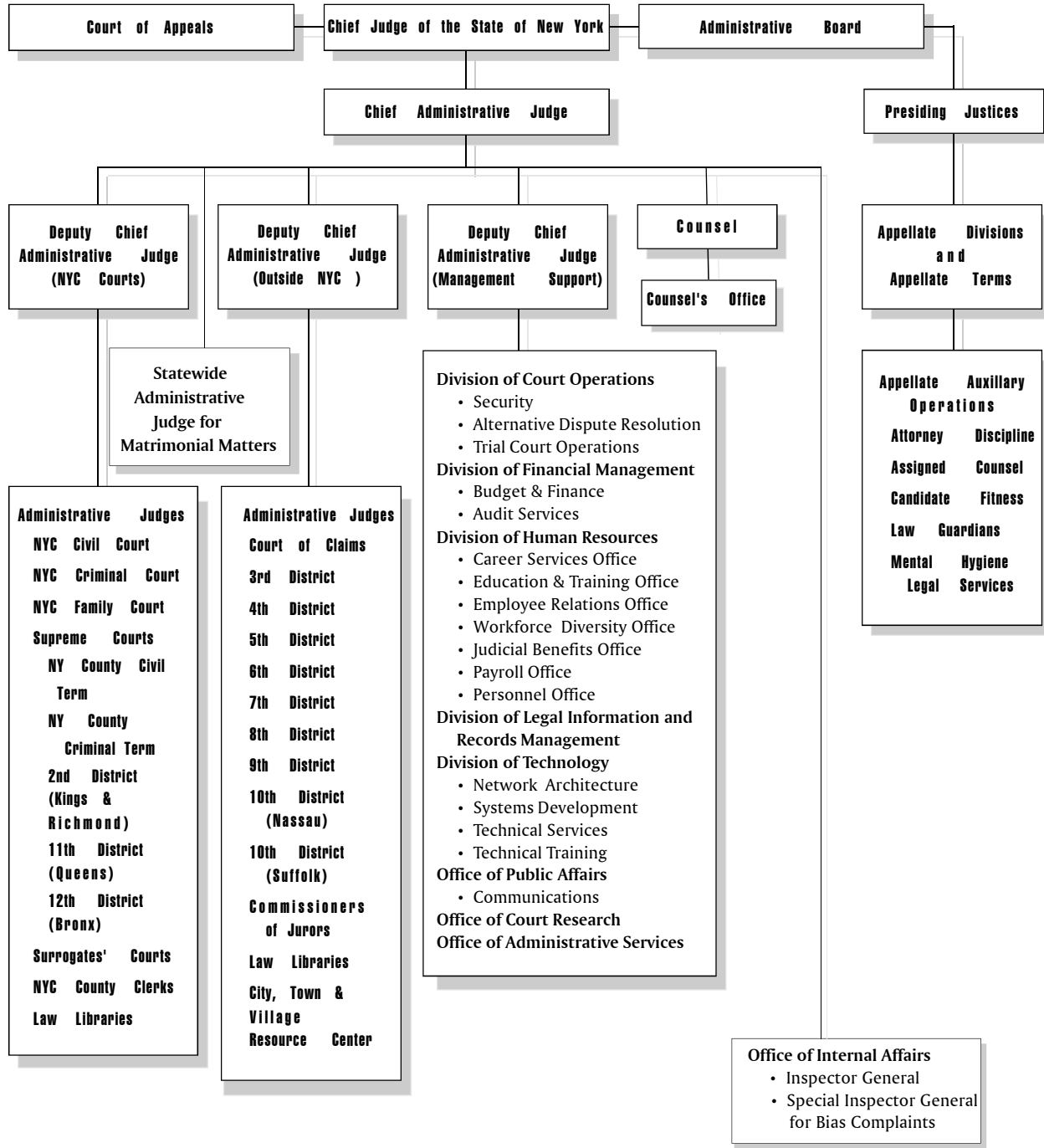
The *Chief Administrator*, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts – the Office of Court Administration (OCA). In this task, the Chief Administrator is assisted by two Deputy Chief Administrative Judges who supervise the day-to-day operations of the courts – one for New York City and one for the courts outside of New York City; a Deputy Chief Administrator, who is responsible for the operations of the divisions and offices that comprise the Office of Management Support; a Statewide Administrative Judge for Matrimonial Matters; and a Counsel, who directs

the legal and legislative work of the Counsel's Office.

In addition to the overall supervisory duties of the two Deputy Chief Administrative Judges, responsibility for on-site management of the trial courts and agencies is vested in local Administrative Judges. In each judicial district outside New York City, there is a District Administrative Judge who is responsible for supervising all courts and agencies. In New York City, an Administrative Judge supervises each of the major courts. The Administrative Judges manage court caseloads and are responsible for general administrative functions, including personnel and budget administration.

The *Office of Management Support* provides the administrative services required to support all court and auxiliary operations. In 1998, in recognition of the expansion and increased diversification of the tasks being carried out, there was a major restructuring of the Office designed to increase efficiency and enhance the delivery of services to the courts. Five separate Divisions were established: the Division of Court Operations, overseeing security, trial court operations and alternative dispute resolution programs; the Division of Financial Management, responsible for the Judiciary budget; the Division of Human Resources, encompassing personnel administration, payroll operations and benefits, employee relations, judicial benefits, education and training, professional development and the workforce diversity office; the Division of Legal Information and Records Management; and the Division of Technology. Four Offices also were created: the Office of Administrative Services; the Office of Court Research, providing caseload activity statistics and related services; the Office of Internal Affairs, performing internal audits and investigations; and the Office of Public Affairs.

**Figure 12  
UNIFIED COURT SYSTEM  
Administrative Structure**



Also included under the direction of the Office of Management Support are a Facilities Unit, Special Projects Unit and the Center for Court Innovation. (The work of a number of these support units during 1998 is highlighted later in this and the following chapters.)

*Counsel's Office* prepares and analyzes legislation, represents the UCS in litigation, and provides various other forms of legal assistance to the Chief Administrator. The legislative work of Counsel's Office during 1998 is reported in Chapter 4. (See Figure 12 for a diagram of the administrative structure of the UCS.)

The Chief Judge and the Chief Administrator also rely on a number of advisory groups in meeting their administrative responsibilities. Among these are the Judicial Conference, the Advisory Committee on Civil Practice, the Advisory Committee on Criminal Law and Procedure, the Family Court Advisory and Rules Committee, the Local Courts' Advisory Committee, and the Surrogate's Court Advisory Committee. The work of the Advisory Committees during 1998 is summarized in Chapter 4.

Court officials have established other committees or commissions, such as: the Franklin H. Williams Judicial Commission on Minorities, the Permanent Judicial Commission on Justice for Children, the New York Judicial Committee on Women in the Courts, the Ethics Commission for the Unified Court System, the Pro-Bono Monitoring Committee, the Criminal Pattern Jury Instructions Committee, and the Advisory Committee on Judicial Ethics. The accomplishments of some of these groups during 1998 are outlined elsewhere within this Report.

## The Division of Financial Management

The Division of Financial Management is responsible for the preparation, review and implementation of the Judiciary budget. It also develops and promulgates, after approval, fiscal policies and procedures and other related functions. In addition, it supports the UCS's goals and objectives by requesting and allocating the necessary funds to carry them out.

The UCS's budget is based upon a fiscal year that runs from April 1 through March 31 of the following year. Each year, the budget is presented by the Chief Administrative Judge to the Court of Appeals for approval and for certification by the Chief Judge. After certification, it is transmitted to the Governor for inclusion in the State budget. Although the budget is to be submitted by the Governor without revision, recommendations may be included as deemed appropriate by the Governor.

The budget request prepared by the UCS is divided into two parts, covering personal services (salaries for judges and nonjudicial personnel) and nonpersonal services (all other expenses, including equipment, supplies, etc.). Over 80% of the budget is allocated to the payment of personal services.

The budget request submitted for the 1998-99 fiscal year was approved by the Legislature with only minor adjustments. A total of \$1.1 billion was appropriated for court and agency operations, reflecting a 9.6% increase over the previous year's allocation. This budget provides funding for 387 new positions for specific targeted initiatives in areas including family justice, domestic violence, Housing Court and civil justice. These positions support initiatives including night Family Court and a satellite Family Court in Queens to provide more convenient access for all citizens; an adoption fast track; Family Treatment Courts to address the growing problem of drug abuse and child neglect; dedicated Domestic Violence Parts; and comprehensive reforms to be implemented in the New York City Housing Court. The funding will continue, undiminished, to support the operational capacity of trial courts to process current caseloads and also support the continuation of the program commenced by the Chief Judge and Chief Administrative Judge to achieve economy and efficiency through reducing the administrative overhead of the court system.

## Division of Technology

The creation and management of information is one of the principal activities performed in the trial courts of the Unified Court System in support of administration and the case disposition

process. Administrative oversight of information processing in the trial courts is the function of the Division of Technology. In support of this responsibility, the Division develops and implements innovative technology to enhance court operations and administration. Many of the new programs developed by the Division operate through CourtNet, the statewide judicial network that allows courts throughout the state to communicate information and data.

To support the operation of high-volume courts and district and central administrative offices, the UCS maintains centralized on-line applications backed up by a mainframe processor and minicomputers, including those for: the Criminal Records and Information Management System (CRIMS); the Jury Management System (JMS); the Civil Case Information System (CCIS); the New York City Family Court System (AFCRIS); the Housing Court Information System (HCIS); the New York City County Clerk Judgment Docket and Lien book system (JDLS); the Caseload Activity Reporting System (CARS); and various on-line and batch administrative systems. In addition, centralized application data is downloaded to local microcomputers for local applications and used to generate special reports.

During 1998, the work of the Division included the following:

- A system-wide intranet was introduced to deliver information to the large court audience and to quickly meet the changing needs of the courts' technology users. The application will be expanded to include court and administrative forms, fiduciary reports, lists of judges and staff, title standards, civil service test announcements, press releases and hundreds of other written materials that previously had required reproduction and mailing.



Deputy Chief Administrative Judge Ann Pfau participating in a demonstration of the new Magstar Automatic Tape Library

Bob Spratt

- Internet access for approved CourtNet users was implemented and is being expanded daily to provide users with a means of researching information essential to improving the judicial process. Access to court information by the public, completion of jury questionnaires, directions to courthouses, court calendars and related information should also become available on the internet in the near future.

- Through CourtNet, data communications with police, district attorneys, probation, sheriffs and other agencies have been enhanced to improve the exchange of criminal case history data and case disposition data, thereby eliminating the need for each agency to duplicate this information by hand.

- Implementation began of the new IBM 3490E Magstar Automatic Tape Library. This addition to the court system's mainframe configuration stores and retrieves tape cartridges which contain backups of all the data files processed and maintained on the system. The unit is a virtual tape server with a robotics cartridge accessor which recognizes the stored tape cartridge via a laser beam cartridge recognition system. The system carries out unattended operations and has resulted in significant time savings in carrying out the nightly backup of online disk storage.

- A customized summons system to assist the New York City Criminal Court in processing the heavy volume of cases handled there on a daily basis was implemented. This system produces scanned images, initializes cases for processing and schedules cases. It also provides case information in the courtroom for both the judge and court personnel, records case dispositions and prints all necessary forms for disposition.

- Case management software was developed for Civil Supreme Court Judges and staff. This powerful, easy-to-use system, which was developed in conjunction with judges and court staff, provides access to case information including motions, appearances, attorneys, calendars/schedules, and history, with various personalized displays. It is used in chambers, courtrooms and back offices via a laptop or PC with CourtNet. The system is in place in New York, Kings, Suffolk, and Nassau Counties, with further expansion planned for 1999.

- Development began on Court Profiles, which will combine many of the mainframe data sources in a web-based application allowing any CourtNet user to query a database that contains all pertinent UCS related information. The information available will include financial, staffing, facilities and caseload activity data.

- Work continued on a project to address the problems anticipated by the arrival of the year 2000. A determination was made to expand to four digits the date fields in the over 7200 programs and 400 databases utilized in support of administrative and court operations. This remediation process was commenced in January, 1998, and all systems are scheduled to be in compliance by June, 1999.

- During the year, over 1,230 laptops, 2,680 desktops, 550 printers and 75 new servers were distributed throughout the system and added to CourtNet. By the end of 1998, over 20,000 network cables had been wired in courtrooms, chambers, back offices, libraries, and other working areas in support of court operations and the expansion of CourtNet. Internet work equipment and data communication circuits have been installed at more than 100 court locations statewide.

- The first steps were taken towards the development of a universal case management system with the start of the initial phase of a Statewide Family Court Automation Project which will serve as a model for a courtwide system. In addition to family matters, this first phase will incorporate other case types as part of the effort to create a truly universal case management system.

## Legal Information and Records Management Division

The Legal Information and Records Management Division provides professional support and services for law libraries, legal research, records management and micrographics. During 1998, outreach efforts were focused on the courts and the communities that they serve.

The UCS web site (*ucs.ljx.com*), which was inaugurated in 1997, was redesigned and expanded. Links are provided to pages from individual courts, court libraries and judges. Information available includes employment postings, exam schedules, press releases and court rule revisions, as well as a variety of court forms. During the year, two million visitors accessed the page.

A joint project with the New York Law Journal led to an Internet page entitled "New York Courts and Law," created to provide links to information that could be helpful to public understanding of the court system and the law in New York. The site is accessible through the New York Law Journal and UCS web sites.

In conjunction with the Education and Training Division and the Division of Technology, a training program was initiated to provide judges and other court researchers with the necessary skills to use a variety of computer assisted legal research tools and choose the most appropriate method for each purpose. Among the resources available are the court system's nine CD-ROM towers. Access to the towers was improved in 1998 by adding 800 number phone lines to two of the towers and upgrading software on the towers to enhance speed and reliability.

Professional reference librarians continue to answer the 1-800 COURTTY telephone number. During 1998 over 3,500 calls were received from all over the country. Questions ranged from inquires about directions to the courthouse and telephone numbers of courts to reference inquiries precipitating interviews with callers before referral.

## Court Facilities Program

The care of existing court facilities and the development and construction of new ones is a major ongoing activity for the UCS. Since 1987, the Court Facilities Act (“CFA”) has provided the framework and direction for statewide oversight of the maintenance and construction of court

County began operations, and major renovations to historic courthouses in Dutchess and Fulton Counties were completed. Projects under construction in 1998 include major new courthouses in Orange, Broome and Wyoming Counties. In New York City, major projects to provide improved facilities for Family Courts in Brooklyn, Manhattan and Queens, and for the



Patricia Beeler

The Rensselaer County Family Court, newly housed in the renovated former county jail

facilities, which are the responsibilities of the localities.

To help local governments provide and maintain new and improved court facilities, the CFA created the Court Facilities Incentive Aid Fund, a State Special Revenue Fund supported by various court filing fees. The receipt of State aid is explicitly linked to compliance with the requirements of the CFA. The Fund provides an interest subsidy, ranging from 25 to 33 percent, to reduce the cost of borrowing money to finance court improvements. The Fund also provides a subsidy for maintenance and operations expenses.

Under the direction of the CFA, new and improved facilities have been provided for courts across the State. Each year, a number of new buildings are completed, while construction is started on other courthouses. In 1998, new City Courts were opened in the cities of Geneva and New Rochelle, as well as a new Family Court in Rensselaer County. A new courthouse in Herkimer

Supreme Court, Criminal Term in the Bronx and in Brooklyn, advanced through the programming and early design stages.

## Education and Training Programs

The Education and Training Division (“E&T”) is responsible for providing continuing education for judges and nonjudicial employees. This includes local town and village justices, a group largely composed of nonlawyers. In 1998, more than 3,000 judges and town and village justices, and approximately 14,000 nonjudicial personnel, attended education programs facilitated or financed by the UCS. Some of the major programs that were offered are described below.

At the end of 1998, E&T applied to the recently-established NYS Continuing Legal Education Board for formal certification as a provider of programming eligible for CLE credit. Once approved, the judges and attorneys who

attend E&T's programs will be eligible to receive CLE credit.

### **Programs For State-Paid Judges**

#### **Judicial Seminars**

July 7-10; 14-17, 1998

Over 1,000 judges attended one of the two three-day annual judicial seminars. They were offered over 40 sessions of classes each week in subject areas covering civil, criminal, family, and trusts and estates law, as well as evidence and judicial skills. Sessions also covered substantive annual updates, including capital punishment, UCS initiatives, evaluations of new legislation and professional rules, new developments in trial techniques, programs of personal interest to judges, and programs for special courts. A wide variety of computer workshops were available and judges were able to participate in an interactive video training program in evidence. The faculty included judges, academics, hard science and behavioral science experts, and practicing attorneys.

#### **Orientation Program for newly-elected and newly-appointed Judges**

December 7-11, 1998

Approximately 80 judges participated in a five-day seminar designed for those recently elected or appointed to the bench. The new judges attended lectures and workshops on a wide variety of substantive legal subjects and on courtroom case management, with particular emphasis on the knowledge and skills needed to start their judicial careers. Each new judge was assigned a more seasoned mentor judge for advice and consultation.

#### **Judicial Automation Forum**

January 27-29, 1998

February 3-5, 1998

July 9 and 13, 1998

This program was designed to acquaint judges with laptop computers. Judges participated in hands-on workshops in Windows NT, WordPerfect 8, GroupWise, and legal research utilizing CD-ROM. Judges also participated in group demonstrations focusing on CourtNet and

Public Access. In all, over 500 judges participated in the training.

### **Administrative Judges Program**

Meetings were held several times during the year as part of an on-going program designed specifically to enhance the knowledge and awareness of Administrative Judges about recent management trends and to serve as a forum for discussion of specific issues that affect Administrative Judges in their role as court managers.

### **Programs for Nonjudicial Employees**

#### **Family Court Hearing Examiners**

June 5, 1998

This one-day program, presented to 95 employees, updated Family Court Hearing Examiners on the new Uniform Interstate Family Support Act. In addition, participants attended lectures on paternity, ethics, computer resources, and recent developments in case law and legislation.

