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STATE OF NEW YORK



TWENTY-SIXTH ANNUAL REPORT  
OF  
THE CHIEF ADMINISTRATOR OF THE COURTS  
FOR CALENDAR YEAR 2003

**STATE OF NEW YORK**

**Report of  
The Chief Administrator of the Courts**

**For the Calendar Year  
January 1, 2003 - December 31, 2003**

**COURT OF APPEALS**

Judith S. Kaye, CHIEF JUDGE

George Bundy Smith

Albert M. Rosenblatt

Carmen Beauchamp Ciparick

Victoria A. Graffeo

Susan Phillips Read

**CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Jonathan Lippman

**ADMINISTRATIVE BOARD OF THE COURTS**

Judith S. Kaye, CHAIR

John T. Buckley

Anthony V. Cardona

A. Gail Prudenti

Eugene F. Pigott, Jr.

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## UNIFIED COURT SYSTEM 2003

**JONATHAN LIPPMAN**  
Chief Administrative Judge

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

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

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

**JUANITA BING NEWTON**  
Deputy Chief Administrative Judge  
for Justice Initiatives

**JUDY HARRIS KLUGER**  
Deputy Chief Administrative Judge  
for Court Operations and Planning

### ADMINISTRATIVE JUDGES

**JACQUELINE W. SILBERMANN**  
Statewide Administrative Judge  
for Matrimonial Matters

**STEVEN W. FISHER**  
Administrative Judge  
Eleventh Judicial District  
Supreme Court

**JUDITH O'SHEA**  
Administrative Judge  
Sixth Judicial District

**JOSEPH LAURIA**  
Administrative Judge  
New York City Family Court

**GERALD ESPOSITO**  
Administrative Judge  
Twelfth Judicial District  
Supreme Court, Civil Term

**THOMAS VAN STRYDONCK**  
Administrative Judge  
Seventh Judicial District

**FERN FISHER**  
Administrative Judge  
New York City Civil Court

**JOHN COLLINS**  
Administrative Judge  
Twelfth Judicial District  
Supreme Court, Criminal Term

**VINCENT E. DOYLE**  
Administrative Judge  
Eighth Judicial District

**JUANITA BING NEWTON**  
Administrative Judge  
New York City Criminal Court

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

**FRANCIS A. NICOLAI**  
Administrative Judge  
Ninth Judicial District

**JACQUELINE W. SILBERMANN**  
Administrative Judge  
First Judicial District  
Supreme Court, Civil Branch

**THOMAS W. KEEGAN**  
Administrative Judge  
Third Judicial District

**EDWARD G. McCABE**  
Administrative Judge  
Nassau County

**MICKI SCHERER**  
Administrative Judge  
First Judicial District  
Supreme Court, Criminal Branch

**JAN H. PLUMADORE**  
Administrative Judge  
Fourth Judicial District

**H. PATRICK LEIS, III**  
Administrative Judge  
Suffolk County

**ANN T. PFAU**  
Administrative Judge  
Second Judicial District  
Supreme Court

**JAMES TORMEY**  
Administrative Judge  
Fifth Judicial District

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**MICHAEL COLODNER**  
Counsel

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## PREFACE

I am pleased to present the 26<sup>th</sup> annual report of the Chief Administrator of the New York State Unified Court System. 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 Unified Court System of the State of New York (UCS) during the preceding year.

Included in the report are an outline of the structure of the courts, a summary of our legislative agenda, significant statistical data, and highlights of the court system's initiatives for 2003. Family Court data, issued pursuant to Sections 213 and 385 of the Family Court Act, are provided separately as Volume II of this report.

For over ten years, the New York State Courts have been a national leader in the development of problem-solving courts which offer new solutions to concerns such as addiction, domestic violence, and quality-of-life crimes. I am pleased to report that these special courts are now an integral part of the way we conduct business and so we are highlighting them in Chapter One - Court Structure. On a different front, the past year marked the inauguration of our new web site -- [www.nycourts.gov](http://www.nycourts.gov) -- which, 24 hours a day, 7 days a week, provides continuous and easy access to court information and services. During the year, the site hosted over 400,000 visits a month. This annual report is only one of a multitude of documents available there.

As always, I am proud of the accomplishments of the Judges and nonjudicial employees and want to thank them for their dedication and commitment.

Finally, I also want to gratefully acknowledge the assistance and cooperation extended to the Judiciary this year by the Governor and his staff and members of the Legislature.



Faye Ellman

A handwritten signature in blue ink that reads "Jonathan A. Lipman". The signature is written in a cursive, flowing style.

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**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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# Contents

Title Page .....	i	
Administrative Judges and Counsel .....	ii	
Preface .....	iii	
List of Figures/List of Tables .....	vi	
Map of Judicial Departments and Districts .....	Frontispiece	
<b>Chapter 1</b>	<b>Court Structure and Statistics .....</b>	<b>1</b>
	Appellate Courts .....	4
	Trial Courts .....	8
	Courts of Superior Jurisdiction .....	10
	Court of Claims .....	16
	Surrogate's Court .....	16
	Family Court .....	17
	Trial Courts of Limited Jurisdiction in New York City .....	18
	Trial Courts of Limited Jurisdiction outside New York City .....	20
	Town and Village Courts .....	22
	Arbitration .....	23
	Problem-Solving Courts .....	24
	Community Dispute Resolution Centers Program .....	26
<b>Chapter 2</b>	<b>Administration of the Courts .....</b>	<b>29</b>
	Administration .....	29
	Deputy Chief Administrative Judge for Management Support .....	31
	Division of Financial Management .....	31
	Division of Court Operations .....	32
	Division of Technology .....	34
	Division of Human Resources .....	35
	Division of Administrative Services .....	36
	Court Facilities .....	39
	Office of Public Affairs .....	40
	Department of Public Safety .....	41
	Office of Court Research .....	42
	Office of the Deputy Chief Administrative Judge for Justice Initiatives .....	42
	Office of the Deputy Chief Administrative Judge for Court Operations and Planning .....	43
	Office of the Statewide Administrative Judge for Matrimonial Matters .....	44
	Office of the Inspector General .....	44
<b>Chapter 3</b>	<b>Highlights of Programs and Advisory Committees .....</b>	<b>47</b>
	Center for Court Innovation .....	47
	Court Drug Treatment Program .....	49
	Commission on Public Access to Court Records .....	49
	Parent Education Advisory Board .....	50
	New York State Judicial Institute .....	50
	Guardian & Fiduciary Services .....	51
	Ethics Commission for the Unified Court System .....	52
	Commission to Promote Public Confidence in Judicial Elections .....	52
	Advisory Committee on Judicial Ethics .....	53
	Commission on the Jury .....	54
	Permanent Commission on Justice for Children .....	54
	Franklin H. Williams Judicial Commission on Minorities .....	55
	Lawyer Assistance Trust .....	56
	New York State Judicial Committee on Women in the Courts .....	57
	Committee to Promote Public Trust and Confidence in the Legal System .....	57

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## Contents (cont'd)

Chapter 4	Legislation and Rule Revisions .....	59
	Legislation .....	59
	Work of the Advisory Committees .....	60
	Civil Practice .....	60
	Criminal Law and Procedure .....	61
	Family Court .....	63
	Surrogate's Court .....	65
	Local Courts .....	66
	Measures Enacted into Law in 2003 .....	68
	Measures Newly Introduced in the 2003 Legislative Session and Not Enacted Into Law .....	69
	Measures Vetoed in the 2003 Legislative Session .....	81
	Rules of the Chief Judge .....	81
	Rules of the Chief Administrative Judge .....	82

## Figures

Figure 1	New York State Judicial System	
	a) Criminal Appeals Structure .....	2
	b) Civil Appeals Structure .....	2
Figure 2	Trial Court Filings by Case Type .....	9
Figure 3	Supreme Civil New Case Filings by Case Type .....	12
Figure 4	Supreme Civil Dispositions by Type of Disposition .....	12
Figure 5	Felony Dispositions by Type of Disposition .....	14
Figure 6	NYC Civil Court Filings by Type of Case .....	18
Figure 7	NYC Criminal Court Filings by Case Type .....	19
Figure 8	City and District Courts by Case Type .....	20
Figure 9	Integrated Domestic Violence Court Filings by Court Origin .....	25
Figure 10	Integrated Domestic Violence Court Filings by Court Type .....	25
Figure 11	Unified Court System, Administrative Structure .....	30