#### **Legal update for Court Attorneys**

November 17-18; 19-20; 29-30, 1998

This two-day program provided updates on civil law and procedure, criminal law and procedure, family law and evidence, among other topics. Special programs also were available on computer usage and on-line research. Over 1200 attorneys employed by the court system attended, many encouraged to do so by the announcement of the new CLE requirement in NYS for all attorneys.

### **Annual Nonjudicial Association Seminars**

Annual meetings of the nonjudicial associations bring together court employees who work in similar courts or job titles to exchange ideas and attend workshops and lectures on the substantive and technical areas affecting their courts. During 1998, two combined annual seminars were held. The City and District Court Clerks Association joined with the Commissioners of Jurors Association and the Supreme and County Court Clerks Association. Similarly, the Family Court Clerks Association, the Law Librarians Association, the Surrogate's Court Chief Clerks

Association, and the Surrogate's Court Law Assistants Association held a joint meeting.

### **Town and Village Justice Training Program**

There are approximately 2,230 town and village justices in the State, of whom close to 75% are not lawyers. New justices who are not lawyers are required to complete a six-day basic certification course covering the fundamentals of law and their responsibilities as justices. These basic courses were offered five times during 1998 and attended by approximately 150 justices. In addition, a training program for Town and Village Court clerks was presented 13 times around the State.

Each year, Town and Village justices are required to attend an advanced continuing judicial education program. In addition to the attendance requirement, all non-lawyer Town and Village justices must pass a written examination that is administered at each program. The advanced course consists of two days of instruction covering selected legal topics. Participants in 1998 attended lectures covering subjects such as domestic violence, judicial ethics and jury selection as well as an update on new legislation.

A separate City, Town and Village Courts Resource Center ("Center"), operating independently of E&T, offers advice and guidance to the justices of City, Town and Village Courts and their court clerks throughout the State. It is staffed by attorneys who provide assistance on legal questions, and by non-attorneys who serve as advocates in dealing with the localities in connection with a variety of issues including facilities and personnel. During the year, the Center handled approximately 13,000 inquiries.

### **Workforce Diversity Office**

The Workforce Diversity Office (formerly the Equal Employment Opportunity Division) oversees the implementation of the court system's Workforce Diversity Program, which was instituted in 1989. The purpose of the program is to increase the diversity of the courts' workforce, with major focus on specific job groups where underrepresentation of minorities and women has been identified. In 1998, the office

expanded its outreach efforts to encourage these groups to seek work in the courts by broadening internship programs and providing greater technical support to the courts. It also developed a sexual harassment training program which was offered to 1500 court clerks and court managers.

The other responsibilities of the Office include overseeing anti-discrimination training programs and the Handicapped Set-Aside Program. The Office also coordinates the work of EEO liaisons as well as anti-discrimination panels and identifies reasonable accommodations for court system applicants and employees.

### **Office of Special Inspector General for Bias Matters**

In October 1998, the position of Special Inspector General for Bias Matters was established. The Special Inspector General has responsibility for conducting audits, evaluations and investigations in connection with allegations of work-related bias involving any judge or nonjudicial employee of the court system. The Special Inspector General also participates in establishing and maintaining standards of conduct for bias-free behavior.

The Special Inspector General investigates allegations of bias based upon race, sex (including sexual harassment), sexual orientation, age, marital status, disability, national origin or religion that affect the workplace or the terms and conditions of employment, including acts that relate to services provided by court personnel to the public. In addition, the Special Inspector General makes recommendations for resolution of these allegations, including retraining, mediation and disciplinary action, as appropriate.

### **Attorney Registration and Statement Filings**

The Office of Court Administration is responsible for maintaining a variety of records and data concerning the status of attorneys and case processing. An explanation of that information and the filings for 1998 are as follows.

### Attorney Registration

All attorneys admitted and licensed to practice law in the State of New York, whether resident or not, are required biennially to file a registration statement, and, unless they are retired from the practice of law, to pay a \$300 registration fee. During 1998, approximately 98,000 registrations were processed and \$29,448,100 in registration fees recorded. As of the end of calendar year 1998, approximately 177,207 attorneys were registered with OCA. Table 16 reflects the number of attorneys registered by county and Judicial Department as of the end of 1998.

### Retainer and Closing Statements

Pursuant to 22 NYCRR Parts 603.7, 691.20 and 1022.2, every attorney who enters into a contingent-fee agreement in any case involving personal injury, property damage, wrongful death, or claims in connection with condemnation or change-of-grade proceedings in the First, Second, or Fourth Judicial Departments must file a statement of retainer with OCA, containing the terms of compensation.

In addition, in any case or proceeding in which a retainer statement is required, a closing statement must be filed with OCA within 15 days after the attorney receives or shares any sum received in connection with the claim. This statement must include information indicating the gross amount of the settlement or award (if any), the net distribution between client and attorney, and a breakdown of other expenses and disbursements.

In 1998, a total of 316,450 retainer and closing statements were processed. Of those, 133,787 were filed in the First Department; 162,124 in the Second; and 20,539 in the Fourth Department. Financial data concerning closing statements filed in calendar year 1998 is available upon request from OCA.

### Appointment of Fiduciaries

Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36) requires that all appointments of guardians, court evaluators, attorneys for alleged ~~incapacitated persons, referees, guardians ad litem~~, receivers and persons designated to perform services for receivers be made by the appointing judge from a list of applicants established by the Chief Administrator of the Courts, unless the court finds that there is good reason to appoint someone who is not on the list and places a statement to that effect on the record.

During the period from April 1, 1986 (when Part 36 was promulgated) through December 31, 1998, approximately 16,500 applications were filed with OCA from individuals and institutions that had indicated their availability to serve in some capacity under this Rule. Table 17 shows the distribution by county of the applications in 1998. It also shows the distribution by county of the 695 applications filed from January 1, 1998 through December 31, 1998. From January 1, 1998 through December 31, 1998, there were 8,260 statements of appointment filed with the Chief Administrator. Table 18 reflects the number of those appointments by county.

### Statements of Approval of Compensation

Section 35-a of the Judiciary Law requires judges who approve the payment of a fee for more than \$200 for services performed by any person appointed by the court in any capacity to file a statement of approval of compensation with OCA. In 1998, OCA received a total of 5,043 statements of approval of compensation.

### Adoption Affidavits

In accordance with the rules of the respective Appellate Divisions, 22 NYCRR Parts 603.23 (1st Dept.), 691.23 (2nd Dept.) 806.14 (3rd Dept.) and 1022.33 (4th Dept.), all attorneys in adoption proceedings must file an affidavit with OCA concerning the adoption prior to the entry of the adoption decree. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services. During 1998, 7,394 adoption affidavits were filed with OCA.

**Table 16**  
**ATTORNEY REGISTRATION BY LOCATION**  
**County of Business**  
**1998**

<i>Location</i>	<i>Total</i>	<i>Location</i>	<i>Total</i>
Albany	3,513	Otsego	83
Allegany	47	Putnam	224
Bronx	1,923	Queens	3,970
Broome	570	Rensselaer	356
Cattaraugus	97	Richmond	953
Cayuga	100	Rockland	1,110
Chautauqua	212	St. Lawrence	119
Chemung	162	Saratoga	358
Chenango	67	Schenectady	382
Clinton	109	Schoharie	45
Columbia	151	Schuyler	23
Cortland	64	Seneca	36
Delaware	80	Steuben	128
Dutchess	690	Suffolk	4,526
Erie	3,947	Sullivan	189
Essex	86	Tioga	51
Franklin	68	Tompkins	276
Fulton	69	Ulster	370
Genesee	80	Warren	187
Greene	79	Washington	64
Hamilton	6	Wayne	84
Herkimer	80	Westchester	6,489
Jefferson	154	Wyoming	40
Kings	5,278	Yates	22
Lewis	20	Outside N.Y.	
Livingston	67	State	42,263
Madison	96	Missing County	17,711
Monroe	2,750		
Montgomery	83	First Department	62,746
Nassau	10,210	Second Department	34,203
New York	60,823	Third Department	7,706
Niagara	332	Fourth Department	11,062
Oneida	518		
Onondaga	2,068		
Ontario	148		
Orange	753	Total	175,691
Orleans	25		
Oswego	107		

**TABLE 17**  
**APPOINTMENT OF FIDUCIARIES**  
**APPLICATIONS BY COUNTY**  
*AS OF 12/31/98*

LOCATION	INDIVIDUALS		INSTITUTIONS		TOTAL		LOCATION	INDIVIDUALS		INSTITUTIONS		TOTAL *	
	Filed	Filed	Filed	Filed	Filed	Filed		Filed	Filed	Filed	Filed	Filed	Filed
	01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	4/01/86- 12/31/98		01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	04/01/86- 12/31/98
Albany	24	656	...	2	24	658	Niagara	75	1054	...	...	75	1054
Allegany	5	152	...	1	5	153	Oneida	5	251	...	1	5	252
Bronx	153	3536	...	7	153	3536	Onondaga	15	306	3	3	18	309
Broome	3	384	...	3	3	387	Ontario	26	402	...	1	26	403
Cattaraugus	11	323	...	1	11	324	Orange	24	723	...	...	24	723
Cayuga	3	164	...	1	3	165	Orleans	15	266	...	...	15	266
Chautauqua	12	357	...	...	12	357	Oswego	4	141	...	...	4	141
Chemung	3	79	3	5	6	84	Otsego	4	122	...	1	4	123
Chenango	1	134	...	3	1	137	Putnam	40	896	...	1	40	897
Clinton	3	73	...	1	3	74	Queens	195	4906	...	9	195	4915
Columbia	8	226	...	1	8	227	Rensselaer	17	485	...	1	17	486
Cortland	3	121	...	2	3	123	Richmond	62	1771	...	5	62	1776
Delaware	0	115	...	3	0	118	Rockland	41	1352	...	2	41	1354
Dutchess	26	807	...	1	26	808	St. Lawrence	2	74	...	...	3	74
Erie	115	1704	3	5	118	1709	Saratoga	23	574	...	1	23	575
Essex	6	108	...	...	6	108	Schenectady	19	531	...	1	18	532
Franklin	3	72	...	...	3	72	Schoharie	3	113	...	1	3	114
Fulton	5	129	...	...	5	129	Schuyler	2	58	...	...	2	58
Genesee	25	411	...	...	25	411	Seneca	1	113	...	1	1	114
Greene	5	185	...	2	5	187	Steuben	6	154	...	3	5	157
Hamilton	1	57	...	...	1	57	Suffolk	116	2955	...	5	116	2960
Herkimer	2	137	...	...	2	137	Sullivan	6	198	...	1	6	199
Jefferson	6	81	...	1	6	82	Tioga	4	159	...	2	4	161
Kings	199	5130	...	9	199	5139	Tompkins	5	101	...	1	5	102
Lewis	0	64	...	...	0	64	Ulster	10	373	3	3	13	376
Livingston	20	304	3	5	23	309	Warren	12	219	...	...	12	219
Madison	3	229	...	1	3	230	Washington	11	185	...	...	11	185
Monroe	60	889	3	6	63	895	Wayne	19	342	...	1	19	343
Montgomery	6	158	...	1	6	159	Westchester	130	3267	...	4	130	3271
Nassau	168	4757	...	8	168	4765	Wyoming	15	260	...	...	13	260
New York	278	5272	...	9	278	5281	Yates	8	112	3	4	10	116
Totals								2072	49,229	21	130	2093	49,359

\* Applicants may list more than one county. The total for January 1, 1998 through December 31, 1998 represents the distribution of 695 applications. The total for April 1, 1986 through December 31, 1998 represents 17,891 applications.

**Table 18**  
**APPOINTMENTS OF FIDUCIARIES**  
**Appointments Reported by County**  
*January 1, 1998 through December 31, 1998*

<i>Location</i>	<i>Total</i>	<i>Location</i>	<i>Total</i>
Albany	155	Otsego	17
Allegany	9	Putnam	35
Bronx	527	Queens	886
Broome	78	Rensselaer	86
Cattaraugus	32	Richmond	72
Cayuga	47	Rockland	103
Chautauqua	66	St. Lawrence	57
Chemung	47	Saratoga	75
Chenango	6	Schenectady	95
Clinton	36	Schoharie	16
Columbia	24	Schuyler	8
Cortland	8	Seneca	10
Delaware	29	Steuben	25
Dutchess	104	Suffolk	671
Erie	716	Sullivan	38
Essex	27	Tioga	16
Franklin	29	Tompkins	25
Fulton	21	Ulster	91
Genesee	24	Warren	31
Greene	6	Washington	19
Hamilton	1	Wayne	47
Herkimer	31	Westchester	365
Jefferson	75	Wyoming	19
Kings	769	Yates	12
Lewis	17		
Livingston	26		
Madison	29		
Monroe	397		
Montgomery	21		
Nassau	551		
New York	766		
Niagara	126		
Oneida	121		
Onondaga	341		
Ontario	55		
Orange	96		
Orleans	7		
Oswego	21		
		Total New York State	8,260

## Chapter 2

# The Administration of the Courts

## Court Administration

Section 28 of Article VI of the State Constitution provides that the *Chief Judge* of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a *Chief Administrator of the Courts* (or Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The *Administrative Board* consists of the Chief Judge as chair and the Presiding Justices of the four Appellate Divisions of the Supreme Court. The *Chief Judge* establishes statewide administrative standards and policies after consultation with the Administrative Board and approval by the Court of Appeals.

The *Court of Appeals and the Appellate Divisions* are responsible for the administration of their respective courts. The Appellate Divisions also oversee several appellate auxiliary operations: candidate fitness, attorney discipline, assigned counsel, law guardians, and the Mental Hygiene Legal Service.

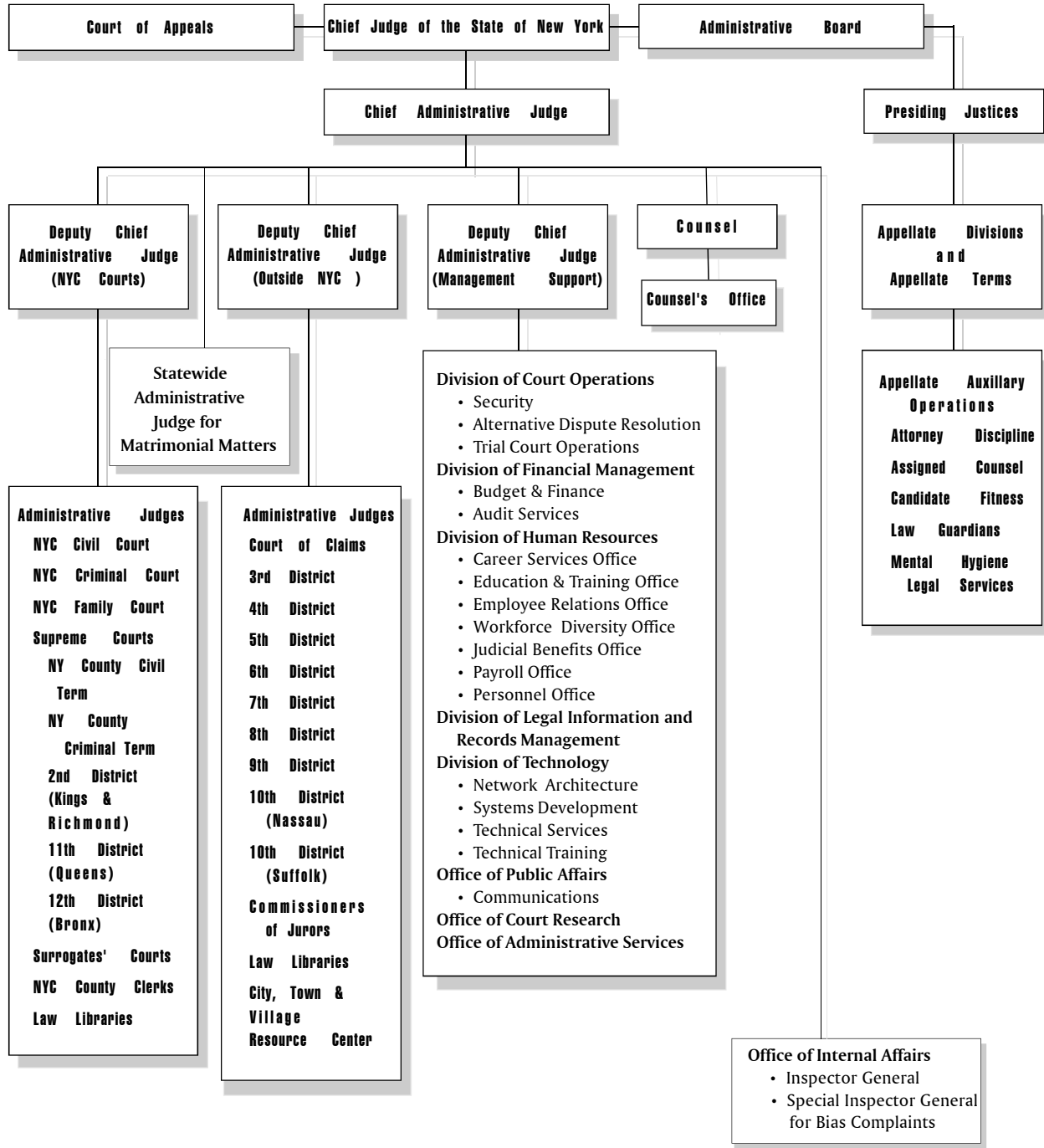
The *Chief Administrator*, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts – the Office of Court Administration (OCA). In this task, the Chief Administrator is assisted by two Deputy Chief Administrative Judges who supervise the day-to-day operations of the courts – one for New York City and one for the courts outside of New York City; a Deputy Chief Administrator, who is responsible for the operations of the divisions and offices that comprise the Office of Management Support; a Statewide Administrative Judge for Matrimonial Matters; and a Counsel, who directs

the legal and legislative work of the Counsel's Office.

In addition to the overall supervisory duties of the two Deputy Chief Administrative Judges, responsibility for on-site management of the trial courts and agencies is vested in local Administrative Judges. In each judicial district outside New York City, there is a District Administrative Judge who is responsible for supervising all courts and agencies. In New York City, an Administrative Judge supervises each of the major courts. The Administrative Judges manage court caseloads and are responsible for general administrative functions, including personnel and budget administration.

The *Office of Management Support* provides the administrative services required to support all court and auxiliary operations. In 1998, in recognition of the expansion and increased diversification of the tasks being carried out, there was a major restructuring of the Office designed to increase efficiency and enhance the delivery of services to the courts. Five separate Divisions were established: the Division of Court Operations, overseeing security, trial court operations and alternative dispute resolution programs; the Division of Financial Management, responsible for the Judiciary budget; the Division of Human Resources, encompassing personnel administration, payroll operations and benefits, employee relations, judicial benefits, education and training, professional development and the workforce diversity office; the Division of Legal Information and Records Management; and the Division of Technology. Four Offices also were created: the Office of Administrative Services; the Office of Court Research, providing caseload activity statistics and related services; the Office of Internal Affairs, performing internal audits and investigations; and the Office of Public Affairs.

**Figure 12  
UNIFIED COURT SYSTEM  
Administrative Structure**



Also included under the direction of the Office of Management Support are a Facilities Unit, Special Projects Unit and the Center for Court Innovation. (The work of a number of these support units during 1998 is highlighted later in this and the following chapters.)

*Counsel's Office* prepares and analyzes legislation, represents the UCS in litigation, and provides various other forms of legal assistance to the Chief Administrator. The legislative work of Counsel's Office during 1998 is reported in Chapter 4. (See Figure 12 for a diagram of the administrative structure of the UCS.)

The Chief Judge and the Chief Administrator also rely on a number of advisory groups in meeting their administrative responsibilities. Among these are the Judicial Conference, the Advisory Committee on Civil Practice, the Advisory Committee on Criminal Law and Procedure, the Family Court Advisory and Rules Committee, the Local Courts' Advisory Committee, and the Surrogate's Court Advisory Committee. The work of the Advisory Committees during 1998 is summarized in Chapter 4.

Court officials have established other committees or commissions, such as: the Franklin H. Williams Judicial Commission on Minorities, the Permanent Judicial Commission on Justice for Children, the New York Judicial Committee on Women in the Courts, the Ethics Commission for the Unified Court System, the Pro-Bono Monitoring Committee, the Criminal Pattern Jury Instructions Committee, and the Advisory Committee on Judicial Ethics. The accomplishments of some of these groups during 1998 are outlined elsewhere within this Report.

## The Division of Financial Management

The Division of Financial Management is responsible for the preparation, review and implementation of the Judiciary budget. It also develops and promulgates, after approval, fiscal policies and procedures and other related functions. In addition, it supports the UCS's goals and objectives by requesting and allocating the necessary funds to carry them out.

The UCS's budget is based upon a fiscal year that runs from April 1 through March 31 of the following year. Each year, the budget is presented by the Chief Administrative Judge to the Court of Appeals for approval and for certification by the Chief Judge. After certification, it is transmitted to the Governor for inclusion in the State budget. Although the budget is to be submitted by the Governor without revision, recommendations may be included as deemed appropriate by the Governor.

The budget request prepared by the UCS is divided into two parts, covering personal services (salaries for judges and nonjudicial personnel) and nonpersonal services (all other expenses, including equipment, supplies, etc.). Over 80% of the budget is allocated to the payment of personal services.

The budget request submitted for the 1998-99 fiscal year was approved by the Legislature with only minor adjustments. A total of \$1.1 billion was appropriated for court and agency operations, reflecting a 9.6% increase over the previous year's allocation. This budget provides funding for 387 new positions for specific targeted initiatives in areas including family justice, domestic violence, Housing Court and civil justice. These positions support initiatives including night Family Court and a satellite Family Court in Queens to provide more convenient access for all citizens; an adoption fast track; Family Treatment Courts to address the growing problem of drug abuse and child neglect; dedicated Domestic Violence Parts; and comprehensive reforms to be implemented in the New York City Housing Court. The funding will continue, undiminished, to support the operational capacity of trial courts to process current caseloads and also support the continuation of the program commenced by the Chief Judge and Chief Administrative Judge to achieve economy and efficiency through reducing the administrative overhead of the court system.

## Division of Technology

The creation and management of information is one of the principal activities performed in the trial courts of the Unified Court System in support of administration and the case disposition

process. Administrative oversight of information processing in the trial courts is the function of the Division of Technology. In support of this responsibility, the Division develops and implements innovative technology to enhance court operations and administration. Many of the new programs developed by the Division operate through CourtNet, the statewide judicial network that allows courts throughout the state to communicate information and data.

To support the operation of high-volume courts and district and central administrative offices, the UCS maintains centralized on-line applications backed up by a mainframe processor and minicomputers, including those for: the Criminal Records and Information Management System (CRIMS); the Jury Management System (JMS); the Civil Case Information System (CCIS); the New York City Family Court System (AFCRIS); the Housing Court Information System (HCIS); the New York City County Clerk Judgment Docket and Lien book system (JDLS); the Caseload Activity Reporting System (CARS); and various on-line and batch administrative systems. In addition, centralized application data is downloaded to local microcomputers for local applications and used to generate special reports.

During 1998, the work of the Division included the following:

- A system-wide intranet was introduced to deliver information to the large court audience and to quickly meet the changing needs of the courts' technology users. The application will be expanded to include court and administrative forms, fiduciary reports, lists of judges and staff, title standards, civil service test announcements, press releases and hundreds of other written materials that previously had required reproduction and mailing.



Deputy Chief Administrative Judge Ann Pfau participating in a demonstration of the new Magstar Automatic Tape Library

Bob Spratt

- Internet access for approved CourtNet users was implemented and is being expanded daily to provide users with a means of researching information essential to improving the judicial process. Access to court information by the public, completion of jury questionnaires, directions to courthouses, court calendars and related information should also become available on the internet in the near future.

- Through CourtNet, data communications with police, district attorneys, probation, sheriffs and other agencies have been enhanced to improve the exchange of criminal case history data and case disposition data, thereby eliminating the need for each agency to duplicate this information by hand.

- Implementation began of the new IBM 3490E Magstar Automatic Tape Library. This addition to the court system's mainframe configuration stores and retrieves tape cartridges which contain backups of all the data files processed and maintained on the system. The unit is a virtual tape server with a robotics cartridge accessor which recognizes the stored tape cartridge via a laser beam cartridge recognition system. The system carries out unattended operations and has resulted in significant time savings in carrying out the nightly backup of online disk storage.

- A customized summons system to assist the New York City Criminal Court in processing the heavy volume of cases handled there on a daily basis was implemented. This system produces scanned images, initializes cases for processing and schedules cases. It also provides case information in the courtroom for both the judge and court personnel, records case dispositions and prints all necessary forms for disposition.

- Case management software was developed for Civil Supreme Court Judges and staff. This powerful, easy-to-use system, which was developed in conjunction with judges and court staff, provides access to case information including motions, appearances, attorneys, calendars/schedules, and history, with various personalized displays. It is used in chambers, courtrooms and back offices via a laptop or PC with CourtNet. The system is in place in New York, Kings, Suffolk, and Nassau Counties, with further expansion planned for 1999.

- Development began on Court Profiles, which will combine many of the mainframe data sources in a web-based application allowing any CourtNet user to query a database that contains all pertinent UCS related information. The information available will include financial, staffing, facilities and caseload activity data.

- Work continued on a project to address the problems anticipated by the arrival of the year 2000. A determination was made to expand to four digits the date fields in the over 7200 programs and 400 databases utilized in support of administrative and court operations. This remediation process was commenced in January, 1998, and all systems are scheduled to be in compliance by June, 1999.

- During the year, over 1,230 laptops, 2,680 desktops, 550 printers and 75 new servers were distributed throughout the system and added to CourtNet. By the end of 1998, over 20,000 network cables had been wired in courtrooms, chambers, back offices, libraries, and other working areas in support of court operations and the expansion of CourtNet. Internet work equipment and data communication circuits have been installed at more than 100 court locations statewide.

- The first steps were taken towards the development of a universal case management system with the start of the initial phase of a Statewide Family Court Automation Project which will serve as a model for a courtwide system. In addition to family matters, this first phase will incorporate other case types as part of the effort to create a truly universal case management system.

## Legal Information and Records Management Division

The Legal Information and Records Management Division provides professional support and services for law libraries, legal research, records management and micrographics. During 1998, outreach efforts were focused on the courts and the communities that they serve.

The UCS web site (*ucs.ljx.com*), which was inaugurated in 1997, was redesigned and expanded. Links are provided to pages from individual courts, court libraries and judges. Information available includes employment postings, exam schedules, press releases and court rule revisions, as well as a variety of court forms. During the year, two million visitors accessed the page.

A joint project with the New York Law Journal led to an Internet page entitled "New York Courts and Law," created to provide links to information that could be helpful to public understanding of the court system and the law in New York. The site is accessible through the New York Law Journal and UCS web sites.

In conjunction with the Education and Training Division and the Division of Technology, a training program was initiated to provide judges and other court researchers with the necessary skills to use a variety of computer assisted legal research tools and choose the most appropriate method for each purpose. Among the resources available are the court system's nine CD-ROM towers. Access to the towers was improved in 1998 by adding 800 number phone lines to two of the towers and upgrading software on the towers to enhance speed and reliability.

Professional reference librarians continue to answer the 1-800 COURTTY telephone number. During 1998 over 3,500 calls were received from all over the country. Questions ranged from inquires about directions to the courthouse and telephone numbers of courts to reference inquiries precipitating interviews with callers before referral.

## Court Facilities Program

The care of existing court facilities and the development and construction of new ones is a major ongoing activity for the UCS. Since 1987, the Court Facilities Act (“CFA”) has provided the framework and direction for statewide oversight of the maintenance and construction of court

County began operations, and major renovations to historic courthouses in Dutchess and Fulton Counties were completed. Projects under construction in 1998 include major new courthouses in Orange, Broome and Wyoming Counties. In New York City, major projects to provide improved facilities for Family Courts in Brooklyn, Manhattan and Queens, and for the



Patricia Beeler

The Rensselaer County Family Court, newly housed in the renovated former county jail

facilities, which are the responsibilities of the localities.

To help local governments provide and maintain new and improved court facilities, the CFA created the Court Facilities Incentive Aid Fund, a State Special Revenue Fund supported by various court filing fees. The receipt of State aid is explicitly linked to compliance with the requirements of the CFA. The Fund provides an interest subsidy, ranging from 25 to 33 percent, to reduce the cost of borrowing money to finance court improvements. The Fund also provides a subsidy for maintenance and operations expenses.

Under the direction of the CFA, new and improved facilities have been provided for courts across the State. Each year, a number of new buildings are completed, while construction is started on other courthouses. In 1998, new City Courts were opened in the cities of Geneva and New Rochelle, as well as a new Family Court in Rensselaer County. A new courthouse in Herkimer

Supreme Court, Criminal Term in the Bronx and in Brooklyn, advanced through the programming and early design stages.

## Education and Training Programs

The Education and Training Division (“E&T”) is responsible for providing continuing education for judges and nonjudicial employees. This includes local town and village justices, a group largely composed of nonlawyers. In 1998, more than 3,000 judges and town and village justices, and approximately 14,000 nonjudicial personnel, attended education programs facilitated or financed by the UCS. Some of the major programs that were offered are described below.

At the end of 1998, E&T applied to the recently-established NYS Continuing Legal Education Board for formal certification as a provider of programming eligible for CLE credit. Once approved, the judges and attorneys who

attend E&T's programs will be eligible to receive CLE credit.

### **Programs For State-Paid Judges**

#### **Judicial Seminars**

July 7-10; 14-17, 1998

Over 1,000 judges attended one of the two three-day annual judicial seminars. They were offered over 40 sessions of classes each week in subject areas covering civil, criminal, family, and trusts and estates law, as well as evidence and judicial skills. Sessions also covered substantive annual updates, including capital punishment, UCS initiatives, evaluations of new legislation and professional rules, new developments in trial techniques, programs of personal interest to judges, and programs for special courts. A wide variety of computer workshops were available and judges were able to participate in an interactive video training program in evidence. The faculty included judges, academics, hard science and behavioral science experts, and practicing attorneys.

#### **Orientation Program for newly-elected and newly-appointed Judges**

December 7-11, 1998

Approximately 80 judges participated in a five-day seminar designed for those recently elected or appointed to the bench. The new judges attended lectures and workshops on a wide variety of substantive legal subjects and on courtroom case management, with particular emphasis on the knowledge and skills needed to start their judicial careers. Each new judge was assigned a more seasoned mentor judge for advice and consultation.

#### **Judicial Automation Forum**

January 27-29, 1998

February 3-5, 1998

July 9 and 13, 1998

This program was designed to acquaint judges with laptop computers. Judges participated in hands-on workshops in Windows NT, WordPerfect 8, GroupWise, and legal research utilizing CD-ROM. Judges also participated in group demonstrations focusing on CourtNet and

Public Access. In all, over 500 judges participated in the training.

### **Administrative Judges Program**

Meetings were held several times during the year as part of an on-going program designed specifically to enhance the knowledge and awareness of Administrative Judges about recent management trends and to serve as a forum for discussion of specific issues that affect Administrative Judges in their role as court managers.

### **Programs for Nonjudicial Employees**

#### **Family Court Hearing Examiners**

June 5, 1998

This one-day program, presented to 95 employees, updated Family Court Hearing Examiners on the new Uniform Interstate Family Support Act. In addition, participants attended lectures on paternity, ethics, computer resources, and recent developments in case law and legislation.

#### **Legal update for Court Attorneys**

November 17-18; 19-20; 29-30, 1998

This two-day program provided updates on civil law and procedure, criminal law and procedure, family law and evidence, among other topics. Special programs also were available on computer usage and on-line research. Over 1200 attorneys employed by the court system attended, many encouraged to do so by the announcement of the new CLE requirement in NYS for all attorneys.

### **Annual Nonjudicial Association Seminars**

Annual meetings of the nonjudicial associations bring together court employees who work in similar courts or job titles to exchange ideas and attend workshops and lectures on the substantive and technical areas affecting their courts. During 1998, two combined annual seminars were held. The City and District Court Clerks Association joined with the Commissioners of Jurors Association and the Supreme and County Court Clerks Association. Similarly, the Family Court Clerks Association, the Law Librarians Association, the Surrogate's Court Chief Clerks

Association, and the Surrogate's Court Law Assistants Association held a joint meeting.

### **Town and Village Justice Training Program**

There are approximately 2,230 town and village justices in the State, of whom close to 75% are not lawyers. New justices who are not lawyers are required to complete a six-day basic certification course covering the fundamentals of law and their responsibilities as justices. These basic courses were offered five times during 1998 and attended by approximately 150 justices. In addition, a training program for Town and Village Court clerks was presented 13 times around the State.

Each year, Town and Village justices are required to attend an advanced continuing judicial education program. In addition to the attendance requirement, all non-lawyer Town and Village justices must pass a written examination that is administered at each program. The advanced course consists of two days of instruction covering selected legal topics. Participants in 1998 attended lectures covering subjects such as domestic violence, judicial ethics and jury selection as well as an update on new legislation.

A separate City, Town and Village Courts Resource Center ("Center"), operating independently of E&T, offers advice and guidance to the justices of City, Town and Village Courts and their court clerks throughout the State. It is staffed by attorneys who provide assistance on legal questions, and by non-attorneys who serve as advocates in dealing with the localities in connection with a variety of issues including facilities and personnel. During the year, the Center handled approximately 13,000 inquiries.

### **Workforce Diversity Office**

The Workforce Diversity Office (formerly the Equal Employment Opportunity Division) oversees the implementation of the court system's Workforce Diversity Program, which was instituted in 1989. The purpose of the program is to increase the diversity of the courts' workforce, with major focus on specific job groups where underrepresentation of minorities and women has been identified. In 1998, the office

expanded its outreach efforts to encourage these groups to seek work in the courts by broadening internship programs and providing greater technical support to the courts. It also developed a sexual harassment training program which was offered to 1500 court clerks and court managers.

The other responsibilities of the Office include overseeing anti-discrimination training programs and the Handicapped Set-Aside Program. The Office also coordinates the work of EEO liaisons as well as anti-discrimination panels and identifies reasonable accommodations for court system applicants and employees.

### **Office of Special Inspector General for Bias Matters**

In October 1998, the position of Special Inspector General for Bias Matters was established. The Special Inspector General has responsibility for conducting audits, evaluations and investigations in connection with allegations of work-related bias involving any judge or nonjudicial employee of the court system. The Special Inspector General also participates in establishing and maintaining standards of conduct for bias-free behavior.

The Special Inspector General investigates allegations of bias based upon race, sex (including sexual harassment), sexual orientation, age, marital status, disability, national origin or religion that affect the workplace or the terms and conditions of employment, including acts that relate to services provided by court personnel to the public. In addition, the Special Inspector General makes recommendations for resolution of these allegations, including retraining, mediation and disciplinary action, as appropriate.

### **Attorney Registration and Statement Filings**

The Office of Court Administration is responsible for maintaining a variety of records and data concerning the status of attorneys and case processing. An explanation of that information and the filings for 1998 are as follows.

### Attorney Registration

All attorneys admitted and licensed to practice law in the State of New York, whether resident or not, are required biennially to file a registration statement, and, unless they are retired from the practice of law, to pay a \$300 registration fee. During 1998, approximately 98,000 registrations were processed and \$29,448,100 in registration fees recorded. As of the end of calendar year 1998, approximately 177,207 attorneys were registered with OCA. Table 16 reflects the number of attorneys registered by county and Judicial Department as of the end of 1998.