## Tables

Table 1	New York State Judicial System, Authorized Number of Judges .....	3
Table 2	Caseload Activity and Dispositions in the Court of Appeals .....	5
Table 3	Caseload Activity in the Appellate Division .....	6
Table 4	Caseload Activity in the Appellate Terms .....	7

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## Tables (cont'd)

Table 5	Filings in the Court System Trial Courts - Five-Year Comparison .....	8
Table 6	Filings and Dispositions in the Trial Courts .....	9
Table 7	Supreme Court Civil: Filings and Dispositions .....	11
Table 8	Small Claims Assessment Review Filings and Dispositions, by Judicial District.....	13
Table 9	Supreme and County Court - Criminal: Felony Filings and Dispositions .....	15
Table 10	Surrogate's Court: Proceedings by Case Type .....	16
Table 11	Family Court Filings and Dispositions by Type of Petition .....	17
Table 12	New York City Civil Court: Filings and Dispositions, by Case Type .....	18
Table 13	New York City Criminal Court: Filings and Dispositions .....	19
Table 14	City and District Courts: Filings by Case Type .....	21
Table 15	Town and Village Court Filings .....	22
Table 16	Intake, Dispositions, and Trials <i>De Novo</i> in Mandatory Arbitration Program .....	23
Table 17	Caseload Activity in Integrated Domestic Violence Courts .....	24
Table 18	Community Dispute Resolution Centers' Workload .....	27
Table 19	Attorney Registration by Location .....	37

## CHAPTER 1

# Court Structure and Statistics

The Judiciary along with the Executive and the Legislature constitute 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 State, who also serves as the Chief Judge of the Court of Appeals.

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

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.

In all, there are 1,211 judges and approximately 15,000 nonjudicial personnel throughout the court system. In addition, there are approximately 2,300 Town and Village

Justices who are elected and paid by their localities. Table 1 reflects the number of judges authorized to sit in each of the courts located in the State.

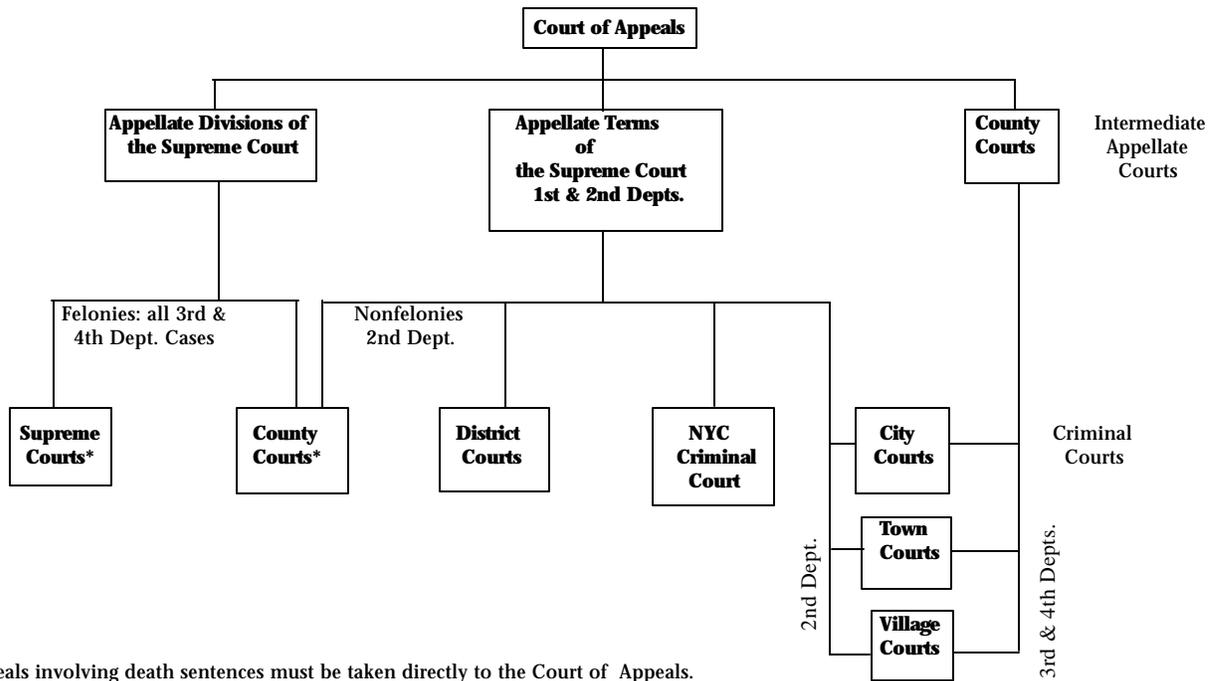
This chapter identifies the different courts in the State, defines their jurisdiction, and reflects their caseload activity for the year 2003.

Within the structure outlined here, the court system has, in the last ten years, established a group of specialized courts designed to break the cycle of recidivism that often plagues defendants. By addressing the underlying causes of such problems as addiction, domestic violence, and child neglect, these problem-solving courts, which offer monitored treatment and social services as an alternative to incarceration, seek to improve the outcome for victims, defendants, and the community. Collectively, these courts shift the focus from simply processing cases to achieving tangible results such as safer streets and stronger families. These courts include specialized drug treatment courts, domestic violence courts, mental health courts, and others. The work of these courts, as appropriate, is also reflected in this chapter.

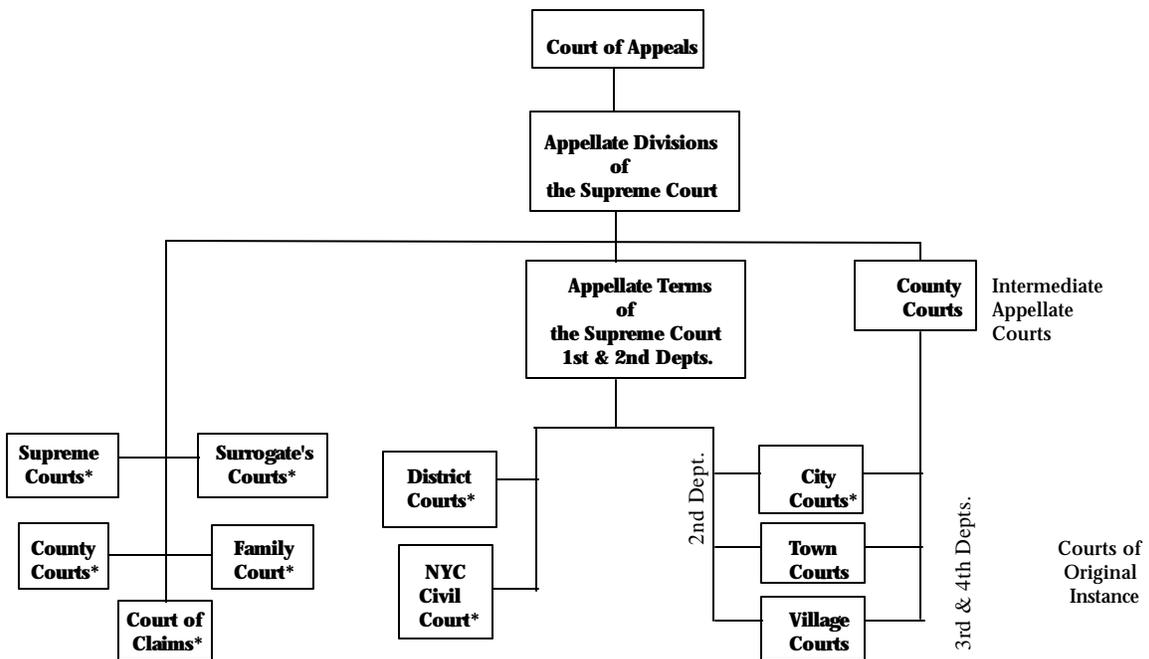


*New York State Court of Appeals during the first half of 2003: (from left) Victoria A. Graffeo, Richard C. Wesley, George Bundy Smith, Chief Judge Judith S. Kaye, Carmen Beauchamp Ciparick, Albert M. Rosenblatt, Susan Phillips Read*

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



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



**Table 1**  
**NEW YORK STATE JUDICIAL SYSTEM**  
**Authorized Number of Judges**  
*December 31, 2003*

<i>Number of Judges</i>	<i>Court</i>
7	..... Court of Appeals
57 <sup>a</sup>	..... Supreme Court, Appellate Divisions
283 <sup>b</sup>	..... Supreme Court, Trial Parts
73	..... 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; and 4 appointed pursuant to Chapter 731, Laws of 1996)
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)
38	..... County Courts* (County Judges who are also Surrogate's and Family Court Judges)
126	..... 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 Counties)
158	..... City Courts in the 61 cities outside New York City including Acting and Part-time Judges
<hr/> 1,211	<b>Total</b>
<b>[2,300</b>	<b>Town and Village Justice Courts]</b>

\* 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 13 Certificated Retired Justices are temporarily designated to the Appellate Division.

b Judiciary Law §140-a authorizes 324 elected Supreme Court justices in the twelve judicial districts. This number includes the 24 permanently authorized justices who are assigned to the Appellate Division, as well as all non-certificated justices who are temporarily designated to the Appellate Division. This number also includes all justices designated to an Appellate Term. This number does not include judges of other courts, including the Civil and Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year. It also does not include any certificated justices.