### Retainer and Closing Statements

Pursuant to 22 NYCRR Parts 603.7, 691.20 and 1022.2, every attorney who enters into a contingent-fee agreement in any case involving personal injury, property damage, wrongful death, or claims in connection with condemnation or change-of-grade proceedings in the First, Second, or Fourth Judicial Departments must file a statement of retainer with OCA, containing the terms of compensation.

In addition, in any case or proceeding in which a retainer statement is required, a closing statement must be filed with OCA within 15 days after the attorney receives or shares any sum received in connection with the claim. This statement must include information indicating the gross amount of the settlement or award (if any), the net distribution between client and attorney, and a breakdown of other expenses and disbursements.

In 1998, a total of 316,450 retainer and closing statements were processed. Of those, 133,787 were filed in the First Department; 162,124 in the Second; and 20,539 in the Fourth Department. Financial data concerning closing statements filed in calendar year 1998 is available upon request from OCA.

### Appointment of Fiduciaries

Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36) requires that all appointments of guardians, court evaluators, attorneys for alleged ~~incapacitated persons, referees, guardians ad litem~~, receivers and persons designated to perform services for receivers be made by the appointing judge from a list of applicants established by the Chief Administrator of the Courts, unless the court finds that there is good reason to appoint someone who is not on the list and places a statement to that effect on the record.

During the period from April 1, 1986 (when Part 36 was promulgated) through December 31, 1998, approximately 16,500 applications were filed with OCA from individuals and institutions that had indicated their availability to serve in some capacity under this Rule. Table 17 shows the distribution by county of the applications in 1998. It also shows the distribution by county of the 695 applications filed from January 1, 1998 through December 31, 1998. From January 1, 1998 through December 31, 1998, there were 8,260 statements of appointment filed with the Chief Administrator. Table 18 reflects the number of those appointments by county.

### Statements of Approval of Compensation

Section 35-a of the Judiciary Law requires judges who approve the payment of a fee for more than \$200 for services performed by any person appointed by the court in any capacity to file a statement of approval of compensation with OCA. In 1998, OCA received a total of 5,043 statements of approval of compensation.

### Adoption Affidavits

In accordance with the rules of the respective Appellate Divisions, 22 NYCRR Parts 603.23 (1st Dept.), 691.23 (2nd Dept.) 806.14 (3rd Dept.) and 1022.33 (4th Dept.), all attorneys in adoption proceedings must file an affidavit with OCA concerning the adoption prior to the entry of the adoption decree. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services. During 1998, 7,394 adoption affidavits were filed with OCA.

**Table 16**  
**ATTORNEY REGISTRATION BY LOCATION**  
**County of Business**  
**1998**

<i>Location</i>	<i>Total</i>	<i>Location</i>	<i>Total</i>
Albany	3,513	Otsego	83
Allegany	47	Putnam	224
Bronx	1,923	Queens	3,970
Broome	570	Rensselaer	356
Cattaraugus	97	Richmond	953
Cayuga	100	Rockland	1,110
Chautauqua	212	St. Lawrence	119
Chemung	162	Saratoga	358
Chenango	67	Schenectady	382
Clinton	109	Schoharie	45
Columbia	151	Schuyler	23
Cortland	64	Seneca	36
Delaware	80	Steuben	128
Dutchess	690	Suffolk	4,526
Erie	3,947	Sullivan	189
Essex	86	Tioga	51
Franklin	68	Tompkins	276
Fulton	69	Ulster	370
Genesee	80	Warren	187
Greene	79	Washington	64
Hamilton	6	Wayne	84
Herkimer	80	Westchester	6,489
Jefferson	154	Wyoming	40
Kings	5,278	Yates	22
Lewis	20	Outside N.Y.	
Livingston	67	State	42,263
Madison	96	Missing County	17,711
Monroe	2,750		
Montgomery	83	First Department	62,746
Nassau	10,210	Second Department	34,203
New York	60,823	Third Department	7,706
Niagara	332	Fourth Department	11,062
Oneida	518		
Onondaga	2,068		
Ontario	148		
Orange	753	Total	175,691
Orleans	25		
Oswego	107		

**TABLE 17**  
**APPOINTMENT OF FIDUCIARIES**  
**APPLICATIONS BY COUNTY**  
*AS OF 12/31/98*

LOCATION	INDIVIDUALS		INSTITUTIONS		TOTAL		LOCATION	INDIVIDUALS		INSTITUTIONS		TOTAL *	
	Filed	Filed	Filed	Filed	Filed	Filed		Filed	Filed	Filed	Filed	Filed	Filed
	01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	4/01/86- 12/31/98		01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	04/01/86- 12/31/98	01/01/98- 12/31/98	04/01/86- 12/31/98
Albany	24	656	...	2	24	658	Niagara	75	1054	...	...	75	1054
Allegany	5	152	...	1	5	153	Oneida	5	251	...	1	5	252
Bronx	153	3536	...	7	153	3536	Onondaga	15	306	3	3	18	309
Broome	3	384	...	3	3	387	Ontario	26	402	...	1	26	403
Cattaraugus	11	323	...	1	11	324	Orange	24	723	...	...	24	723
Cayuga	3	164	...	1	3	165	Orleans	15	266	...	...	15	266
Chautauqua	12	357	...	...	12	357	Oswego	4	141	...	...	4	141
Chemung	3	79	3	5	6	84	Otsego	4	122	...	1	4	123
Chenango	1	134	...	3	1	137	Putnam	40	896	...	1	40	897
Clinton	3	73	...	1	3	74	Queens	195	4906	...	9	195	4915
Columbia	8	226	...	1	8	227	Rensselaer	17	485	...	1	17	486
Cortland	3	121	...	2	3	123	Richmond	62	1771	...	5	62	1776
Delaware	0	115	...	3	0	118	Rockland	41	1352	...	2	41	1354
Dutchess	26	807	...	1	26	808	St. Lawrence	2	74	...	...	3	74
Erie	115	1704	3	5	118	1709	Saratoga	23	574	...	1	23	575
Essex	6	108	...	...	6	108	Schenectady	19	531	...	1	18	532
Franklin	3	72	...	...	3	72	Schoharie	3	113	...	1	3	114
Fulton	5	129	...	...	5	129	Schuyler	2	58	...	...	2	58
Genesee	25	411	...	...	25	411	Seneca	1	113	...	1	1	114
Greene	5	185	...	2	5	187	Steuben	6	154	...	3	5	157
Hamilton	1	57	...	...	1	57	Suffolk	116	2955	...	5	116	2960
Herkimer	2	137	...	...	2	137	Sullivan	6	198	...	1	6	199
Jefferson	6	81	...	1	6	82	Tioga	4	159	...	2	4	161
Kings	199	5130	...	9	199	5139	Tompkins	5	101	...	1	5	102
Lewis	0	64	...	...	0	64	Ulster	10	373	3	3	13	376
Livingston	20	304	3	5	23	309	Warren	12	219	...	...	12	219
Madison	3	229	...	1	3	230	Washington	11	185	...	...	11	185
Monroe	60	889	3	6	63	895	Wayne	19	342	...	1	19	343
Montgomery	6	158	...	1	6	159	Westchester	130	3267	...	4	130	3271
Nassau	168	4757	...	8	168	4765	Wyoming	15	260	...	...	13	260
New York	278	5272	...	9	278	5281	Yates	8	112	3	4	10	116
Totals								2072	49,229	21	130	2093	49,359

\* Applicants may list more than one county. The total for January 1, 1998 through December 31, 1998 represents the distribution of 695 applications. The total for April 1, 1986 through December 31, 1998 represents 17,891 applications.

**Table 18**  
**APPOINTMENTS OF FIDUCIARIES**  
**Appointments Reported by County**  
*January 1, 1998 through December 31, 1998*

<i>Location</i>	<i>Total</i>	<i>Location</i>	<i>Total</i>
Albany	155	Otsego	17
Allegany	9	Putnam	35
Bronx	527	Queens	886
Broome	78	Rensselaer	86
Cattaraugus	32	Richmond	72
Cayuga	47	Rockland	103
Chautauqua	66	St. Lawrence	57
Chemung	47	Saratoga	75
Chenango	6	Schenectady	95
Clinton	36	Schoharie	16
Columbia	24	Schuyler	8
Cortland	8	Seneca	10
Delaware	29	Steuben	25
Dutchess	104	Suffolk	671
Erie	716	Sullivan	38
Essex	27	Tioga	16
Franklin	29	Tompkins	25
Fulton	21	Ulster	91
Genesee	24	Warren	31
Greene	6	Washington	19
Hamilton	1	Wayne	47
Herkimer	31	Westchester	365
Jefferson	75	Wyoming	19
Kings	769	Yates	12
Lewis	17		
Livingston	26		
Madison	29		
Monroe	397		
Montgomery	21		
Nassau	551		
New York	766		
Niagara	126		
Oneida	121		
Onondaga	341		
Ontario	55		
Orange	96		
Orleans	7		
Oswego	21		
		Total New York State	8,260

## Chapter 3

# Program Highlights

### Center for Court Innovation

The Center for Court Innovation is a unique public-private partnership established by the UCS to improve public confidence in justice. The Center functions as the court system's independent research and development arm, investigating chronic problems and formulating new programs in response. Over the past several years, it has helped create numerous demonstration projects, including the award-winning Midtown Community Court (sentencing quality of life criminal offenders to community service and providing on-site social services), the Brooklyn Treatment Court (sentencing nonviolent substance-abusing criminal defendants to drug treatment instead of

incarceration) and the Brooklyn Domestic Violence Court (providing enhanced services to victims and strict judicial monitoring of felony offenders). Support for these initiatives comes from a variety of sources, including the U.S. Justice Department, the Department of Health and Human Services, and private foundations.

In 1998, the Center was named one of ten recipients of an Innovations in American Government Award from the Ford Foundation and Harvard University's Kennedy School of Government. This \$100,000 award, which is given to government programs that solve difficult public policy challenges, was presented to the Center in recognition of the new court prototypes it has



Carolina Kroon/Impact Visuals

Members of a Red Hook Youth Court jury questioning the respondent in a case before them for decision

piloted and the structure it has established for ongoing innovation.

In further recognition of its pioneering work, the U.S. Department of Justice has looked to the Center to provide technical assistance to other jurisdictions interested in court reform. The Center uses a variety of tools to accomplish this mission, including workshops, written products, site visits and an innovative website, [www.communitycourts.org](http://www.communitycourts.org). As a result, at least two dozen community courts across the country are in the planning stages.

During 1998, the Center focused its efforts on the following initiatives:

*Manhattan Family Treatment Court:* Building on the model of the Brooklyn Treatment Court, the Family Treatment Court is a specialized drug court for addicted parents charged with child neglect. The Court links parents to treatment and provides services to their children. By closely monitoring the performance of parents, the Court seeks to make more timely and informed decisions regarding the best interests of children in the permanency planning process. Over 75% of the Family Treatment Court's clients are in compliance with their court-ordered treatment plans. In honor of the Family Treatment Court's pioneering work, the U.S. Justice Department has selected it as one of three nationwide model projects.

*Bronx Domestic Violence Court:* Launched in 1998, the Bronx Court adapts the basic principles of the Brooklyn Domestic Violence Court to a high volume misdemeanor setting. Both Domestic Violence Courts work in partnership with numerous criminal justice agencies and social service providers to enhance defendant accountability and increase victim safety.

*Red Hook Youth Court:* The Youth Court uses peer pressure to address low-level youth crime in Red Hook, Brooklyn. The Youth Court trains local youth, ages 12-17, to hear actual cases -- involving shoplifting, vandalism, truancy -- involving their peers. Offenders, who admit guilt before going to Court, are sentenced to perform community service, write letters of apology and attend anger management workshops. They also are linked to social services as appropriate. Compliance has been substantial: 94% of offenders perform their sanctions as ordered.

*Crown Heights Community Mediation Center:* Located in a community-based storefront, the Mediation Center is a neutral forum where all residents of Crown Heights -- African-American, Caribbean-American and Hasidic Jewish -- can come to air grievances, settle disputes and work together to achieve common goals. The Center mediates interpersonal and group disputes and provides conflict resolution training to local residents. It also houses "CourtHelp," a service that provides information to community residents, helping them complete necessary paperwork and learn how to negotiate the court system.

*Future Plans:* In 1999, the Center plans to unveil two new community courts, one in Harlem, the other in Red Hook. Both of these courts will be multi-jurisdictional facilities that use the authority of the court system to solve neighborhood problems such as juvenile delinquency and landlord-tenant disputes.

## The Commercial Division

The Commercial Division of the Supreme Court was established in 1995 in New York and Monroe Counties to handle and facilitate the resolution of business litigation. Since commercial litigation is frequently complex and lengthy, with extensive motion practice, the Division has sought to employ a variety of forms of technology and advanced case management techniques in an effort to streamline and expedite the commercial litigation process. The success of the Division led to the announcement by the Chief Judge, in December 1998, that new branches of the Commercial Division would soon open in Westchester, Nassau, and Erie Counties.

In 1998, the Division in New York County put into regular use Courtroom 2000, the first fully automated courtroom in the State. The courtroom features real-time court reporting, devices for the electronic presentation of evidence, high tech monitors, an electronic blackboard, and a touch screen monitor at the witness stand. The Division also continued its alternative dispute resolution program in New York County, reporting that close to 60% of the cases referred were settled in the process, while Monroe County continued to develop its ADR program.

In addition, the Division issued guidelines and uniform rules, and began publishing the *Commercial Division Law Report*, containing summaries of the leading opinions of the Division in Monroe and New York Counties. The opinions themselves in full text form are available on the court system's web site, along with the Report, and on the home page of the Commercial and Federal Litigation Section of the NYS Bar Association.

## Alternative Dispute Resolution

The court system is committed to providing alternative dispute resolution programs to parties as a viable option to litigation. For close to 20 years, the court system has supplied financial support and program oversight to nonprofit community organizations that offer dispute resolution services to all 62 counties in New York. These dispute resolution centers provide cost-effective dispute resolution processes for cases that are referred to the centers from community agencies and from civil, family and criminal courts.

Over the last several years, the court system has developed a number of pilot court-referred ADR programs throughout the state, tailored to the needs of the particular community and court environment in which they operate. In 1998, there was a major expansion of these programs, built upon the success of the early pilots.

The pilot programs offered include neutral evaluation for matrimonial cases in Supreme Court in Monroe, Nassau and New York Counties; mediation for matrimonial cases in Orange County Supreme Court; and mediation for civil cases in

Monroe and Erie Counties and in the Commercial Division of Supreme Court. There also is a binding arbitration program for tort cases in Nassau County Supreme Court and a neutral evaluation program for tort cases in New York County Supreme Court. Erie County has developed a voluntary multi-step ADR program for personal injury cases that includes mediation and, if necessary, is followed by a judicial assessment conference to further guide the parties toward settlement or to narrow the issues before trial.

## Judicial Advisory Councils

Judicial Advisory Councils, which were established during 1993 and 1994 in four localities of the State, work with local Administrative Judges to help make the courts more responsive to community needs. This initiative was undertaken in connection with a larger project sponsored by the Conference of Chief Justices, the Conference of State Court Administrators, and the National Center for State Courts. Its goal is to enhance citizen

involvement in the courts as a means to build respect, confidence and support for the Judiciary.

During 1998, the Eighth Judicial District Advisory Council sponsored lectures at community organizations to discuss recent

changes in jury practices and possible future initiatives; encouraged local news stations to focus on the positive aspects of the court system; and worked with the local Administrative Judge to support the construction of a new Family Court building and the renovation of other court facilities in Erie County.

The Council for the Seventh Judicial District continued to sponsor a court tours program in



Registration at the ninth NYS National Conference on Dispute Resolution, held in September in Rochester, NY

Tom Buckner

conjunction with the Monroe County Bar Association, and to study the issue of youth violence, consulting widely with other interested local institutions. It also initiated a project designed to produce standardized forms for landlord-tenant cases in the Rochester City Court, with particular emphasis on meeting the needs of self-represented litigants. In addition, the Council developed an educational program for non-lawyers termed "The People's Law School," offering educational programs covering such topics as: an introduction to the courts, wills and estate planning, Small Claims Court and Landlord-Tenant Court.

The Council for the Tenth Judicial District worked to develop two comprehensive court facilities: a Community Court in Hempstead, Long Island, and a dedicated "Matrimonial Center" where all judges handling matrimonial cases would be located; established a children's center in the Nassau County District Court; sought to improve the conditions of jury service; helped to provide to interested jurors a breast cancer screening service offered by the Nassau County Medical Center; and reviewed and commented upon a proposed website for the Nassau County Courts. The Council for Queens continued its focus on improving the appearance of the Queens Supreme Courthouses; provided educational programs for Queens citizens on areas of the law that impact upon them, such as landlord-tenant and domestic relations; worked with the Queens Supreme Court law librarian to insure public access to the Court Law Library; and worked closely with the local media to increase public understanding of the court system.

### **The Ethics Commission for the Unified Court System**

In order to help preserve the integrity of governmental institutions, New York State requires public employees to disclose potential areas of conflict of interest resulting from their private activities. Section 211(4) of the Judiciary Law requires all judges and justices, as well as officers and employees of the Courts who receive annual compensation at or above a specified statutory filing rate or hold policy-making

positions, to file annual statements of financial disclosure setting forth detailed personal and financial information. In 1998, the filing rate was \$60,235 and approximately 4,100 employees were required to file financial disclosure statements. Information contained in these statements, with certain limited exceptions, is available for public inspection.

The Ethics Commission for the Unified Court System is responsible for administering the distribution, collection, review and maintenance of financial disclosure statements. The Commission is composed of five members, two of whom must be judges and two of whom cannot be public officers or employees. In 1998, the Commission adopted a new procedure which effectuated its authority to conduct investigations and issue subpoenas necessary to carry out its responsibilities. Any covered individual who fails to timely file with the Commission or fails to complete any of the filing requirements is subject to disciplinary action by the Chief Administrative Judge or, in the case of a judge, by the Commission on Judicial Conduct.

### **The Permanent Judicial Commission on Justice for Children**

The Permanent Judicial Commission on Justice for Children works to address the problems of children in New York whose lives and life chances are affected by the courts.

During 1998, the Commission continued implementation of the federal Court Improvement Project (CIP) which focuses on improving processes for child abuse and neglect cases in Family Court. Among the elements identified by the Project as necessary for effective court reform are court leadership; communication and cooperation with the Department of Social Services; development of internal court mechanisms that expedite and improve outcomes for children; and the use of non-adversarial alternative dispute resolution mechanisms. The Commission has started two pilot projects – in Erie and New York County Family Courts – to incorporate these goals. Both have been

designated Victims Act Model Courts by the National Council of Juvenile and Family Court Judges.

The Erie County project has established a strong partnership with the Department of Social Services (DSS). Accomplishments already achieved include the hiring of a project Director for the CIP and a parallel full time employee at DSS (both positions funded by resources secured by the Commission), developing a common mission statement, and hosting meetings to introduce the project to key stakeholders including all attorneys, judges, and staff of relevant county agencies. Under the “Spring into Permanency” Project, the Erie County initiative will focus on close to 750 children who are waiting for adoption. In addition to expediting these adoptions, the project hopes to reform the way adoptions are handled by the Court and DSS.

In New York County, an Expedited Permanency Part has been established that will incorporate all of the recommended reform elements, including extensive use of pre-trial conferences. In addition, a protocol is being developed in conjunction with the Administration of Children’s Services to fast-track abandonment and unlikely to return home safely cases. Once perfected, it will be distributed statewide to address the hundreds of potential abandonment cases in the State. The New York pilot also hopes to develop a mediation project to expedite and improve the handling of child abuse and neglect cases.

Among the other initiatives undertaken by the Commission in 1998 were a forum on foster care and child welfare, to share with Family Court judges throughout the state the information gained from the pilot projects; training for (CASA) program directors and volunteers; initial development of an MSW judicial internship program in conjunction with several NYC schools; and a program to expand access to comprehensive health care for young foster children. The Commission also added five new centers to its statewide system of children’s centers, bringing the total to 22. The centers offer quality drop-in child care while caregivers attend to court business and a site to connect children and families with vital services.

## The New York State Judicial Committee on Women in the Courts

The New York State Judicial Committee on Women in the Courts works with court administrators and outside agencies on behalf of female litigants, attorneys and court employees to eradicate any discrimination in the courts on the basis of gender. The Committee is composed of judges, court administrators, bar leaders and advocates for women. In carrying out its mandate, the Committee has organized judicial education programs, proposed legislation and made recommendations for improving court operations.

In 1998, the Committee supported legislation to simplify enforcement of child support orders in Supreme Court; successfully advocated to have applications for employment within the court system include inquiries about compliance with court-ordered support; co-sponsored programs on matrimonial practice and domestic violence; and collected information on women in the State’s Judiciary.

## Continuing Legal Education

In 1997, in order to enhance the already high level of professional competency of New York attorneys, a mandatory continuing legal education program was adopted. As of October 1, 1997, newly admitted attorneys (defined as those who are admitted to practice in the State on or after that date) must complete 32 hours of accredited CLE within two years of admission.

The CLE requirement for all New York attorneys went into effect on December 31, 1998. All attorneys (other than the newly admitted discussed above) must complete 24 hours of accredited CLE each biennial reporting cycle. Courses on ethics and professionalism must be included within the prescribed credit hours. The program has been flexibly designed so that experienced attorneys can fulfill their requirement in a variety of ways, ranging from live lectures to self-study formats such as videotapes or on-line programs, as well by teaching and lecturing, or by writing articles for law publications.

Information about the CLE Program is accessible through the CLE Board's web site: <http://ucs.ljx.com>, by phone: (212) 428-2105, toll-free outside of New York City (1-877-NYS-4CLE), or at its e-mail address: [CLE@courts.state.ny.us](mailto:CLE@courts.state.ny.us).

## **The Committee to Promote Public Trust and Confidence in the Legal System**

The Committee to Promote Public Trust and Confidence in the Legal System was established in 1998 to identify initiatives that will enhance public trust and confidence in the State's legal system. The Committee's goals are to ensure that there is a fair and just system by which people who have contact with the legal system are treated with respect and equality and to bring about a greater understanding of and respect for the legal system. The Committee is composed of judges, attorneys, educators, legislators, local government officials and representatives of unions, business, civic and victims' rights groups and the media.

The Committee was established in conjunction with a national initiative sponsored by the Conference of Chief Justices, the Conference of Chief Administrators and the American Bar Association. Each Chief Justice was asked to form a committee in their respective state to identify and make recommendations for addressing issues affecting public trust and confidence. To further the states' efforts, a national conference is planned for May 1999.

## **Franklin H. Williams Judicial Commission on Minorities**

The Franklin H. Williams Judicial Commission on Minorities, which was established in 1991, strives to assure fair and equal treatment, free from taint or the perception of bias, prejudice, or discrimination for all individuals in the Unified Court System. In 1998, the primary focus of the Commission was to provide an opportunity to those involved in the court system for public discussion of issues of particular importance to minorities.

To that end, the Commission held open meetings in the Bronx to address concerns that employees had about certain promotions that had been given to minority supervisors. The Commission also started meeting regularly with Administrative Judges in an attempt to monitor the number of minorities in supervisory positions in the courts and help increase the number of positions available for minority employees, including attorneys. The Commission also continued its participation in the annual judicial seminars by conducting a seminar exploring the ways that police brutality might impact on the criminal justice system.

## **Access to the Courts for Individuals with Disabilities**

The UCS strives to fully implement the Americans with Disabilities Act (ADA) in the State Courts by assuring access to services for users of the courts and by providing reasonable accommodations to court employees.

In 1998, training on the ADA was provided at educational seminars held for court clerks, commissioners of jurors and new judges. This training information also was made available for general distribution through videotape and in written form.

A new office was established in 1998, under the Division of Court Operations, to focus greater time and attention on ADA issues and coordinate statewide efforts to resolve issues raised by users and employees of the courts. This office will provide education to court personnel about the ADA, as well as the devices and accommodations available to provide access to the courts for users with disabilities.

During the year, the ADA Committee, which was established in 1997, and is composed of judges and nonjudicial employees, worked to modify juror summonses to include a telephone number for assistance to disabled individuals who are in need of accommodation in order to serve. The Committee also developed a list of "dispatchers" and procedures to follow when a sign interpreter is needed in the New York City Courts. A subcommittee was established to explore concerns raised about the availability of sign interpreters and related issues.

## Chapter 4

# Legislation and Rules Revision

## Legislation

The Office of Counsel is the principal representative of the Unified Court System in the legislative process. In this role, it is responsible for developing the Judiciary's legislative program and for providing the legislative and executive branches with analyses and recommendations concerning legislative measures that may have an impact on the courts and their administrative operations. It also serves a liaison function with bar association committees, judicial associations and other groups, public and private, with respect to changes in court-related statutory law.

Counsel's Office staffs the Chief Administrative Judge's advisory committees on civil practice, criminal law and procedure, family law, estates and trusts, and local courts (established in 1997). These committees formulate legislative proposals in their respective areas of concern and expertise for submission to the Chief Administrative Judge. When approved by the Chief Administrative Judge, they are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

Each advisory committee also analyzes other legislative proposals submitted for review during the legislative session. Recommendations are submitted to the Chief Administrative Judge, who, through his Counsel, communicates with the Legislature and the Executive Branch on such matters in the form of legislative memoranda and letters to Governor's Counsel.

Counsel's Office is also responsible for drafting legislation to implement recommendations made by the Chief Judge in her State of the Judiciary message, as well as bills required by the Unified Court System, including budget requests, adjustments in judicial compensation, and implementations of collective bargaining

agreements negotiated with court employee unions pursuant to the Taylor Law. In addition, Counsel's Office analyzes other legislative measures that have potential impact on the administrative operation of the courts and makes recommendations to the Legislature and the Executive Branch on such matters.

In the discharge of its legislation-related duties, Counsel's Office consults frequently with legislators, the professional staff of legislative committees, and the Governor's Counsel for the purposes of generating support for the Judiciary's legislative program and providing technical assistance in the development of court-related proposals initiated by the Executive and Legislative Branches.

During the 1998 legislative session, Counsel's Office, with the assistance of the Chief Administrative Judge's advisory committees, prepared and submitted 44 new measures for legislative consideration. These were in addition to 97 measures it submitted to the Legislature in its 1997 session that did not achieve passage and were carried over into the 1998 session. Of this total of 141 measures, 18 ultimately were enacted into law. Also during the 1998 session, Counsel's Office furnished Counsel to the Governor and the Legislature with formal written analyses and recommendations on 43 measures.

In December of every year, each of the Advisory Committees submits a report to the Chief Administrative Judge, setting forth its legislative proposals for the coming year. Copies of the 1998 reports may be obtained from Counsel's Office at 25 Beaver Street, New York, New York, 10004. Set forth below is a synopsis of the work of the Committees during 1998 that was incorporated into the Judiciary's legislative program. It is followed by a recitation of the laws relating to

the court system enacted in 1998; the court-related measures introduced as part of the Judiciary's legislative program but not enacted into law; and a listing of the amendments to the Rules of the Chief Judge and the Chief Administrative Judge (22NYCRR) adopted in 1998.

## The Work of the Advisory Committees

### *Advisory Committee on Civil Practice*

The Committee annually recommends to the Chief Administrative Judge proposals concerning the Civil Practice Law and Rules ("CPLR"). During 1998, the Committee continued to focus on the use of technology and evaluate its efficacy to facilitate the litigation process. To that end, it proposed that pilot programs be conducted at several locations throughout the State to permit the commencement of a lawsuit by the filing of facsimiles of the legal papers with the County Clerk, or by other means of electronic transmission, such as e-mail.

During the 1998 legislative session, the Committee saw the adoption of the following measure that it had proposed:

- CPLR 311(b) (Personal service upon a corporation or governmental subdivision) was amended to eliminate the need for finding, as a precondition to judicially-ordered service upon a corporation, that filing proof of service would be impracticable, thereby harmonizing the statute with 1997 legislation eliminating the need for proof of service to be filed. (L. 1998, c. 202)

The following are among the Committee's more significant legislative measures proposed in calendar year 1998 for the 1999 legislative session:

#### (A) Broadened Discovery

This measure would amend the CPLR to simplify the discovery rules for the production of non-party business records and their introduction into evidence. These changes would eliminate the present requirement that, in the absence of a non-party deposition, a party must obtain a court order before being permitted to seek discovery

and inspection of non-party documents or things. In addition, the amendment would eliminate the need for a non-party to appear with business records, instead allowing the production of the documents at the non-party's place of business, or the delivery of certified copies to the party. The amendment also would permit a non-party to make a written objection to a discovery demand, instead of the current requirement of making a motion to quash the request.

#### (B) Conduct of Depositions

This measure would amend Rules 3113 (Conduct of the examination) and 3115 (Objections to qualifications of person taking deposition) of the CPLR to impose sufficient safeguards against a variety of abusive practices that may be engaged in by parties attempting to obstruct the truth-finding process during depositions. The amendments would provide that every objection be stated succinctly and so as not to suggest an answer to the deponent, and that, upon request by the attorney conducting the deposition, an objection be accompanied by a clear explanation of the alleged defect. Deponents would be required to answer all questions except in certain limited circumstances; and no interruptions of the deposition for an attorney-deponent communication would be permitted unless all parties consent, or where, after entering the reason on the record, the communication involves a claim of privilege, right of confidentiality, or a limitation in a court order.

#### (C) Neglect to Proceed

This measure would amend CPLR 3216 (Want of prosecution – for cases prior to the filing of the note of issue) and CPLR 3404 (Dismissal of abandoned cases – for cases following the filing of the note of issue), to permit civil courts to dismiss inactive or abandoned cases on their calendars, thereby enhancing effective case management. The proposed changes would make available to the civil courts a greater number of options, including striking the offending parties' pleadings and dismissing the action.

#### (D) Simplification of the calculation of interest on judgments against Municipalities, Public Corporations and the State of New York

This measure would amend Section 3-a of the General Municipal Law, Section 157(5) of the Public Housing Law, Section 16 of the State Finance Law, Section 2501 of the Unconsolidated

Laws, and Section 2046-i of the Public Authorities Law to clarify the method by which interest may be calculated on judgments against certain governmental entities for which a specific interest rate has not been fixed by statute. The proposed bill would replace the current open-ended provision (“shall not exceed nine per centum per annum”) with an interest rate that would be premised upon a commonly published index, the New York “tax overpayment rate,” but which would be capped at 9%. Interest could then be assessed ministerially.

### *Advisory Committee on Criminal Law and Procedure*

The Committee annually recommends to the Chief Administrative Judge legislative proposals in the area of criminal law and procedure. The Committee’s work centers on the Criminal Procedure Law (“CPL”) and the Penal Law. During 1998, the Committee continued an extensive review and revision of Article 265 of the Penal Law (“Firearms and Other Dangerous Weapons”). The Committee’s goal in this ongoing effort is to provide a blueprint for simplifying and updating what is arguably one of the most complex and cumbersome articles in the entire chapter. The Committee also carefully reviewed several other proposals, ideas and suggestions offered by judges and nonjudicial personnel from around the State to streamline and improve the fairness of criminal court operations and procedures.

During the 1998 legislative session, the Committee saw the adoption of the following measure that it had proposed:

- CPL Section 390.30 (Scope of pre-sentence investigation and report) was amended to allow the court (after consultation with the prosecutor and upon the consent of the defendant), in those cases in which the defendant is eligible for a sentence of probation, to adjourn the sentencing for up to one year to a specified date and order that the defendant be placed on interim probation supervision. This interim probation supervision will enlarge the time for the presentence investigation and enable a sentencing court to make a more informed decision concerning whether a defendant is a suitable candidate for probation (L.1998, c.159).

Among the more significant measures proposed in its December 1998 report, the Committee recommended enactment of the following:

#### (A) Discovery of Search Warrant Documents and Seized Property

CPL §240.20(1)(f) should be amended to provide that any property seized pursuant to the execution of a search warrant relating to a criminal action or proceeding, and the inventory or return of such property, shall be discoverable by the defendant. Further, a new paragraph (l) should be added to CPL §240.20(1) to provide that the search warrant, the search warrant application and the documents or transcript of any testimony or other oral communication offered in support of the search warrant application also shall be discoverable by the defendant, except to the extent such material or information is protected from disclosure by a court order. This amendment would eliminate confusion over whether these materials and documents are, in fact, discoverable under Article 240.

#### (B) Submission of Witness List to Jury

Section 310.20 of the CPL should be amended to authorize the trial court, upon the request of a deliberating jury, to provide the jury with a list of the witnesses who have testified. At present, the court may provide jurors with exhibits, a verdict sheet, and, if the jury requests and the parties agree, a copy of relevant statutes. Inasmuch as evidence is presented to the jury through the testimony of witnesses (and by other means in the case of absent witnesses), having a list of those witnesses – particularly in long trials with many witnesses – would assist in conducting organized jury deliberations.

#### (C) Speedy Trial

In order to increase the effectiveness of the speedy trial rule, and decrease the often inordinate time from indictment to verdict, CPL §30.20 (Speedy trial; in general) should be amended to authorize the Chief Administrator to promulgate rules promoting speedy trials so as to accord criminal courts greater authority to fix and enforce expeditious schedules for hearings and trials. In addition, CPL §30.30 (Speedy trial; time limitations) should be amended to limit the making of speedy trial motions on the eve of trial; require defendants to specify in their speedy trial motion the time periods chargeable to the prosecution; require courts to rule at each court

appearance whether adjournments are chargeable to the prosecution; and authorize a court to inquire into a prosecutor's statement of readiness and to nullify the statement when it appears that the prosecutor is not ready for trial.

(D) Comprehensive Discovery Reform

Article 240 (Discovery) and other sections of the Criminal Procedure Law should be amended to effect broad reform of discovery in criminal proceedings. The major features of this measure call for: (1) elimination of the need for a formal discovery demand; (2) expansion of information required to be disclosed in advance of trial and reduction of the time within which disclosure must be made; (3) modification of the defendant's obligations with respect to notice of a psychiatric defense; (4) amendment of CPL §470.05(1) to provide that, upon a direct appeal of a conviction, an appellate court may reverse or modify the conviction based upon the prosecutor's failure to disclose *Rosario* material (prior written or recorded witness statements) only if the defendant demonstrates a reasonable possibility that such failure affected the outcome of the case; and (5) amendment of section 710.30 of the CPL to provide that the court, upon finding that there is no prejudice to the defendant, may permit in the interest of justice, late notice – up until the time of trial – of the prosecution's intent to use identification testimony and statements made by the defendant.

(E) Motion to Dismiss Indictment for Failure to Afford Defendant the Right to Testify Before the Grand Jury

CPL §210.20 (Motion to dismiss or reduce indictment) provides for the dismissal of an indictment for failure to notify a defendant who has been arraigned in a local criminal court upon a felony complaint that a grand jury proceeding is pending and to afford the defendant a reasonable time to exercise the right to testify before the grand jury. This would amend the law to condition the dismissal upon the defendant actually testifying before the grand jury to which the charges are to be resubmitted.

*Family Court Advisory and Rules Committee*

The Family Court Advisory and Rules Committee annually recommends to the Chief Administrative Judge proposals in the areas of

Family Court procedure and family law that may be incorporated in the Chief Administrative Judge's legislative program, comments on proposals pending in the Legislature and recommends revisions in Family Court rules and forms.