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-level 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 presides over 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 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 2003, 170 records on appeal were filed and the Court decided 176 appeals and related matters (see Table 2). In addition, 1,357 motions and 2,601 criminal leave applications were decided.

The Court of Appeals maintains a current docket. During 2003, 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 259 days. The caseload activity of the Court is reported in Table 2.

Table 2

**CASELOAD ACTIVITY IN THE COURT OF APPEALS - 2003**

Applications Decided [CPL 460.20(3(b))]	2,601
Records on Appeal Filed	170
Oral Arguments (Includes Submissions)	171
Appeals Decided	176
Motions Decided	1,357
Judicial Conduct Determinations Reviewed	6

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

BASIS OF JURISDICTION	AFFIRMED	REVERSED	MODIFIED	DISMISSED	OTHER	TOTAL
<b>All Cases:</b>						
Reversal, Modification, Dissent in Appellate Division	14	3	3	-	-	20
Permission of Court of Appeals or Judge thereof	61	36	8	1	-	106
Permission of Appellate Division or Justice thereof	3	8	1	1	-	13
Constitutional Question	6	2	-	-	-	8
Stipulation for Judgment Absolute	-	-	-	-	-	-
Other*	1	2	2	-	24	29
<b>Total</b>	<b>85</b>	<b>51</b>	<b>14</b>	<b>2</b>	<b>24</b>	<b>176</b>
<b>Civil Cases:</b>						
Reversal, Modification, Dissent in Appellate Division	14	3	3	-	-	20
Permission of Court of Appeals or Judge thereof	33	27	5	-	-	65
Permission of Appellate Division or Justice thereof	-	8	1	-	-	9
Constitutional Question	6	2	-	-	-	8
Stipulation for Judgment Absolute	-	-	-	-	-	-
Other*	1	2	1	-	24	28
<b>Total</b>	<b>54</b>	<b>42</b>	<b>10</b>	<b>-</b>	<b>24</b>	<b>130</b>
<b>Criminal Cases:</b>						
Permission of Court of Appeals or Judge thereof	28	9	3	1	-	41
Permission of Appellate Division or Justice thereof	3	-	-	1	-	4
Other*	-	-	1	-	-	1
<b>Total</b>	<b>31</b>	<b>9</b>	<b>4</b>	<b>2</b>	<b>-</b>	<b>46</b>

\*Includes anomalies which did not result in an affirmance, 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 Division of the Supreme Court* is established in each of the State’s four judicial departments (see the map at the beginning of this report). The primary responsibilities of this Court 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 tribunals.

- 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, as well as 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 from among the Supreme Court judiciary. The Presiding Justice serves for the remainder of the length of his or her term of office, while Associate Justices are designated for five-year terms, or for the remainder of their unexpired terms of office, if less than five years.

## Caseload Activity

During 2003, there were a total of 9,967 records on appeal filed in the four Appellate Divisions, while 17,939 appeals reached disposition (see Table 3).

**Table 3**  
**CASELOAD ACTIVITY IN THE APPELLATE DIVISION - 2003**

	FIRST DEPT		SECOND DEPT		THIRD DEPT		FOURTH DEPT		TOTAL
	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	
<b>Records on Appeal Filed</b>	<b>1,675</b>	<b>835</b>	<b>3,214</b>	<b>793</b>	<b>1,367</b>	<b>411</b>	<b>1,056</b>	<b>616</b>	<b>9,967</b>
Disposed of before Argument or Submission (e.g., Dismissed, Withdrawn, Settled)	162	198	5,614	963	10	2	22	6	<b>6,977</b>
Disposed of after Argument or Submission:									
Affirmed	1,128	912	1,695	805	1,020	321	564	474	<b>6,919</b>
Reversed	302	18	808	51	133	30	129	16	<b>1,487</b>
Modified	215	48	327	39	129	22	158	51	<b>989</b>
Dismissed	159	6	473	11	74	5	228	9	<b>965</b>
Other	97	7	84	175	179	43	13	4	<b>602</b>
<b>Total Dispositions</b>	<b>2,063</b>	<b>1,189</b>	<b>9,001</b>	<b>2,044</b>	<b>1,545</b>	<b>423</b>	<b>1,114</b>	<b>560</b>	<b>17,939</b>
*Oral Arguments	1,226		2,277		677		1,091		<b>5,271</b>
*Motions Decided	5,570		13,072		5,108		4,242		<b>27,992</b>
*Admissions to the Bar	3,009		2,426		2,494		350		<b>8,279</b>
*Atty. Disciplinary Proceedings Decided	55		152		52		44		<b>303</b>

\*Not broken down by civil or criminal.

## Appellate Terms Structure

*Appellate Terms* have been established in the First and Second Departments. They exercise jurisdiction over civil and criminal appeals taken from various local courts and, in the Second Department, over non-felony appeals from County Courts.

Section 8 of Article VI of the Constitution provides for the designation of the Justices of

Appellate Terms from among the Justices of the Supreme Court by the Chief Administrator of the Courts, with the approval of the Presiding Justice of the appropriate Appellate Division.

## Caseload Activity

During the year, 2,017 records on appeal were filed in the Appellate Terms in the First and Second Departments, while 1,838 appeals reached disposition (see Table 4).

**Table 4**  
**CASELOAD ACTIVITY IN THE APPELLATE TERMS - 2003**

	FIRST DEPT			SECOND DEPT			TOTAL
	Civil	Criminal	Total	Civil	Criminal	Total	
<b>Records on Appeal Filed</b>	<b>360</b>	<b>59</b>	<b>419</b>	<b>1,149</b>	<b>449</b>	<b>1,598</b>	<b>2,017</b>
Disposed of before Argument or Submission (e.g. dismissed, withdrawn, settled)	7	6	13	513	336	849	862
Disposed of after Argument or Submission:							
Affirmed	165	39	204	289	60	349	553
Reversed	59	6	65	157	33	190	255
Modified	23	4	27	84	4	88	115
Dismissed	19	1	20	13	2	15	35
Other	3	1	4	11	3	14	18
<b>Total Dispositions</b>	<b>276</b>	<b>57</b>	<b>333</b>	<b>1,067</b>	<b>438</b>	<b>1,505</b>	<b>1,838</b>
*Oral Arguments			334			303	637
*Motions Decided			1,482			3,118	4,600

\*Not broken down by civil or criminal.

## TRIAL COURTS Caseload Overview

The statewide trial courts of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogate’s Court, and, outside New York City, the County Court. 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 trial courts of limited jurisdiction in New York City are the Civil Court and the Criminal Court. Outside New York City, these courts include City Courts, District Courts, and town and village courts and have both civil and criminal jurisdiction.

In 2003, 4,293,816 new cases were filed in the trial courts of the UCS.<sup>2</sup> The number of filings in 2003, excluding parking tickets, was 4,095,968: 39% were in Criminal Courts, 40% in Civil Courts, 17% in Family Courts, and 4% in Surrogate’s Courts (see Figure 2). About two-thirds of these filings were in courts of limited jurisdiction.

The number of filings this year represents a 8% increase over the number of filings five years ago, in 1999. This comparison is reflected in Table 5. The largest contributing factor to this

increase was civil filings, which rose 24%, from 1,309,134 to 1,627,070.