The Committee achieved notable success during the 1998 legislative session in obtaining enactment of three significant pieces of legislation in the areas of domestic violence, adoption and Family Court procedure. In brief, the following Committee proposals were enacted:

- Interstate enforcement of orders of protection. This legislation facilitates implementation in Supreme, Family and County Courts, as well as local criminal courts, of the "full faith and credit" mandate of the federal *Violence Against Women Act*, 18 U.S.C. §§2265, 2266, which was enacted in 1994. Like statutes that have been enacted in approximately 32 states, this bill incorporates the criteria and requirements of federal law into relevant state statutes, specifically, the requirements regarding notice and an opportunity to be heard with respect to orders of protection issued on an emergency, *ex parte* basis, as well as final orders, and the limitations on enforcement of mutual orders unsupported by pleadings and supportive findings, all in order to ensure that out-of-state orders will be enforced *as if* they had been issued by courts of this State. The law provides clear, simple guidance for law enforcement regarding on-the-scene enforcement, incorporating references to out-of-state orders into the mandatory and presumptive arrest provisions, while leaving the more detailed criteria for ultimate resolution by the courts. The statute provides that victims of domestic violence can present orders for entry onto the domestic violence registry without fee, but that inclusion in the computer system is *not* a pre-condition for enforcement. Finally, the law provides that the formal requirements of the *Uniform Enforcement of Foreign Judgments Act* (Article 54 of the Civil Practice Law and Rules) do not apply with respect to entry of out-of-state orders of protection onto the domestic violence registry. (L.1998, c.597)

- Agency adoption venue. This statute expands upon prior 1996 and 1997 enactments regarding venue in expedited adoption cases to extend the option of filing agency adoptions in the county in which the termination or surrender

proceedings took place to all agency adoptions. Since numerous agency adoption cases are filed shortly after, rather than prior to, the conclusion of the termination of parental rights or surrender proceedings, they do not literally fall within the cases covered by the expedited adoption provisions of chapter 588 of the Laws of 1991 [Domestic Relations Law §112(8); Social Services Law §§383-c, 384-b(11)]. Nonetheless, filing these adoptions in the county in which the termination of parental rights proceeding is conducted may be as helpful in expediting the proceedings as it is for those cases filed pursuant to chapter 588. Therefore, while retaining the existing venue options for agency adoptions – the county in which the adoptive parents reside or, where the adoptive parents reside out-of-state, the county in which the agency has its principal office – the legislation adds the alternative of filing in the county in which the termination of parental rights or judicial surrender had taken place. (L. of 1998, c. 531)

- Duplicate filing of child custody and support orders. This statute repeals a burdensome, ineffectual provision of the Family Court Act that required dual filing of all orders involving child custody, visitation and support – one copy with the Clerk of the Family Court and one copy with the County Clerk. See Family Court Act §217(2). The original intent of the statute – facilitation of communication between Supreme and Family Courts – was not furthered by the dual filing. Retention of orders by the Clerk of the Family Court and transmittal of necessary case information are far more effective means of promoting coordination and communication between courts. (L. 1998, c.186).

Among the new proposals set forth in its December 1998 report, the Committee is recommending the following:

(A) Uniform Child Custody Jurisdiction and Enforcement Act: *The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)*

This Act, which was developed by the National Conference of Commissioners of Uniform State Laws in 1997 to replace the *Uniform Child Custody Jurisdiction Act (UCCJA)*, should be enacted in New York. The *UCCJEA* remedies several of the flaws in the *UCCJA*, harmonizes it with subsequent enactments, including the federal Parental Kidnaping Prevention Act and the Violence Against

Women Act, and delineates an expedited procedure for the enforcement of child custody orders. Like the recently enacted *Uniform Interstate Family Support Act*, it contains clear *indicia* for determining which Court has jurisdiction to issue, modify or enforce orders and encourages the use of technology, such as telephonic testimony, for the convenience of litigants.

(B) Custody and visitation by persons convicted of homicide

Legislation enacted in 1998 restricted Supreme and Family Courts from awarding custody or visitation to a person convicted of murder of the other parent of the child, but did not address circumstances in which a child, rather than a spouse, has been murdered. See Laws of 1998, c. 150. Comparable limitations should be imposed upon custody and visitation by persons convicted of homicide of a sibling or half-sibling of the child who is the subject of the proceeding. Additionally, the proposal would correct a disparity in the 1998 statute by providing that in cases brought under Family Court Act §1085, like those brought pursuant to Domestic Relations Law §240(1-c)(c), the Court not be bound by the findings of fact, conclusions of law or ultimate conclusion of the Court in which the homicide conviction occurred.

(C) Facilitating permanency planning for children in foster care

Consistent with the “concurrent planning” authorization in the federal *Adoption and Safe Families Act* [Public Law 105-89], legislation should be adopted that would obligate local departments of social services and, as applicable, authorized child care agencies, to gather information necessary for the formulation and effectuation of permanent plans promptly when a child enters care and on an ongoing basis thereafter. The proposal would amend Family Court Act §1017 to require child protective agencies, in abuse and neglect cases involving children removed from their homes, to conduct immediate investigations to locate suitable non-custodial parents, not simply other relatives, with whom the children may reside. Information obtained in such investigations, as well as that obtained in diligent searches for parents of abandoned infants pursuant to Family Court Act §1055, would be recorded in the child’s uniform case record. In addition, the proposal would amend sections 383-c, 384 and 384-a of the Social Services Law

to require agency officials to obtain information from a parent executing a voluntary placement or surrender instrument regarding the child's other parent, any person to whom the parent placing or surrendering the child had been married at the time of conception or birth of the child and any other person who would be entitled to notice of a proceeding to terminate parental rights. Information thus obtained would likewise be recorded in the child's uniform case record.

(D) Testimony by telephonic, audio-visual or other electronic means in child support and paternity cases

In order to bring the advantages of the recently-enacted *Uniform Interstate Family Support Act* to intra-state cases, Family Court should be authorized to take testimony by telephone, audio-visual or other electronic means in appropriate support and paternity cases. The proposal would permit the Court, upon application by a party or witness, to authorize use of such means at designated locations in three circumstances: (i) where a party or witness resides in a county not contiguous to the Family Court where the case is pending; (ii) where such party or witness is presently incarcerated, is reasonably expected to be incarcerated on the date that the hearing is scheduled and is not expected to be released within a reasonable period of time after the date that the hearing is scheduled; or (iii) where the Court determines that it would be an undue hardship for such party or witness to testify or be deposed at the Family Court where the case is pending.

(E) Clarification of the authority of Family Court Hearing Examiners

This proposal would resolve ambiguities in the statutory framework governing hearing examiners and eliminate several of the limitations on their authority that impede the expeditious, comprehensive resolution of child support and paternity proceedings. The proposal amends the Civil Practice Law and Rules and Family Court Act to clarify that Family Court hearing examiners, not simply judges, would be authorized to determine motions to quash child support subpoenas issued by local Support Collection Units, conduct judicial reviews of administrative fair hearings regarding driver's license suspensions, issue subpoenas *duces tecum* and warrants, arraign individuals arrested on warrants issued in connection with child support or paternity proceedings and adjudicate

the vast majority of paternity proceedings, contested as well as uncontested.

### *Local Courts Advisory Committee*

The Committee recommends to the Chief Administrative Judge legislative and rules changes intended to improve the practice in and operation of the New York City Civil Court, New York City Criminal Court, District Courts, City Courts and Town and Village Courts. During its initial year, the Committee recommended one legislative measure modifying small claims procedures for inclusion in the Chief Administrative Judge's legislative program. That measure was enacted into law by chapter 100 of the Laws of 1998 and substituted the term "judgment debtor" for the term "defendant" with respect to indexing small claims and commercial claims judgments, thereby affording any prevailing party the benefits of indexed judgments.

In its December 1998 report, the Committee recommended five new proposals for inclusion in the Chief Administrative Judge's legislative program:

(A) Discharge of Village Court Clerks

Section 4-400 of the Village Law should be amended to require the advice and consent of Village Court Justices upon the employment and discharge of their court clerks. While the Town Law requires the advice and consent of Town Court Justices upon the employment and discharge of their court clerks, the advice and consent of Village Court Justices is required only upon the employment of their court clerks. Because both Town and Village Court Justices are ultimately responsible for the operation of their Courts and can be disciplined or even removed from office for errors or shortcomings in court operations, there is no basis for treating the two Courts differently with regard to the employment and discharge of their respective court clerks.

(B) Warrants of arrest based on simplified informations

To correct an apparent oversight in the law, Section 120.20 of the Criminal Procedure Law ("CPL") should be amended to exclude all simplified informations from the class of accusatory instruments that can support issuance of an arrest

warrant. Currently, section 120.20 excludes only simplified traffic informations from this class of accusatory instruments. Because none of the simplified informations establish the threshold of reasonable cause that is necessary to justify issuance of a warrant of arrest, the statute should be amended to exclude all from the class of accusatory instruments that can support issuance of an arrest warrant.

(C) Adjournments in contemplation of dismissal in cases involving marihuana

Section 170.56 of the CPL should be amended to require a criminal court to release a defendant charged with certain offenses involving marihuana on the defendant's own recognizance upon ordering a case adjourned in contemplation of dismissal. Section 170.55 of the CPL already imposes such a requirement with respect to adjournments in contemplation of dismissal granted with respect to all other offenses. In the absence of this requirement, criminal courts must continue monitoring a case involving marihuana offenses. For example, the court must retain posted bail during the period of adjournment and, upon expiration of such period, expend resources trying to locate the defendant or another party to return the exonerated bail.

(D) Grounds for vacating default judgments entered pursuant to Vehicle and Traffic Law Section 1806-a

Section 1806-a of the Vehicle and Traffic Law should be amended to authorize grounds and procedures for vacating a default judgment entered against a defendant charged with a traffic infraction. This amendment would authorize two grounds for vacating: excusable default and failure to provide proper notice.

(E) Grounds for vacating a default judgment against a corporate defendant for failure to appear

Section 440.10 of the CPL should be amended to authorize a court to entertain an application to vacate a plea of guilty and sentence imposed when a corporate defendant fails to appear. Although section 440.10 of the CPL sets forth grounds for a motion to vacate a judgment in a criminal case, none of the enumerated grounds specifically addresses a default judgment entered against a corporate defendant. Corporations, unlike all other criminal defendants, are subject to default judgments in criminal cases upon failure

to appear. Often, such failure to appear occurs simply because a corporation did not receive a timely notice to appear. This amendment would allow a corporate defendant to make a motion to vacate a default judgment entered under such circumstances.

### *Surrogate's Court Advisory Committee*

The Committee annually recommends to the Chief Administrator proposals relating to the Estates, Powers and Trusts Law (EPTL), Surrogate's Court Procedure Act (SCPA), and other legal issues involving practice and procedure affecting the Surrogate's Courts. As part of its work in 1998, the Committee reviewed and proposed forms for use in administration d.b.n and c.t.a. proceedings, which were approved for use by the Chief Administrative Judge.

During the 1998 legislative session, two of the Committee's proposed bills were enacted by the Legislature:

- Section 1310 of the SCPA (Payment of certain debts without administration) was amended to provide for an expanded list of assets available to be distributed, without administration, to the family of a decedent for purposes of funeral expenses or living expenses following a death. (L. 1998, c. 69)

- A new section 7-5.7 of the EPTL (Multiple beneficiaries) was added to address the problem of how to distribute the proceeds of a deceased depositor's "Totten Trust" bank account established for multiple beneficiaries where not all beneficiaries survive the depositor. The new section makes clear that, unless otherwise provided for by the depositor, the surviving beneficiaries share equally all of the trust account proceeds. (L. 1998, c. 518)

In its December 1998 Report, the Committee recommended the following new measures for consideration by the Legislature:

(A) Fiduciaries' power to amend trusts for specific tax purposes

A new section 11-1.11 of the EPTL should be enacted to grant a limited power to trustees to amend administrative provisions of a trust that have no significant dispositive effect in order to obtain certain beneficial tax consequences. This

measure would provide that, unless otherwise prohibited by the terms of the trust instrument, a trustee would be granted a limited power to amend administrative provisions of the trust to qualify it for purposes of the charitable deduction or the marital deduction for a non-citizen spouse, or to qualify it as a qualified personal residence trust. This proposal would allow fiduciaries to promptly obtain tax benefits without the need for judicial reformations that are routinely granted.

(B) Allocation of the cost of pre-objection attesting witness examinations

Sections 1404 (Witnesses to be examined; proof required) and 2302 (Award of costs and allowances) of the SCPA should be amended to provide for the allocation of expenses of attesting witnesses in probate proceedings involving pre-objection witness examinations. This proposal would address a lack of uniformity among the Surrogate's Courts regarding the allocation of costs in pre-objection witness examinations. In addition, this proposal would clarify the meaning of the statutory term "the person who prepared the will" so as to identify persons subject to examination, and would clarify a statutory ambiguity regarding the payment of counsel fees for an executor named in a will that is not admitted to probate.

(C) Confirming appointments of standby guardians made in other jurisdictions

This proposal would amend section 1726 of the SCPA (Standby guardians) to promote the appointment of a standby guardian in accordance with the needs and interest of the parent or guardian. The measure would establish a savings provision setting forth the circumstances under which a designation of a standby guardian would be deemed effective, even if made in another state, and would resolve the problem of conflicting designations by recommending that the most recent designation be given effect. In addition, it would make a series of technical amendments regarding the events which may trigger the appointment of a standby guardian and the authority of a standby guardian to act.

## Measures Enacted into Law in 1998

**Chapter 58** (Senate bill 6098-B/Assembly bill 9098-C). Amends numerous Consolidated and Unconsolidated Laws in relation to State programs

and practices; and, among its provisions, includes amendment of section 39-b of the Judiciary Law to adjust the phase-in mechanism created by chapter 686 of the Laws of 1996 — legislation providing for State assumption of fiscal responsibility for the cleaning and minor repair of court facilities. Eff. 4/1/98.

**Chapter 69** (Assembly bill 9762). Amends section 1310 of the Surrogate's Court Procedure Act to broaden the definition of "debt" in subparagraphs (i) and (viii) of subdivision (1)(a) of that section in order to facilitate the payment of limited assets to a decedent's family without administration. Eff. 5/21/98 (and applicable to the estate of any person dying before or after such date).

**Chapter 70** (Assembly bill 10753). Implements 1995-99 collective bargaining agreements between the Unified Court System and: (1) the Ninth Judicial District Court Employees Association, and (2) the Association of Supreme Court Reporters within the City of New York. Eff. retroactively to 4/1/95.

**Chapter 71** (Assembly bill 10754). Implements a 1995-99 collective bargaining agreement between the Unified Court System and the New York State Court Clerks Association. Eff. retroactively to 4/1/95.

**Chapter 100** (Assembly bill 9992). Amends section 1811 of each of the Uniform Court Acts and section 1811-A of the New York City Civil Court Act, the Uniform District Court Act and the Uniform City Court Act to require the affected courts to index all wholly or partially unsatisfied small claims judgments and commercial claims part judgments alphabetically and chronologically under the name of the judgment debtor. Eff. 7/9/98.

**Chapter 159** (Senate bill 3781). Amends section 390.30 of the Criminal Procedure Law to authorize a criminal court to adjourn a sentencing and place defendant on interim supervision by a probation agency. Eff. 10/5/98.

**Chapter 177** (Senate bill 6704-A). Amends section 182.20 of the Criminal Procedure Law to add Cattaraugus County to the list of counties in which electronic court appearance may be

sanctioned by the Chief Administrative Judge. Eff. 7/7/98.

**Chapter 185** (Senate bill 6418). Amends section 90(8) of the Judiciary Law to eliminate an erroneous cross-reference in the attorney disciplinary statute to the Constitution's grant of jurisdictional authority to the Court of Appeals. Eff. 7/7/98.

**Chapter 186** (Senate bill 6419). Amends section 217(2) of the Family Court Act to repeal the requirement that original copies of all spousal maintenance, child custody and visitation orders issued by Family Court be filed with the County Clerk as well as the Clerk of Family Court. Eff. 7/7/98.

**Chapter 202** (Senate bill 6812). Amends section 311(b) of the CPLR to eliminate as a precondition to judicially-ordered service upon a corporation a finding that compliance with requirements as to filing proof of service would be impracticable, thereby harmonizing the statute with 1997 legislation eliminating the requirement that proof of service be filed. Eff. 7/7/98.

**Chapter 213** (Senate bill 7468-A). Amends section 54-j(1-a)(a) of the State Finance Law and section 39-b of the Judiciary Law to: (1) authorize current year reimbursement of State aid to a local government that enters into a lease for the provision of Appellate Division facilities; and (2) modify 1996 legislation providing for a State takeover of the cleaning and minor repair of court facilities to insure that local governments do not lose State aid on account of that legislation. Eff. 7/7/98.

**Chapter 445** (Senate bill 6583). Amends section 521 of the Judiciary Law to restore the program by which jurors may voluntarily forego the *per diem* fees to which they are entitled for service and direct that the amount of those fees be deposited in a special State fund to underwrite the cost of adding minor amenities in jury facilities. Eff. 7/22/98 (and applicable to all jurors serving on or after February 15, 1998).

**Chapter 518** (Assembly bill 9763). Amends section 7-5.7 of the Estates, Powers and Trusts Law to clarify that, in the absence of instructions

otherwise, where a depositor establishes a Totten Trust in favor of two or more beneficiaries and one of those beneficiaries predeceases the depositor, all of the proceeds are to pass entirely to the surviving beneficiaries upon the depositor's death. Eff. 7/29/98 (and applicable to the estates of depositors dying on or after such effective date).

**Chapter 519** (Assembly bill 9993). Amends section 524 of the Judiciary Law to provide an extended period of disqualification from future jury service for all jurors who have provided jury service for a period of eleven or more days; and to authorize a Commissioner of Jurors to extend beyond four years the disqualification period for all jurors in the county if the county's needs permit such an extension. Eff. 8/1/98.