During the year, there were 3,783,356 total dispositions, of which 255,076 were for parking tickets. Of the non-parking dispositions, 40% were in criminal courts, 37% in civil courts, 19% in Family Courts and 4% in Surrogate’s Courts.

Table 6 contains a breakdown of the filings and dispositions during the year in the trial courts, by type of court and type of filing.

### Standards and Goals

The Chief Administrator has established *Standards and Goals* for the work of the trial courts of superior jurisdiction 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 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 2003 is highlighted later in this chapter.

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

<sup>2</sup> Most of the data in this chapter are from the Caseload Activity Reporting System of the UCS and are current as of October 19, 2004. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrator of the Courts (22 NYCRR, Part 115).

**Table 5  
FILINGS IN THE COURT SYSTEM TRIAL COURTS - FIVE-YEAR COMPARISON**

COURT	1999	2000	2001	2002	2003
<b>CRIMINAL</b>					
Supreme and County Courts Criminal	55,425	53,932	52,500	53,284	54,549
Criminal Court of the City of NY <sup>a</sup>	830,671	989,074	869,265	798,427	856,825
City & District Courts Outside NYC <sup>a</sup>	658,349	653,249	645,625	713,595	717,004
Parking Tickets <sup>a</sup>	271,903	248,520	238,107	252,126	197,848
<b>Criminal Total</b>	<b>1,816,348</b>	<b>1,944,775</b>	<b>1,805,497</b>	<b>1,817,432</b>	<b>1,826,226</b>
<b>CIVIL</b>					
Supreme Courts Civil <sup>b</sup>	404,307	412,264	407,283	422,362	430,007
Civil Court of the City of NYC <sup>c</sup>	585,771	593,048	629,013	770,677	840,902
City & District Courts Outside NYC <sup>c</sup>	235,335	237,698	249,067	283,424	308,392
County Courts Civil <sup>b</sup>	28,148	28,584	26,565	25,979	27,831
Court of Claims	2,297	2,092	1,910	1,826	1,683
Small Claims Assessment Review Program	53,276	50,523	49,257	51,218	18,255
<b>Civil Total</b>	<b>1,309,134</b>	<b>1,324,209</b>	<b>1,363,095</b>	<b>1,555,486</b>	<b>1,627,070</b>
<b>FAMILY</b>	<b>689,749</b>	<b>690,941</b>	<b>683,390</b>	<b>712,726</b>	<b>689,281</b>
<b>SURROGATE'S</b>	<b>163,470</b>	<b>164,863</b>	<b>163,166</b>	<b>158,520</b>	<b>151,239</b>
<b>Total</b>	<b>3,978,701</b>	<b>4,124,788</b>	<b>4,015,148</b>	<b>4,244,164</b>	<b>4,293,816</b>

<sup>a</sup>Includes both answered and unanswered cases.

<sup>b</sup>Includes new cases, ex-parte applications and uncontested matrimonial cases.

<sup>c</sup>Includes civil, landlord/tenant, small claims and commercial claims.

Figure 2  
Trial Court Filings by Case Type - 2003

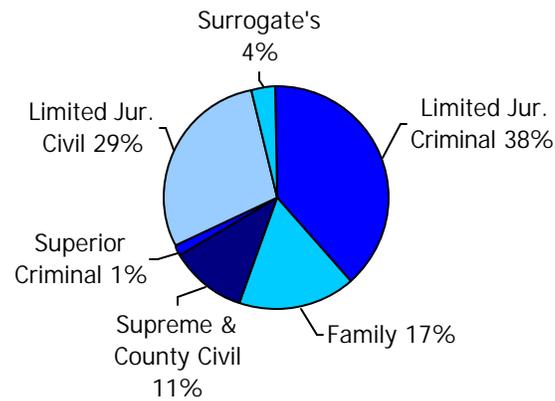


Table 6  
FILINGS & DISPOSITIONS IN THE TRIAL COURTS - 2003

COURT	FILINGS	DISPOSITIONS
<b>CRIMINAL</b>		
Supreme and County Courts	54,549	55,882
Criminal Court of the City of New York:		
Arrest Cases	321,959	317,306
Summons Cases <sup>a</sup>	534,866	376,794
City & District Courts outside New York City:		
Arrest Cases	292,054	279,010
Uniform Traffic Tickets <sup>a</sup>	424,950	388,104
Parking Tickets	197,848	255,076
<b>Criminal Total</b>	<b>1,826,226</b>	<b>1,672,172</b>
<b>CIVIL</b>		
Supreme Courts:		
New Cases	189,306	197,992
Ex-Parte Applications	190,614	190,614
Uncontested Matrimonial Cases	50,087	50,404
Civil Court of the City of New York:		
Civil Actions	426,085	191,079 <sup>b</sup>
Landlord/Tenant Actions and Special Proceedings	373,308	290,281
Small Claims	32,079	36,282
Commercial Claims	9,430	10,180
City & District Courts outside New York City:		
Civil Actions	172,466	139,450 <sup>b</sup>
Landlord/Tenant Actions and Special Proceedings	88,511	77,566
Small Claims	35,516	36,379
Commercial Claims	11,899	11,841
County Courts <sup>c</sup>	27,831	27,753
Court of Claims	1,683	1,516
Arbitration Program	19,075 <sup>d</sup>	17,874
Small Claims Assessment Review Program	18,255	22,527
<b>Civil Total</b>	<b>1,627,070</b>	<b>1,301,738</b>
<b>FAMILY</b>	689,281	685,199
<b>SURROGATE'S</b>	151,239	124,247 <sup>e</sup>
<b>Total</b>	<b>4,293,816</b>	<b>3,783,356</b>

<sup>a</sup>Includes both answered and unanswered cases.

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

<sup>c</sup>Filings & dispositions includes ex-parte applications and uncontested matrimonials.

<sup>d</sup>Shown here for reference only and not included in totals. Included as intake in the Civil Courts listed above.

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

## COURTS OF SUPERIOR JURISDICTION

### Supreme Court

#### Civil Cases

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

The Supreme Court exercises civil jurisdiction throughout the State. In New York City and some other limited parts of the State, it also exercises jurisdiction over felony charges. Supreme Court justices are elected by judicial district to 14-year terms.

#### Caseload Activity

##### *Civil Cases*

During 2003, there were 430,007 total civil filings in the Supreme Courts in New York State. This number includes 189,306 new cases, also known as requests for judicial intervention (RJI's), 190,614 *ex parte* applications, and 50,087 uncontested matrimonial cases. A total of 439,010 matters reached disposition in 2003, including 197,992 requests for judicial intervention, 190,614 *ex parte* applications, and 50,404 uncontested matrimonial cases. Table 7 lists the number of RJI's and trial notes of issue filed and disposed of in each county of the State.

The intervention of the Supreme Court is invoked with the filing of a RJI. Figure 3 displays a breakdown of these filings by type of case: motor vehicle - 24%, medical malpractice - 2%, other tort - 16%, tax certiorari - 9%, contract - 9%, contested matrimonial - 8% and other - 32%.

Two-thirds of the cases are disposed of before the trial note of issue is filed—either by settlement (16%) 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 - 21%, verdict or decision - 3%, or other - 8% (see Figure 4).

Supreme Court also 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 2003, 18,255 SCAR petitions were filed in Supreme Court and there were dispositions in 22,527 cases. Table 8 reflects filings and dispositions for each judicial district.

#### Standards and Goals

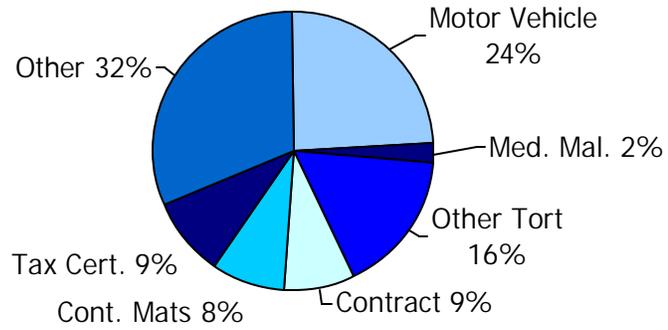
Pursuant to the Standards and Goals established by the Chief Administrator to provide performance measures, there are three standards that apply to all civil cases and measure the length of time from filing an action to disposition. The first, or "pre-note" standard, measures the time from filing the Request for Judicial Intervention (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.

Expedited cases must meet the first standard within 8 months, the second within 15 months and the third within 23 months. Standard 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.