**Chapter 520** (Assembly bill 9994). Amends section 501 and 509(a) of the Judiciary Law, and repeals section 514, to clarify ambiguities in the jury law as it applies to grand jurors. Eff. 7/29/98.

**Chapter 531** (Assembly bill 10990). Amends section 113 of the Domestic Relations Law to permit agency adoption cases, whether or not expedited, to be brought in the county in which the termination of parental rights proceedings or surrender proceedings took place. Eff. 10/27/98.

**Chapter 597** (Senate bill 7859-A). Amends the Family Court Act, the Domestic Relations Law and the Criminal Procedure Law to delineate federal requirements for state courts to honor and enforce out-of-state orders of protection; to clarify the applicability of mandatory arrest, menacing and criminal contempt provisions to cases involving out-of-state orders; and to authorize entry of out-of-state orders onto the statewide automated registry of orders of protection and family offense warrants. Eff. 12/22/98.

**Chapter 605** (Senate 6704-A). Amends chapter 689 of the Laws of 1993 and the Criminal Procedure Law: (1) to extend, until December 31, 2001, statutory authorization for use of audio-visual technology to enable appearances in criminal court proceedings by certain participants who are not physically present in the courtroom; and (2) to add Albany and Richmond Counties to the list of venues in which such electronic court appearances may be permitted. Eff. 9/30/98.

## Measures Introduced in the 1998 Legislative Session and Not Enacted Into Law

**Senate 6452.** This measure would amend section 801 of the Surrogate's Court Procedure Act, which sets forth bond requirements for State fiduciaries, by raising the amount for which no bond is required from \$10,000 to \$20,000.

**Senate 7180.** This measure would amend section 117 of the Domestic Relations Law and section 2-1.3(a)(1) of the Estates, Powers and Trusts Law, to clarify that an adoptive child is not to be penalized by losing either inheritance rights from the child's natural parents under EPTL 4-1.1 or the right to receive a lifetime or testamentary disposition from the child's natural family as a member of a class under EPTL 2-1.3 where a relationship is maintained with the child's natural family after entry of the adoption order as a result of continuing to reside with the natural parent.

**Senate 6810/Assembly 11015.** This measure would amend section 270.35(1) of the Criminal Procedure Law to make clear that when the foreperson of a jury is discharged from service during the course of a trial, the new foreperson shall be the juror whose name was second drawn and called during jury selection, and not the alternate juror who replaces the discharged foreperson.

**Senate 6805.** This measure would amend section 730.30(2) of the Criminal Procedure Law to provide that, when examination of a defendant is ordered under Article 730 and each psychiatric examiner concludes that the defendant is not an incapacitated person, the court may, but is not required to, conduct a hearing on the defendant's mental capacity.

**Senate 6806/Assembly 11016.** This measure would add a new section 210.47 to the Criminal Procedure Law authorizing a superior court to adjourn an action in contemplation of dismissal where the sole remaining count or counts of an indictment charge only a misdemeanor offense.

**Senate 6809/Assembly 11018.** This measure would authorize the judge in a criminal case to provide the jury with a list of the witnesses from whom the jury has heard.

**Senate 7516.** This measure would (1) amend the CPLR and the Family Court Act to clarify that Family Court hearing examiners, not just judges, would be authorized to determine motions to quash child support subpoenas issued by local Support Collection Units, to conduct judicial reviews of administrative fair hearings regarding driver's license suspensions, to issue subpoenas *duces tecum* and warrants and to arraign individuals arrested on warrants issued in connection with child support or paternity proceedings; (2) amend the CPLR to provide employers and income payors with notice and an opportunity to be heard prior to imposition of sanctions for non-compliance with income deduction orders; (3) provide needed clarification with respect to challenges to the "cost of living adjustments"; and (4) clarify the procedure for challenging an administrative directive to submit to a genetic test in cases in which a paternity petition has not yet been filed.

**Senate 7048/Assembly 9943.** This measure would amend sections 376, 377 and 378-a of the Social Services Law to authorize criminal history and child abuse and maltreatment screening of prospective foster parents, including kinship foster parents, as well as prospective guardians and individuals accepting direct placements of children.

**Senate 7182.** This measure would codify the Court of Appeals' decision in *Rose v. Moody* to permit support obligors to rebut the presumption in favor of a minimum child support of \$25 per month.

**Senate 6908/Assembly 9944.** This measure would streamline and consolidate procedures for review of children freed for adoption, including (i) provision that the same foster care review rules apply regardless of how a child came into foster care and of the manner in which the child was freed for adoption; and (ii) provision for prompt review of all children freed for adoption.

**Senate 6907/Assembly 9942.** This measure would eliminate geographic disparities and enhance flexibility in the provisions regulating changes of venue and transfers of juvenile delinquency cases between judges.

**Senate 6803/Assembly 11022.** This measure would amend sections 2305(b), 3120 and 3122 of the CPLR and add a new section 3122-a to

simplify methods for obtaining discovery of documents, particularly routine business records, from non-party witnesses and procuring their admission into evidence.

**Senate 7171/Assembly 11017.** This measure would amend CPLR 2214(d) to require a party seeking an order to show cause clearly to specify why he or she is proceeding via an order to show cause, and not by another, less urgent, method.

**Senate 6813/Assembly 11019.** This measure would (1) add a new rule 3115(e) to the CPLR to establish reasonable and clear limits on the practice of directing a witness not to answer a question; (2) amend rule 3115 of the CPLR to prohibit an attorney from interrupting a deposition to communicate with the deponent except under narrow circumstances; and (3) make several technical changes to rules 3113 and 3115.

**Senate 6804.** This measure would amend CPLR 4517 to permit use at trial of the prior trial testimony of: (1) a party, (2) any person who was a party when the testimony was given, or (3) any person who at the time the testimony was given was an officer, director, member, employee or managing or authorized agent of a party.

**Assembly 10027.** This measure would amend CPLR 325(d) to require Supreme Court to remove civil cases in which the *ad damnum* calls for damages of \$50,000 or less to appropriate lower civil courts for pre-trial and trial proceedings.

**Senate 7457-A/Assembly 10972-A.** This measure would authorize conduct of experiments in the filing and exchange of legal documents by means of telefax machines and by use of electronic mail.

**Senate 6808.** This measure would add a new section 4547 to the CPLR to establish a procedure for the pre-trial determination of a variety of evidentiary issues in civil actions in which there has been a demand for a jury trial.

**Senate 6775/Assembly 11020.** This measure would amend sections 10.20 and 10.30 of the Criminal Procedure Law and provisions of Articles 195 and 200 thereof to authorize the filing of a superior court information in New York City's local

criminal court (*i.e.*, the NYC Criminal Court) and permit that court to accept a plea to that instrument (and sentence defendant thereon).

**Senate 6807.** This measure would amend section 310.10 of the Criminal Procedure Law to delete the requirement that a sequestered jury in a criminal action be "continuously" kept together during deliberations and to prescribe circumstances and conditions under which a juror may be separated from the others.

**Senate 6776.** This measure would amend CPLR 4107 to authorize the Chief Administrative Judge to deploy Judicial Hearing Officers to preside over the *voir dire* phase of a civil trial.

**Senate 6852.** This measure would amend section 87(2) of the Public Officers Law to exempt law enforcement records relating to pending criminal actions and proceedings from disclosure under New York's Freedom of Information Law.

**Assembly 6486.** This measure would amend section 16(h) of Article VI of the Constitution to expand the term of office of judges of the District Court from 6 to 10 years.

**Senate 3432/Assembly 7035.** This measure would amend section 35(3) of the Judiciary Law and section 722-b of the County Law to increase the hourly rates and maximum amounts for counsel assigned to indigent persons, and make rates the same for hours reasonably spent in court or out, and make rates the same for all types of crimes and for appeals.

**Senate 4497/Assembly 7843.** This measure would amend section 5519(a) of the Civil Practice Law and Rules to exclude judgments and orders in matrimonial actions that award maintenance or child support from provisions authorizing an automatic stay upon filing of an appeal.

**Senate 3475.** This measure would amend sections 237 and 238 of the Domestic Relations Law to require the court in a matrimonial case (or proceeding to enforce a judgment therein) involving parties with greatly unequal financial resources to order the monied party to pay counsel fees for the non-monied party during the course of the case so as to enable that party to carry on or defend it.

**Senate 5326.** This measure would amend section 60.43 of the Criminal Procedure Law to provide that the same protections against the admissibility of evidence of a victim's sexual conduct in a non-sex offense criminal case apply also to a witness in such a case.

**Senate 3771/Assembly 7841.** This measure would amend section 270.15(1)(a) of the Criminal Procedure Law expressly to require trial courts to screen the entire juror array before prospective jurors are subject to individual *voir dire*.

**Senate 5192-A.** This measure would amend section 35 of the Judiciary Law and sections 722-b and 722-c of the County Law to provide that a claim for compensation determined by a trial court shall be subject to review by the appellate court with jurisdiction over the action in which the claim was made.

**Senate 3453.** This measure would amend section 90 of the Judiciary Law to provide that where an Appellate Division censures, suspends or removes an attorney from the practice of law, or accepts his or her resignation from office, the court shall order the attorney to pay the expenses of any disciplinary proceedings and certain of the attorney grievance committee's costs in prosecuting the charges therein.

**Assembly 6483.** This measure would amend section 26 of Article VI of the State Constitution to allow judges of the Surrogate's Court outside the city of New York in counties of less than 300,000 people to be temporarily assigned to the Surrogate's Court in any such county.

**Senate 4557/Assembly 7074.** This measure would amend section 4110-b of the Civil Practice Law and Rules to authorize the trial judge to provide a deliberating jury with a copy of its instructions.

**Senate 5170/Assembly 7075.** This measure would amend the CPLR and the Criminal Procedure Law to clarify in statute that jurors, in both civil and criminal cases, shall have the opportunity to take notes during the evidentiary phase of trial court proceedings.

**Assembly 7872-A.** This measure would repeal subdivision 1-a of section 270.15 of the Criminal Procedure Law and add a new section 270.17,

permitting a criminal court to issue an order precluding disclosure of jurors' and prospective jurors' names and addresses upon a showing by the People that such an order is necessary to prevent their physical injury or harassment or efforts at bribery or jury tampering.

**Senate 4538/Assembly 7076.** This measure would amend the CPLR: (1) to add a statutory direction that a court, at the outset of a civil jury trial, must provide preliminary instructions to the jury concerning its duties, its conduct, the order of proceedings and the elementary legal principles that will govern procedures at the trial, and (2) to authorize a trial court to direct counsel, during the jury trial of a civil case, but before the close of the evidence, to provide summations on one or more issues that have been raised.

**Senate 4226-A.** This measure would amend the Constitution to consolidate New York's nine major trial courts into two courts: (1) a Supreme Court, comprised of commercial, criminal, family, public claims and probate divisions (plus, for the balance of the caseload, any other divisions the Chief Administrative Judge determines to establish), and (2) a District Court, with a single branch in New York City (this to be subdivided into civil, criminal and housing divisions) and multiple branches outside the City; and eliminate the long-standing constitutional limit whereby the number of Justices of the Supreme Court in any Judicial District may not exceed a ratio of one for every 50,000 people in that District.

**Assembly 7079.** This measure would give peace officer status to local personnel designated to furnish security services for the courts, provided such personnel perform no other function or duty; and would require that the peace officer training requirements and qualifications to which such personnel are subject shall first be approved by the Chief Administrator of the Courts.

**Senate 5214/Assembly 8055.** This measure would amend the CPLR, the Criminal Procedure Law, the General Municipal Law, the Judiciary Law, the Real Property Tax Law, the Retirement and Social Security Law and the Vehicle and Traffic Law to alter provisions applicable to judicial hearing officers to permit former judges to act as quasi-judicial officers of the court and serve on a limited basis.

**Senate 5430.** This measure would amend the CPLR to authorize use of Judicial Hearing Officers to hear and determine any issue in an action so long as no parties' constitutional rights (e.g., right to jury trial) would thereby be compromised.

**Senate 3454/Assembly 7041.** This measure would amend section 110(g) of the New York City Civil Court Act to extend the terms of office of the members of the Advisory Council for the Housing Part by one year, to a term of 4 years; and provide for the staggering of the expiration dates of the terms of the members of the Advisory Council.

**Senate 5162-B.** This measure would amend section 2-1.11(c) of the Estates, Powers and Trusts Law, which regulates the renunciation of property interests created under a will or trust for the benefit of infants, incompetents, conservatees and deceased persons, and section 5-1502G(3) of the General Obligations Law, which regulates the language and effect of the New York short form power of attorney with respect to an agent entering into "estate transactions," to make the sections consistent.

**Senate 4264.** This measure would amend the Judiciary Law to provide that formal complaints and hearings of the State Commission on Judicial Conduct shall no longer be confidential and that transcripts of such hearings shall be available to the public.

**Assembly 7039.** This measure would repeal provisions of section 516 of the Family Court Act requiring court approval for an agreement between mother and putative father for support and education of an out-of-wedlock child.

**Senate 3455.** This measure would amend section 249 of the Family Court Act to mandate the assignment of a law guardian for the child in every foster care review proceeding brought pursuant to sections 358-a and 392 of the Social Services Law.

**Senate 4490/Assembly 7839.** This measure would amend section 1204 of the CPLR to provide compensation from state or county funds for guardians *ad litem* appointed for children and adults in civil proceedings.

**Senate 3424/Assembly 6327.** This measure would amend provisions of the Family Court Act to add flexibility to existing dispositional alternatives available in PINS proceedings.

**Senate 3440.** This measure would amend section 221-a of the Executive Law to make the knowing or willful authorized disclosure of information stored in the statewide computer system of orders of protection and warrants a Class A misdemeanor, and authorize the imposition of a civil penalty, not to exceed \$5,000 for any willful, knowing or grossly negligent disclosure.

**Senate 5112/Assembly 7636.** This measure would amend section 315.2 of the Family Court Act to provide that undue delay in the filing of a juvenile delinquency petition is a permissible ground for a motion to dismiss in furtherance of justice.

**Senate 3757.** This measure would amend section 235 of the Domestic Relations Law to allow access by prosecutors to confidential records in matrimonial actions for purposes of pending criminal investigations.

**Senate 3618.** This measure would amend sections 1012, 1046 and 1051 of the Family Court Act and section 384-b of the Social Services Law to authorize Family Court, at the fact-finding stage of a child abuse proceeding, to render additional findings of either severe or repeated child abuse, if there is "clear and convincing" evidence in support thereof; render a criminal conviction involving homicide or another violent felony offense admissible in termination of parental rights proceedings; and delete the anomalous requirement of competent evidence in dispositional hearings in termination of parental rights proceedings based upon severe or repeated child abuse.

**Senate 3612.** This measure would amend section 221-a of the Executive Law and sections 1029 and 1056 of the Family Court Act to provide for inclusion in the statewide registry of orders of protection and family offense warrants, orders and warrants issued in abuse and neglect proceedings.

**Senate 3601/Assembly 7842.** This measure would amend section 308 of the CPLR to add a new undesignated paragraph at its end to provide

that if both acts of service pursuant to subdivision 2, or subdivision 4 when applicable, have been attempted and only one of them is validly effected, a showing by clear and convincing evidence that the defendant actually received process shall be sufficient to sustain the service.

**Senate 2786-A/Assembly 7037.** This measure would amend the General Obligations Law regarding liability in tort actions involving multiple tortfeasors where one of them settles.

**Senate 5169/Assembly 7838.** This measure would amend CPLR 1603 and 3018 to require that a defendant relying on provisions limiting liability of persons jointly liable raise such issue as an affirmative defense.

**Assembly 7875.** This measure would amend CPLR 4517 to permit use at trial of the prior trial testimony of: (1) a party, (2) any person who was a party when the testimony was given, or (3) any person who at the time the testimony was given was an officer, director, member, employee, or managing or authorized agent of a party.

**Senate 3615/Assembly 7840.** This measure would amend CPLR 217(1) to make it clear when the period of limitations commences to run, within which an aggrieved party must bring a proceeding to review a determination made by, or a refusal to act by, a public agency, body or officer.

**Senate 3616-A/Assembly 7874.** This measure would amend the CPLR to provide for the service of a subpoena *duces tecum* on the State or a municipal corporation at least five days in advance unless a court orders otherwise in most cases.

**Assembly 7032.** This measure would amend CPLR 6313(a) to regularize the giving of notification to other parties upon application for a temporary restraining order.

**Senate 3614/Assembly 7853.** This measure would amend CPLR 2106, which now permits certain professional persons to substitute an affirmation for an affidavit in judicial proceedings, to replace the use of an affidavit for all purposes in a civil action by the use of an affirmation; and add a new section 210.46 to the Penal Law to create a class E felony for making a false statement contained in an affirmation.

**Senate 3602.** This measure would amend CPLR 3214 to provide that service of a notice of motion for summary judgment shall stay only disclosures noticed after the date of service of such motion and that such disclosure shall be stayed for a period of 120 days from the date of service unless the court orders otherwise.

**Senate 3599.** This measure would amend CPLR 5221 to provide that where a judgment sought to be enforced was entered in the New York City Civil Court, enforcement proceedings shall only be commenced in the county where respondent lives, works, or has a place for the regular transaction of business.

**Senate 3613.** This measure would amend CPLR 5519(a) to provide that the automatic stay granted municipal corporations and municipalities when appealing from a judgment or order shall be limited to staying enforcement of the order or judgment that was the subject of appeal.

**Senate 3617-B.** This measure would amend the CPLR to clarify procedure pertaining to motions for leave to reargue or renew a prior motion.

**Senate 3607.** This measure would amend CPLR 4518 to permit introduction into evidence as a business record of data electronically used or stored as a business record in any tangible form that accurately represents the information.

**Senate 4532.** This measure would amend CPLR 3213 to permit wider use of the motion for summary judgment in lieu of complaint in five selected commercial causes of action which warrant expedited treatment, where the claim is based on a writing and is for a debt in an amount certain or which can be made certain; and permit a motion for summary judgment in lieu of complaint when there has been a breach of a settlement agreement and the terms of the agreement state that a breach will be tantamount to an entry of judgment on behalf of the party injured by the breach.