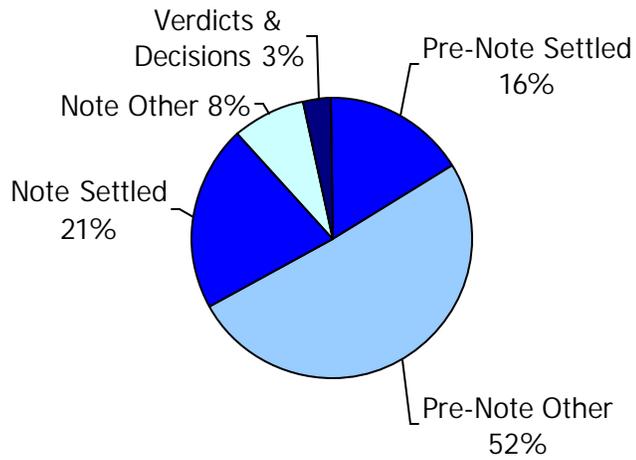
Table 7  
**SUPREME COURT CIVIL: FILINGS & DISPOSITIONS - 2003**

Location	FILINGS		DISPOSITIONS					
	New Case	Note	Total	Pre-Note Settlements	Other Pre-Note	Post Note Settlements	Jury Verdicts/Decisions	Other Note
<b>TOTAL STATE</b>	<b>189,306</b>	<b>67,470</b>	<b>197,992</b>	<b>32,356</b>	<b>100,424</b>	<b>42,233</b>	<b>6,597</b>	<b>16,382</b>
NYC	91,047	37,505	93,641	10,038	48,306	23,605	3,834	7,858
New York	23,334	8,544	24,073	3,743	12,862	5,194	928	1,346
Bronx	15,418	5,720	14,137	999	7,866	3,957	359	956
Kings	27,680	12,925	28,356	2,777	14,045	8,169	1,314	2,051
Queens	21,509	8,867	23,463	2,219	11,577	5,475	1,004	3,188
Richmond	3,106	1,449	3,612	300	1,956	810	229	317
<b>ONYS</b>	<b>98,259</b>	<b>29,965</b>	<b>104,351</b>	<b>22,318</b>	<b>52,118</b>	<b>18,628</b>	<b>2,763</b>	<b>8,524</b>
Albany	3,750	555	3,223	194	2,473	273	6	277
Allegany	266	46	253	106	105	29	6	7
Broome	807	246	999	112	685	63	24	115
Cattaraugus	393	146	425	241	12	150	8	14
Cayuga	575	76	732	53	585	67	1	26
Chautauqua	759	261	857	35	480	57	6	279
Chemung	445	94	429	5	311	16	10	87
Chenango	190	79	177	13	87	38	32	7
Clinton	402	109	496	1	359	15	5	116
Columbia	444	124	620	73	422	40	3	82
Cortland	135	48	125	3	65	14	1	42
Delaware	191	61	150	7	52	11	0	80
Dutchess	2,645	749	2,664	1,613	365	552	62	72
Erie	7,386	1,383	7,261	2,287	3,499	1,083	153	239
Essex	164	54	280	29	203	30	5	13
Franklin	297	74	340	36	201	40	3	60
Fulton	377	110	339	43	150	42	26	78
Genesee	191	109	323	79	155	53	4	32
Greene	312	131	324	35	172	48	10	59
Hamilton	0	0	0	0	0	0	0	0
Herkimer	314	108	382	68	160	63	8	83
Jefferson	389	165	479	37	283	122	4	33
Lewis	138	33	140	3	93	27	3	14
Livingston	439	71	406	33	359	2	3	9
Madison	178	79	216	17	100	29	6	64
Monroe	6,129	1,333	6,744	395	5,041	967	64	277
Montgomery	439	94	303	54	177	20	8	44
Nassau	20,968	7,541	22,832	8,009	6,979	5,499	584	1,761
Niagara	1,831	298	2,079	552	1,200	224	34	69
Oneida	3,472	582	3,467	217	2,647	245	232	126
Onondaga	2,576	933	3,039	157	1,754	384	51	693
Ontario	476	181	718	46	474	157	8	33
Oranqe	3,035	1,022	3,895	458	2,223	649	109	456
Orleans	231	17	228	73	142	5	2	6
Oswego	769	280	919	52	591	80	163	33
Otsego	273	96	231	13	155	30	14	19
Putnam	670	262	699	166	287	156	17	73
Rensselaer	1,062	201	1,266	124	909	131	33	69
Rockland	3,087	1,035	3,134	174	1,862	887	70	141
St. Lawrence	413	176	496	132	212	49	3	100
Saratoga	1,382	341	1,556	355	875	194	43	89
Schenectady	1,155	297	1,265	191	785	152	27	110
Schoharie	103	37	98	16	40	17	3	22
Schuyler	91	25	67	1	61	2	0	3
Seneca	225	53	235	6	158	4	0	67
Steuben	373	148	427	30	231	19	5	142
Suffolk	14,004	4,898	14,256	5,213	4,767	2,782	389	1,105
Sullivan	702	147	1,044	94	811	67	7	65
Tioga	180	52	119	5	84	5	1	24
Tompkins	315	108	306	27	170	25	20	64
Ulster	1,525	487	1,410	224	730	303	21	132
Warren	405	95	419	98	178	68	6	69
Washington	327	61	345	60	201	40	2	42
Wayne	702	133	1,069	36	838	37	3	155
Westchester	9,666	4,011	9,528	202	5,757	2,535	451	583
Wyoming	370	66	393	12	334	15	4	28
Yates	116	44	124	3	69	16	0	36

**Figure 3**  
**Supreme Civil New Case Filings by Case Type - 2003**



**Figure 4**  
**Supreme Civil Dispositions by Type of Dispositions - 2003**



**Table 8**  
**SMALL CLAIMS ASSESSMENT REVIEW PROGRAM FILINGS & DISPOSITIONS**  
**by Judicial District - 2003**

	<b>FILINGS</b>	<b>DISPOSITIONS</b>	<b>PENDING</b>
<b>Total State</b>	<b>18,255</b>	<b>22,527</b>	<b>13,213</b>
<b>New York City</b>	<b>67</b>	<b>56</b>	<b>51</b>
1 <sup>st</sup>	3	2	3
2 <sup>nd</sup>	55	41	39
11 <sup>th</sup>	5	11	5
12 <sup>th</sup>	4	2	4
<b>Outside New York City</b>	<b>18,188</b>	<b>22,471</b>	<b>13,162</b>
3 <sup>rd</sup>	539	512	31
4 <sup>th</sup>	264	267	0
5 <sup>th</sup>	318	314	7
6 <sup>th</sup>	168	168	0
7 <sup>th</sup>	125	124	4
8 <sup>th</sup>	310	310	0
9 <sup>th</sup>	704	812	580
10 <sup>th</sup> - Nassau	10,241	14,955	8,719
10 <sup>th</sup> - Suffolk	5,519	5,009	3,821

**Criminal Cases**

Felony cases (criminal cases for which a sentence in excess of one year may be imposed), are heard in the Supreme Court in New York City and predominantly in the County Courts outside of New York City. During the year, there were a total of 54,549 criminal filings in the Supreme and County Courts, of which 53,584 were felony cases.<sup>1</sup> Table 9 shows filings and dispositions for each county. As reflected in Figure 5, 87% of cases reached disposition by plea.

**County Court**

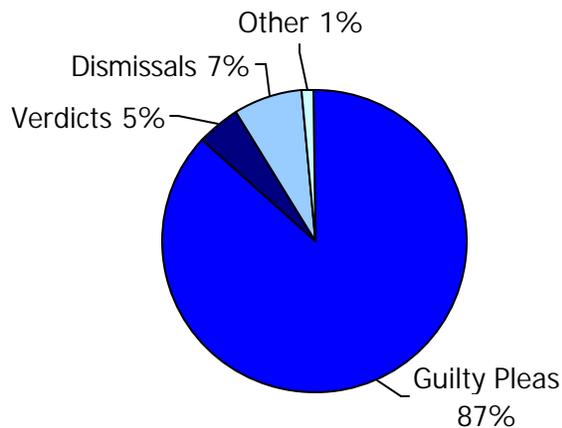
The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecutions of both felonies and lesser offenses committed within the county, although in practice most minor offenses are handled by lower courts. (The County Court also has limited jurisdiction 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 9, in combination with those for Supreme Court.