**Senate 3361/Assembly 7073.** This measure would amend the Family Court Act, the Domestic Relations Law and the Social Services Law to allow a Family Court hearing examiner to conduct a review of a collection unit's determination with regard to suspension of a driver's license for

non-payment of child support; provide that reviews shall be heard in the court that issued the underlying support order; and allow family court hearing examiners to issue warrants and make arraignments.

**Senate 3442-A/Assembly 10422-A.** This measure would amend sections 240 and 252 of the Domestic Relations Law to permit a court in matrimonial proceedings to issue a temporary order of protection for a party in need of immediate relief and an order requiring the surrender of firearms licenses; and to direct payment of restitution in an amount not to exceed ten thousand dollars as a condition of an order of protection.

**Senate 4830/Assembly 6253.** This measure would amend section 422 of the Social Services Law to authorize disclosure of sealed, unfounded reports of child abuse to subsequent investigators when the investigation involves the same perpetrator of abuse; authorize disclosure of such reports to multi-disciplinary teams which are conducting a child abuse investigation; authorize admission of such reports in a judicial or administrative proceeding where necessary for due process or with consent of the subject of the report; and prohibit destruction of such reports until 10 years after the 18th birthday of the youngest child named in the report.

**Assembly 6326.** This measure would make the maximum age for female persons in need of supervision ("PINS") 16 years of age, the same age limit which applies to males, and establish a judicial procedure for admissions in persons in PINS cases if respondent waives his or her right to a fact-finding hearing.

**Assembly 6446.** This measure would amend provisions of the Domestic Relations Law, the Family Court Act and the Social Services Law to clarify and add uniformity to statutes establishing the triennial review and adjustment of child support process.

**Senate 5175.** This measure would add a new section 657 to the Family Court Act and a new section 242 to the Domestic Relations Law setting forth the powers of the courts and procedures to be followed in the event of violations of custody and visitation orders and related orders of protection and temporary orders of protection.

**Senate 5435-B/Assembly 8651-B.** This measure would amend sections 315.3 and 360.2 of the Family Court Act to codify the Court of Appeals' decision in *Matter of Edwin L.* with respect to procedures to be observed and the applicable burden of proof to be met before a delinquency case in which an ACD has been issued is restored to the court's calendar for failure to observe conditions of the ACD; and the Appellate Division's decision in *Matter of Donald MM* to clarify that the period of a conditional discharge in a delinquency case should be tolled during the pendency of a petition charging its violation.

**Senate 5163/Assembly 7861.** This measure would clarify that family offenses committed by persons younger than age 16 shall be treated as juvenile delinquency or PINS proceedings under Article 3 or 7 of the Family Court Act rather than as family offenses under Article 8 of such Act.

**Senate 3788.** This measure would amend section 30.30 of the Criminal Procedure Law to provide criminal courts with greater authority to fix and enforce schedules for hearings and trials.

**Senate 3786.** This measure would amend section 30.30 of the Criminal Procedure Law to exclude certain serious crimes from the 90-day ready for trial requirement imposed on the prosecution and extends such time limit to 120 days for second violent felony offenders.

**Senate 5165/Assembly 7846.** This measure would amend section 210.20 of the Criminal Procedure Law to clarify that when there is an order reducing an indictment, the indictment may be amended on its face; and provide that if the prosecution fails to exercise one of its options within 30 days of the court's order, the order takes effect and the prosecution has an affirmative obligation to amend the indictment, file a reduced indictment or dismiss the indictment.

**Senate 3782/Assembly 7859.** This measure would amend section 220.10 of the Criminal Procedure Law to permit a terminally-ill defendant to plead guilty to any lesser included offense of the offense charged.

**Senate 3787-A/Assembly 7849-A.** This measure would add a new section 190.51 to the Criminal Procedure Law to address the problem arising when a defendant in custody requests an

opportunity to testify before the grand jury but is not produced for such testimony and the CPL 180.80 time period is about to elapse.

**Senate 3790.** This measure would add a new section 60.27 to the Criminal Procedure Law to allow, in certain circumscribed situations, a third party to testify to a witness's pre-trial identification of the defendant when the witness is unwilling to identify the defendant in court because of fear.

**Senate 5172/Assembly 7856.** This measure would amend sections 460.50 and 460.60 of the Criminal Procedure Law to permit a judge who has received an application for leave to appeal to the Court of Appeals to issue an order staying execution of the judgment or sentence being appealed regardless of the nature of the sentence that was imposed.

**Senate 5171/Assembly 7866.** This measure would add a new section 180.85 to the Criminal Procedure Law to provide that, after arraigning defendant upon a felony complaint, the local or superior court before which the action is pending, on motion of either party, may dismiss the felony complaint on the ground that defendant has been denied the right to a speedy trial, pursuant to section 30.30 of the Criminal Procedure Law.

**Senate 3781/Assembly 7867.** This measure would add a new subdivision 6 to section 390.30 of the Criminal Procedure Law to authorize a court to adjourn a sentencing and place a defendant on interim supervision.

**Senate 3780/Assembly 7078.** This measure would amend section 200.70 of the Criminal Procedure Law to authorize a trial court, upon timely application by the People, to order the amendment of an indictment to add an offense that was omitted from the indictment because of a clerical error.

**Senate 3792/Assembly 7845.** This measure would amend sections 70.04 and 70.06 of the Penal Law to provide that the 10-year tolling period for predicate felony purposes may be tolled for an additional five years for any period of time the defendant was at-large by virtue of an escape and that, regardless of whether there has been an escape, the tolling period shall not exceed 10 years.

**Senate 3767/Assembly 7847.** This measure would amend section 450.20 of the Criminal Procedure Law to provide that the People may appeal as of right from an order prohibiting the introduction of certain evidence or the calling of certain witnesses that was entered before trial pursuant to section 240.70 of the Criminal Procedure Law; and amend section 450.50 of the Criminal Procedure Law to permit the People to take an appeal from a preclusion order, if the People file a statement asserting that they are unable to prosecute without the evidence precluded, and to provide that the taking of an appeal from a preclusion order constitutes a bar to prosecution unless or until such order is reversed or vacated.

**Senate 3784/Assembly 7848.** This measure would amend section 440.10(1) of the Criminal Procedure Law to authorize a prosecutor to move to vacate a judgment on the grounds specified in that section.

**Senate 3789-A/Assembly 7857-A.** This measure would add a new subdivision seven to section 530.70 of the Criminal Procedure Law to provide that a bench warrant issued by the New York City Criminal Court, in a case in which the defendant is held for the action of the grand jury or in which the Criminal Court is divested of jurisdiction by the filing of an indictment in the Supreme Court, shall remain effective in most cases until the Supreme Court issues its own bench warrant.

**Senate 5173/Assembly 7860.** This measure would amend paragraphs (c) and (d) of section 30.30(5) of the Criminal Procedure Law to provide that, when a criminal action is commenced by the filing of a felony complaint that is replaced by an indictment in which the highest offense charged is a misdemeanor, the period of time within which the prosecution must be ready for trial is the statutory period applicable to misdemeanor offenses, not the six-month period applicable to felony offenses.

**Senate 3785-A/Assembly 7852-A.** This measure would amend section 210.20(1)(c) of the Criminal Procedure Law to provide that an order dismissing an indictment for failure to notify defendant of the right to testify before the grand jury shall be conditioned upon defendant's

testifying before the grand jury to which the charges are to be submitted or resubmitted.

**Senate 3816/Assembly 7855.** This measure would amend section 530.40(3) of the Criminal Procedure Law to allow a superior court to order bail or recognizance for a defendant who has been convicted of a class A-II felony if the defendant is providing, or has agreed to provide, material assistance pursuant to section 65.00(1)(b) of the Penal Law.

**Senate 3798/Assembly 7850.** This measure would add a new paragraph to section 210.40(1) of the Criminal Procedure Law to require that a court, in determining whether to grant a motion to dismiss an indictment in the interest of justice, consider whether there has been unreasonable delay due to repeated and unjustifiable failure by the prosecution to proceed with the action after both sides have answered ready and the court has fixed a date for a hearing or trial.

**Senate 3854/Assembly 7863.** This measure would amend provisions of the Criminal Procedure Law requiring that pre-trial motions be made in writing to permit oral pre-trial motions whenever the defendant and the prosecutor consent and the court agrees.

**Senate 3853/Assembly 7858.** This measure would add a new section 60.41 to the Criminal Procedure Law to provide a trial court with discretion, in certain circumstances, to permit the admission of evidence of a person's prior violent conduct.

**Senate 3758/Assembly 7864.** This measure would amend the speedy trial statute and other provisions of the Criminal Procedure Law to accord criminal courts greater authority to fix and enforce expeditious schedules for hearings and trials, and to minimize opportunities for delay by requiring earlier disclosure of *Rosario* material.

**Assembly 7873.** This measure would amend section 410.91 of the Criminal Procedure Law to eliminate the requirement that the prosecution consent before a court may sentence a defendant to parole supervision.

**Senate 3772/Assembly 7862.** This measure would amend section 300.50(2) of the Criminal

Procedure Law to provide that a request to submit a lesser-included offense to the jury be made prior to the summations.

**Senate 3773/Assembly 7869.** This measure would revise several provisions of the Criminal Procedure Law to establish a procedure for amending an indictment, prior to retrial, to charge lesser-included offenses of counts that have been disposed of under such circumstances as to preclude defendant's retrial thereon.

**Senate 4066/Assembly 6447.** This measure would add a new Article 740 to the Criminal Procedure Law to permit a superior court, upon defendant's application and with the consent of the prosecutor, to order that prosecution of certain felony cases be deferred for a period of up to two years. If, by the end of the deferral period, the case has not been restored to the calendar and resumed due to defendant's violation of a condition of the deferral, the case would be dismissed in furtherance of justice.

**Senate 5226.** This measure would amend section 60.43 of the Criminal Procedure Law to provide that the same protections against the admissibility of evidence of a victim's sexual conduct in a non-sex offense criminal case apply also to a witness in such a case.

**Senate 3846/Assembly 7865.** This measure would amend Article 240 and other sections of the Criminal Procedure Law to effect broad reform of discovery in criminal proceedings.

**Senate 3783-A/Assembly 7868-A.** This measure would amend section 270.25 of the Criminal Procedure Law to authorize a limited and experimental reduction in the numbers of peremptory challenges available in criminal cases.

**Assembly 7884.** This measure would amend CPLR Article 41 and Articles 270 and 340 of the Criminal Procedure Law to revise the current procedure for selecting trial jurors in civil and criminal cases, respectively, by postponing the differentiation of "trial" and "alternate" jurors until after the court's charge to the jury.

**Assembly 7080.** This measure would amend the CPLR to provide a procedure by which jurors in a civil trial could pose questions to a witness.

**Assembly 8054.** This measure would amend section 11-1.5 of the Estates, Powers and Trusts Law and section 2102 of the Surrogate's Court Procedure Act to provide that interest is payable on pecuniary dispositions not in trust at the six-month US treasury bill rate in effect at time of decedent's death, payable from seven months after the issuance of letters, unless the will provides otherwise, without the need for the legatee to bring a proceeding to compel payment thereof.

In addition to the foregoing, the Chief Administrative Judge sent to the Legislature 15 proposals that were not introduced, including: a measure to amend the Constitution, in relation to proposing amendments to article VI of the Constitution, in relation to establishing for the City of New York a court of city-wide jurisdiction over actions and proceedings in relation to housing; a measure to amend the CPLR, in relation to judicial hearing officers; a measure to amend the CPLR, in relation to offers to compromise and in relation to computation of interest in personal injury actions [prejudgment interest]; a measure to amend the Criminal Procedure Law, in relation to verdict sheets; a measure to amend the Domestic Relations Law, in relation to the rights of biological fathers; a measure to amend the Domestic Relations Law, the Family Court Act and the Surrogate's Court Procedure Act, in relation to reports and records in adoption, guardianship, custody and visitation cases; a measure to amend the Family Court Act, the Criminal Procedure Law and the Executive Law, in relation to pre-dispositional and pre-sentence investigations in family offense cases; a measure to amend the Family Court Act and the Criminal Procedure Law, in relation to violations of orders of protection; a measure to amend the Family Court Act and the Executive Law, in relation to dispositions in juvenile delinquency cases; a measure to amend the Judiciary Law in relation to audio-visual coverage of court proceedings; a measure to amend the Judiciary Law, in relation to appointment of commissioners of jurors; a measure to amend the Judiciary Law, in relation to nonjudicial officers and employees of the Unified Court System; a measure to amend the New York City Civil Court Act, in relation to housing judges [10 year terms]; a measure to amend the New York City Civil Court Act, in relation to the jurisdiction of the housing part [jurisdiction over commercial property]; and a

measure to amend the Uniform District Court Act and the Uniform City Court Act, in relation to eliminating jurisdiction of district and city courts over violations of law relating to parking.

## Rules of the Chief Judge

The following rules were amended by the Chief Judge during 1998:

**Section 8.2** of the Rules of the Chief Judge (22 NYCRR), governing employment of relatives of judges, was amended, effective December 15, 1998, to except from the restriction against appointment of relatives those relatives of judges who were not related to judges when first employed by the courts.

**Section 17.1** of the Rules of the Chief Judge (22 NYCRR), governing judges' visitation of custodial facilities, was amended, effective June 29, 1998, to change references to the Division for Youth to the Office of Children and Family Services.

**Section 17.3** of the Rules of the Chief Judge (22 NYCRR), governing education and training for judges other than town and village justices, was added, effective December 15, 1998, to provide that judges must attend 24 hours of education and training programs every two years.

**Section 34.2** of the Rules of the Chief Judge (22 NYCRR), governing reimbursement to localities for cleaning of court facilities, was added, effective January 8, 1998, and was amended, effective December 15, 1998, to modify the formula for reimbursement.

**Section 36.1(b)** of the Rules of the Chief Judge (22 NYCRR), governing fiduciary appointments by judges, was amended, effective June 2, 1998, to extend the restrictions against appointment of relatives of judges, to relatives of judges of the Housing Part of the New York City Civil Court.

## Rules of the Chief Administrative Judge

The following rules were amended by the Chief Administrative Judge of the Courts during 1998.

**Section 100.4(C)(3)(h)(ii)** of the Rules of the Chief Administrator governing judicial conduct, relating to attendance by judges at fundraising events, was amended, effective January 8, 1998, to permit judges to attend court employee functions.

**Section 118.2** of the Rules of the Chief Administrator, governing attorney registration, was amended, effective April 17, 1998, to fix at \$100 the payment rate for a complete list of registered attorneys.

**Section 122.1** of the Rules of the Chief Administrator, governing the Judicial Hearing Officer application process, was amended, effective April 17, 1998, to delete the application form set forth therein and to permit the Chief Administrator to promulgate the form using certain stated criteria.

**Section 128.9** of the Rules of the Chief Administrator, governing frequency of juror service, was amended, effective December 21, 1998, to conform the rule to recent legislation addressing exemptions based upon prior juror service.

**Section 130-1.1(a)** of the Rules of the Chief Administrator, governing attorney sanctions, was amended, effective June 19, 1998, to apply the sanctions rules to proceedings brought pursuant to Article 10 of the Family Court Act.

**Section 202.6(a)** of the Uniform Civil Rules for the Supreme and County Courts, governing procedures for Requests for Judicial Intervention and preliminary conferences, was amended, effective December 21, 1998, to permit the filing of a Request for Judicial Intervention and a request for a preliminary conference at the inception of a lawsuit.

**Sections 202.12(c)** and **202.26(g)** of the Uniform Civil Rules for the Supreme and County Courts, governing transfers of cases to lower courts, were amended, effective July 29, 1998, to modify the procedure for transferring a case to a court of lesser jurisdiction pursuant to CPLR 325(d).

**Section 202.17** of the Uniform Civil Rules for the Supreme and County Courts, **section 206.14** of the Uniform Rules for the Court of Claims,

**section 208.13** of the Uniform Rules for the New York City Civil Court, **section 210.13** of the Uniform Civil Rules for the City Courts, and **section 212.13** of the Uniform Civil Rules for the District Courts, governing the exchange of medical reports in personal injury and wrongful death actions, were amended, effective April 17, 1998, to further articulate what must be contained in the reports and to clarify terminology.

**Sections 202.21** and **202.50** of the Uniform Civil Rules for the Supreme and County Courts, governing the use of the uncontested divorce packet, were amended, effective May 26, 1998, to clarify the procedures for use of the forms in the Packet.

**Sections 205.6, 205.7, 205.24, 205.66** and **205.74** of the Uniform Rules for the Family Court, governing various procedures in that Court, were amended, effective November 5, 1998, to make technical housekeeping changes.

**Sections 206.15** and **206.23** of the Uniform Rules for the Court of Claims, governing various procedures in that Court, were amended, effective January 9, 1999, to make those rules gender-neutral.

**Part 207** of the Uniform Rules for the Surrogate's Courts, governing various proceedings in that Court, were amended, effective January 5, 1999, and March 4, 1998, to make a number of minor changes that fine-tune the affected rules.

**Section 208.14(d)** of the Uniform Rules for the New York City Civil Court, governing restoration of cases to the calendar, was amended, effective November 5, 1998, to provide greater flexibility to restoring those cases.

**Section 208.42(c)** of the Uniform Rules for the New York City Civil Court, governing assignment of judges to hear cases, was amended, effective November 5, 1998, to permit greater flexibility in the assignment of judges to hear certain motions.

A new **Appendix D** of the Uniform Rules of the Trial Courts, containing separate forms for a preliminary conference stipulation and order for use in commercial cases and cases other than commercial cases, was adopted effective July 1, 1998.

Appendix 1

# Public Documents Listing

State of the Judiciary

Annual Report of the Chief Administrator of the Courts

Judiciary Budget