**Standards and Goals - Felony Cases**

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 2003, 83% of felony case dispositions statewide (including County Courts outside New York City; see below) were achieved within the six-month standard.

<sup>1</sup>There were 965 misdemeanor cases heard in Supreme Court in 2003 in various specialty parts (*e.g.*, Domestic Violence).

**Figure 5  
Felony Dispositions by Type of Disposition - 2003**



**Table 9**  
**SUPREME & COUNTY CRIMINAL COURT - FILINGS & DISPOSITIONS<sup>1</sup> - 2003**

County	FILINGS			DISPOSITIONS						
	Total	Indictments	SCIs	Total	Guilty Pleas	Convictions	Aquittals	Non-jury Verdicts	Dismissals	Other
<b>TOTAL STATE</b>	<b>54,549</b>	<b>34,072</b>	<b>20,477</b>	<b>55,882</b>	<b>48,361</b>	<b>1,531</b>	<b>660</b>	<b>494</b>	<b>4,039</b>	<b>797</b>
NYC	25,289	18,925	6,364	26,556	22,007	856	441	196	2,509	547
New York	8,647	7,230	1,417	9,590	7,820	350	115	49	1,090	166
Bronx	5,601	4,111	1,490	5,752	4,807	117	135	65	497	131
Kings	5,739	5,041	698	5,931	4,802	223	107	18	594	187
Queens	4,752	2,203	2,549	4,693	4,077	156	77	59	266	58
Richmond	550	340	210	590	501	10	7	5	62	5
ONYS	29,260	15,147	14,113	29,326	26,354	675	219	298	1,530	250
Albany	1,225	737	488	1,329	1,187	61	22	0	53	6
Allegany	66	47	19	71	65	2	0	0	2	2
Broome	769	377	392	800	712	17	4	3	58	6
Cattaraugus	186	89	97	189	182	7	0	0	0	0
Cayuga	146	90	56	135	117	5	4	0	5	4
Chautauqua	528	153	375	527	517	1	0	4	3	2
Chemung	311	279	32	333	246	17	6	47	16	1
Chenango	122	106	16	108	99	4	0	0	5	0
Clinton	211	78	133	186	173	7	2	0	1	3
Columbia	105	17	88	114	105	2	0	0	1	6
Cortland	155	80	75	139	123	2	0	2	11	1
Delaware	72	43	29	79	72	4	0	1	2	0
Dutchess	432	139	293	450	387	6	1	0	24	32
Erie	1,893	746	1,147	2,211	1,982	65	21	66	60	17
Essex	72	41	31	65	55	6	1	0	2	1
Franklin	139	93	46	149	127	0	3	1	18	0
Fulton	112	43	69	120	115	1	0	0	4	0
Genesee	199	117	82	196	185	9	1	1	0	0
Greene	126	59	67	147	134	4	2	0	7	0
Hamilton	11	5	6	9	6	1	0	0	2	0
Herkimer	255	106	149	249	244	0	1	0	4	0
Jefferson	522	204	318	514	501	5	0	0	7	1
Lewis	137	44	93	133	109	0	0	1	16	7
Livingston	298	161	137	291	265	2	0	1	12	11
Madison	107	61	46	101	86	3	0	3	9	0
Monroe	2,568	1,361	1,207	1,849	1,643	87	24	34	55	6
Montgomery	103	38	65	105	100	4	1	0	0	0
Nassau	3,496	1,262	2,234	4,324	3,557	47	19	54	609	38
Niagara	481	292	189	446	379	11	6	3	36	11
Oneida	743	511	232	748	699	12	3	2	27	5
Onondaga	1,222	756	466	1,192	1,048	34	10	3	92	5
Ontario	360	169	191	388	354	22	6	3	2	1
Orange	1,089	728	361	1,061	984	19	7	11	32	8
Orleans	108	98	10	90	76	6	1	0	3	4
Oswego	288	120	168	264	252	4	2	0	5	1
Otsego	118	73	45	94	90	2	1	0	1	0
Putnam	102	47	55	112	107	2	0	0	3	0
Rensselaer	602	339	263	567	486	10	3	5	59	4
Rockland	661	521	140	646	604	16	2	3	14	7
St. Lawrence	373	217	156	379	341	8	9	1	15	5
Saratoga	351	89	262	380	371	2	2	0	5	0
Schenectady	540	289	251	481	441	18	9	0	9	4
Schoharie	48	16	32	57	53	3	0	0	1	0
Schuyler	63	34	29	56	51	1	2	1	0	1
Seneca	108	43	65	116	91	3	3	0	16	3
Steuben	294	110	184	337	321	6	2	4	3	1
Suffolk	3,583	2,312	1,271	3,221	2,991	40	6	18	149	17
Sullivan	254	117	137	217	201	7	3	3	2	1
Tioga	163	144	19	117	107	3	2	3	2	0
Tompkins	125	97	28	140	118	12	5	1	4	0
Ulster	498	238	260	511	493	9	5	3	1	0
Warren	217	101	116	211	199	4	1	0	6	1
Washington	173	145	28	188	174	0	1	0	8	5
Wayne	309	196	113	268	250	6	0	3	4	5
Westchester	1,790	667	1,123	1,856	1,758	36	11	12	25	14
Wyoming	162	68	94	183	156	7	2	1	16	1
Yates	69	34	35	77	65	3	3	0	4	2

<sup>1</sup>Includes Felonies & Misdemeanors, of which 965 were misdemeanor filings.

## COURT OF CLAIMS Structure

The *Court of Claims* is a special statewide trial court that has exclusive jurisdiction over claims for money damages against the State of New York. The Court's jurisdiction includes claims for the torts of the State's officers and employees, and damages for unjust convictions and imprisonment. It also has jurisdiction over suits against certain State-related entities such as the New York State Thruway Authority, the City University of New York, and the New York State Power Authority (claims for the appropriation of real property only).

Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, to nine-year terms. The Court hears cases at nine separate locations around the State. Cases are heard without juries.

### Caseload Activity

During 2003, 1,683 claims were filed and 1,516 cases were decided by the Court.

## SURROGATE'S COURT Structure

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills, the administration of estates, and adoptions. Surrogates are elected to 10-year terms in each county outside New York City and to 14-year terms in each county in New York City.

### Caseload Activity

During 2003, there were 151,239 petitions filed and 124,247 disposed in Surrogate's Court statewide (see Table 10).

Table 10

### SURROGATE'S COURT FILINGS & DISPOSITIONS: PROCEEDINGS BY CASE TYPE - 2003

Case Type	TOTAL STATE		NYC		ONYC	
	Filings	Dispositions*	Filings	Dispositions*	Filings	Dispositions*
<b>Total</b>	<b>151,239</b>	<b>124,247</b>	<b>43,080</b>	<b>36,813</b>	<b>108,159</b>	<b>87,434</b>
Probate	44,590	47,864	12,923	12,597	31,667	35,267
Administration	15,271	14,150	7,638	6,033	7,633	8,117
Voluntary Admin	17,433	17,433	5,623	5,623	11,810	11,810
Accounting	30,469	8,931	3,105	1,468	27,364	7,463
Inter Vivo Trust	302	239	15	0	287	239
Miscellaneous	14,222	14,546	4,440	4,406	9,782	10,140
Guardianship	24,268	14,085	7,094	3,742	17,174	10,343
Adoption	3,791	6,059	1,916	2,608	1,875	3,451
Estate Tax	893	940	326	336	567	604

\*Includes orders and decrees signed.

## 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 2003, there were 689,281 cases filed in the Family Courts throughout New York State. A total of 685,199 cases reached disposition. A breakdown of filings and dispositions is contained in Table 11. 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.

Cases involving paternity, support, custody, and family offenses comprised 80% of the caseload. The remaining cases involved child protective (9%), juvenile delinquency or designated felonies (3%), persons in need of supervision (3%), adoption (1%), and termination of parental rights cases (2%). All other case types comprised 2% of the caseload.

### Standards and Goals

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. During the year, 93% of dispositions statewide were reached within the standard.

Table 11  
FAMILY COURT - FILINGS & DISPOSITIONS BY TYPE OF PETITION - 2003

Type of Petition	TOTAL STATE		NYC		UPSTATE	
	Filings	Dispositions <sup>a</sup>	Filings	Dispositions	Filings	Dispositions
<b>Total</b>	<b>689,281</b>	<b>685,199</b>	<b>223,483</b>	<b>224,549</b>	<b>465,798</b>	<b>460,650</b>
Termination of Parental Rights	11,604	11,528	8,855	8,762	2,749	2,766
Surrender of Child	3,430	3,446	2,161	2,170	1,269	1,276
Child Protective (Neglect & Abuse)	61,555	63,242	21,467	23,349	40,088	39,893
Juvenile Delinquency	21,499	21,300	7,428	7,655	14,071	13,645
Designated Felony	738	650	363	305	375	345
Persons in Need of Supervision	17,418	17,881	2,882	3,059	14,536	14,822
Adoption	5,955	5,885	3,400	3,350	2,555	2,535
Adoption Certification	490	519	121	138	369	381
Guardianship	4,684	4,600	2,774	2,735	1,910	1,865
Custody of Minors	165,941	164,868	37,545	38,394	128,396	126,474
Foster Care Review	6,417	6,546	1,766	1,754	4,651	4,792
Approval for Foster Care	1,574	1,595	832	859	742	736
Physically Handicapped	0	0	0	0	0	0
Family Offense	55,090	55,004	24,420	24,793	30,670	30,211
Paternity	83,123	82,878	45,143	44,061	37,980	38,817
Support	236,066	231,922	58,175	57,420	177,891	174,502
Uniform Interstate Family Support Act	13,178	12,861	6,060	5,657	7,118	7,204
Consent to Marry	12	15	4	4	8	11
Other	507	459	87	84	420	375

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

## TRIAL COURTS OF LIMITED JURISDICTION IN NEW YORK CITY

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

### 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.

### Caseload Activity

In 2003, there were 840,902 total filings and 527,822 dispositions in Civil Court (see Table 12). 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 2003: general civil - 51%, housing - 44%, small claims - 4%, and commercial claims - 1%.

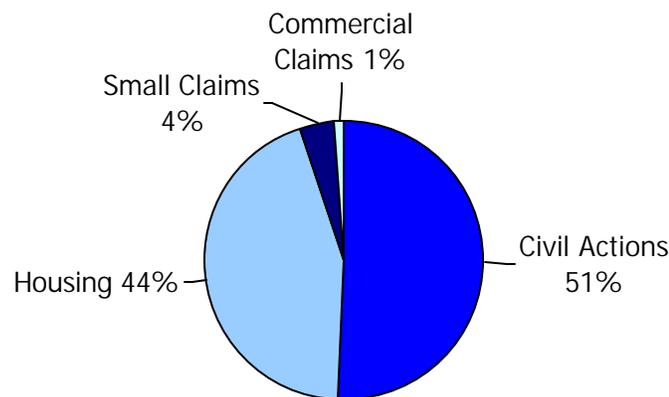
Table 12  
NEW YORK CITY CIVIL COURT: Filings & Dispositions by Case Type - 2003

	CIVIL ACTIONS		HOUSING		SMALL CLAIMS		COMMERCIAL CLAIMS	
	Filings*	Dispositions**	Filings*	Dispositions**	Filings	Dispositions	Filings	Dispositions
<b>New York City</b>	<b>426,085</b>	<b>191,079</b>	<b>373,308</b>	<b>290,281</b>	<b>32,079</b>	<b>36,282</b>	<b>9,430</b>	<b>10,180</b>
New York	74,591	29,512	95,448	63,202	7,598	7,936	2,964	3,266
Bronx	87,114	37,489	112,437	110,292	4,327	4,950	812	875
Kings	128,428	54,616	109,250	81,833	9,314	9,830	2,071	2,154
Queens	125,290	62,483	49,879	30,995	8,775	11,413	2,704	3,020
Richmond	10,662	6,979	6,294	3,959	2,065	2,153	879	865

\*Includes both answered and unanswered cases.

\*\*Includes courtroom dispositions and default judgments.

Figure 6  
NYC Civil Court Filings by Case Type - 2003



**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 2003, there were 321,959 arrest case filings in New York City Criminal Court (see Table 13). Of these, 71% were misdemeanors,

17% felonies, 6% violations or infractions, and 6% "other" types of cases (see Figure 7). Fifty-two percent of the cases reached disposition by plea; 35% were dismissed; 5% were sent to the grand jury; 6% were disposed of by other means; 2% pled to a superior court information. Only 0.2% of the dispositions in Criminal Court are by verdict after trial.

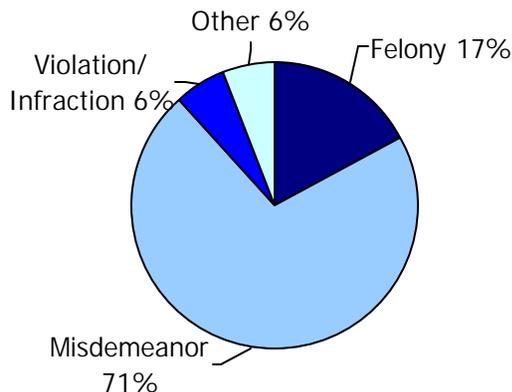
During the year, 534,866 summons cases (cases in which an appearance ticket, returnable in court, is issued to the defendant) were filed and placed on the calendar. There were 376,794 dispositions (see Table 13).

**Table 13**  
**NEW YORK CITY CRIMINAL COURT: Filings & Dispositions - 2003**

	ARREST CASES		SUMMONS CASES	
	Filings	Dispositions	Filings*	Dispositions
<b>New York City</b>	<b>321,959</b>	<b>317,306</b>	<b>534,866</b>	<b>376,794</b>
New York	99,889	99,120	107,289	76,532
Bronx	70,143	67,482	161,422	92,919
Kings	82,025	81,511	152,355	114,124
Queens	59,521	58,611	93,924	76,048
Richmond	10,381	10,582	19,876	17,171

\*Includes both answered and unanswered cases.

**Figure 7**  
**NYC Criminal Court Filings by Case Type - 2003**



## TRIAL COURTS OF LIMITED JURISDICTION OUTSIDE NEW YORK CITY

The *trial courts of lesser jurisdiction* outside New York City are the City Courts, District Courts, and town and village courts. These courts exercise both civil and criminal jurisdiction.

### District and City 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 landlord-tenant disputes and housing violations. 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 also conduct arraignments in felony cases. District Court judges are elected to six-year terms.

### Caseload Activity

In 2003, there were a total of 1,223,244 filings and 1,187,426 dispositions in the City and District Courts. Of those cases filed, 24% were criminal, 14% were general civil, 3% small claims, 7% housing, 1% commercial claims, 35% motor vehicle, and 16% parking violations (see Figure 8).

Table 14 contains a breakdown of the filings in the courts of limited jurisdiction outside New York City.

Figure 8  
City & District Court by Case Type - 2003

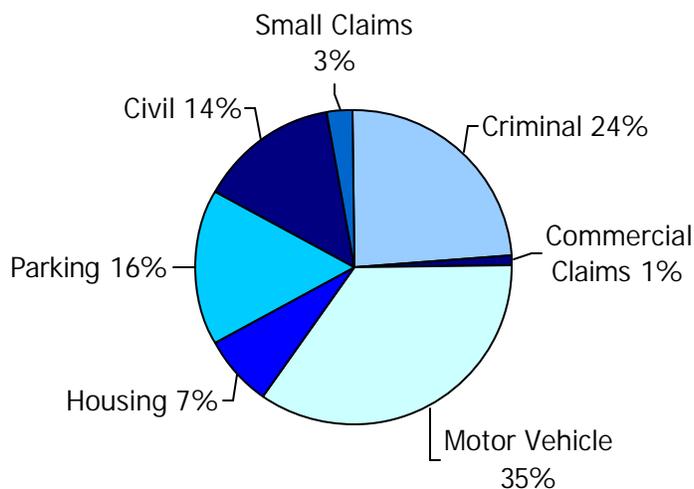


Table 14

**CITY & DISTRICT COURTS: FILINGS BY CASE TYPE - 2003**

Location	Criminal	MV	Parking	Civil	Small Claims	L&T (Housing)	Commercial Claims
<b>Total State</b>	<b>292,054</b>	<b>424,950</b>	<b>197,848</b>	<b>172,466</b>	<b>35,516</b>	<b>88,511</b>	<b>11,899</b>
Albany	7,945	14,355	0	3,524	1,082	4,400	421
Amsterdam	954	3,081	0	685	189	171	43
Auburn	2,368	2,695	770	980	421	808	57
Batavia	1,011	1,715	221	304	139	73	40
Beacon	1,004	4,204	0	335	125	182	14
Binghamton	4,467	6,943	2,856	3,133	693	1,128	327
Buffalo	23,154	4,036	6	15,287	3,061	8,055	1,091
Canandaigua	634	2,428	0	799	77	74	51
Cohoes	1,583	5,661	0	296	75	250	14
Corning	874	2,965	1,168	370	123	67	62
Cortland	2,508	2,996	637	697	204	153	48
Dunkirk	1,142	1,499	0	253	132	74	34
Elmira	2,711	4,044	1,367	1,736	391	943	176
Fulton	957	2,570	40	931	153	179	44
Geneva	960	4,206	0	240	108	155	13
Glen Cove	821	3,148	3,079	26	92	122	21
Glens Falls	1,517	2,636	90	844	137	258	64
Gloversville	1,222	1,908	0	482	180	209	33
Hornell	588	1,470	0	157	100	209	8
Hudson	998	2,335	0	314	203	112	162
Ithaca	1,988	5,148	1,749	867	257	895	105
Jamestown	2,960	3,360	426	1,603	397	224	175
Johnstown	441	1,048	7	368	63	52	27
Kingston	1,997	5,394	18	659	330	382	280
Lackawanna	1,391	5,385	187	249	265	450	62
Little Falls	380	1,046	0	262	168	10	21
Lockport	1,443	2,679	0	1,225	375	162	105
Long Beach	1,485	2,778	15,062	20	138	203	11
Mechanicville	253	736	0	223	43	73	59
Middletown	1,797	5,109	286	1,113	309	572	206
Mount Vernon	5,146	7,626	0	1,968	416	2,138	130
Newburgh	2,822	4,048	0	1,424	204	1,456	83
New Rochell	5,324	13,979	64,242	1,989	434	1,062	157
Niagara Falls	5,519	12,293	30,748	2,213	629	1,078	172
North Tonawanda	1,436	7,568	0	551	310	350	86
Norwich	713	848	141	541	155	50	72
Ogdensburg	1,201	1,289	0	365	119	70	150
Olean	1,286	2,689	521	385	190	132	51
Oneida	923	1,996	142	653	89	67	44
Oneonta	1,300	1,496	455	294	249	51	30
Oswego	1,583	4,405	398	964	176	67	17
Peekskill	2,364	4,452	0	585	167	327	15
Plattsburgh	1,540	4,211	0	807	353	201	72
Port Jervis	1,123	2,052	54	229	91	158	29
Poughkeepsie	4,344	6,420	588	1,283	375	1,458	166
Rensselaer	810	1,624	0	360	48	90	63
Rochester	17,926	5,952	0	11,225	2,747	6,847	666
Rome	2,280	7,059	0	1,176	297	465	31
Rye	469	4,503	0	67	43	29	126
Salamanca	700	907	3	83	75	67	8
Saratoga Springs	1,953	5,212	0	1,199	242	96	116
Schenectady	4,807	8,359	160	2,527	889	2,914	141
Sherrill	152	1,390	0	259	24	0	20
Syracuse	16,717	33,708	40,766	9,740	1,336	6,585	363
Tonawanda	1,021	4,267	0	270	228	49	14
Troy	2,998	10,972	2,783	1,281	340	4,570	98
Utica	6,549	10,688	2,458	2,359	632	809	123
Watertown	1,671	3,467	0	1,263	272	428	83
Watervliet	487	3,819	0	279	64	365	8
White Plains	4,098	18,167	1,518	964	665	873	215
Yonkers	9,848	25,690	0	3,506	837	8,724	228
Nassau District	31,180	19,299	18	44,686	6,103	18,240	1,883
Suffolk District	80,211	76,917	24,884	38,989	6,687	8,050	2,665

## TOWN AND VILLAGE COURTS

### Structure

Town and Village Courts have criminal jurisdiction over violations and misdemeanors, and civil jurisdiction over claims of up to \$3,000. These courts also hear small claims cases for sums in amounts of up to \$3,000.

There are approximately 1,250 town and village justice courts located throughout the State (outside of New York City). They are presided over by approximately 2,075 justices who are elected for four-year terms. (Although there are approximately 2,300 Town and Village Justice positions, some individuals serve in more than one position.) Close to 75% of these justices are not attorneys.

Criminal actions are the most common cases handled by the justice courts. Their criminal jurisdiction includes routine matters such as minor traffic offenses, drunk driving cases, and zoning violations. In addition, town and village justices preside over cases involving sexual offenses and assaults. Although the county courts try felony cases, the town and village justices initially arraign the defendants in their courts.

Although most justice courts operate on a part-time basis, the justices' responsibilities often require a full-time commitment. Town and village justices can be called at any time of

the day or night to perform an arraignment. And, in addition to presiding when court is in session, they are responsible for maintaining court records, preparing reports for the State Comptroller's Office, and completing criminal disposition reports.

New justices who are not attorneys are required to complete a six-day basic certification course covering the fundamentals of law and their responsibilities as justices. Each year, town and village justices are required to attend an advanced continuing judicial education program. In addition to the attendance requirement, all non-attorney town and village justices must pass a written examination that is administered at the program.

### Caseload Activity

In 2003, there were 2,327,644 filings in Town and Village Courts (as defined by trackable financial incidences). Of these, 2% were civil cases, 15% criminal, and 83% vehicle and traffic matters. This percentage is steady across Judicial Departments and fairly steady across Judicial Districts. The exception is Judicial District 10N (Nassau County), where 90% of the filings are vehicle and traffic cases, and there are virtually no civil filings. The Ninth Judicial District had the largest number of filings, with 484,262. District 10S (Suffolk County) had the smallest number of filings, with only 82,683 (see Table 15).

**Table 15**  
**Town and Village Court Filings - 2003**

District	Civil	Criminal	Vehicle/Traffic	Total
<b>Total</b>	<b>56,746</b>	<b>345,142</b>	<b>1,925,756</b>	<b>2,327,644</b>
3 <sup>rd</sup>	7,377	41,891	234,481	283,749
4 <sup>th</sup>	6,849	43,603	221,293	271,745
5 <sup>th</sup>	4,918	35,470	188,832	229,220
6 <sup>th</sup>	4,928	33,803	147,851	186,582
7 <sup>th</sup>	8,309	43,151	222,840	274,300
8 <sup>th</sup>	8,013	55,408	338,133	401,554
9 <sup>th</sup>	14,244	64,139	405,879	484,262
10 <sup>th</sup> - Nassau	103	10,779	102,667	113,549
10 <sup>th</sup> - Suffolk	2,005	16,898	63,780	82,683

## ARBITRATION

### Description

Part 28 of the Rules of the Chief Judge (22 NYCRR) authorizes the Chief Administrator to establish mandatory arbitration programs in the trial courts. These programs are in operation in 31 counties. Outside New York City, the programs involve damages claimed of \$6,000 or less, while in New York City, cases are limited to \$10,000 or less.

### Caseload Activity

Statewide, 19,075 cases were received for arbitration during the year. There were 17,874 dispositions, followed by 1,017 demands for trials *de novo* (see Table 16).

**Table 16**  
**INTAKE, DISPOSITIONS & TRIALS DE NOVO**  
**IN MANDATORY ARBITRATION PROGRAM - 2003**

District	Intake	Dispositions	Demands for Trial De Novo	De Novo Rate
<b>Total State</b>	<b>19,075</b>	<b>17,874</b>	<b>1,017</b>	<b>6%</b>
New York City	1,420	1,435	317	22%
1 <sup>st</sup>	1,420	1,435	317	22%
2 <sup>nd</sup>	0	0	0	0%
11 <sup>th</sup>	0	0	0	0%
12 <sup>th</sup>	0	0	0	0%
Outside New York City	17,655	16,439	700	4%
3 <sup>rd</sup>	16	19	0	0%
4 <sup>th</sup>	11	14	0	0%
5 <sup>th</sup>	70	85	7	9%
6 <sup>th</sup>	31	30	0	0%
7 <sup>th</sup>	3,191	3,157	244	8%
8 <sup>th</sup>	85	94	7	7%
9 <sup>th</sup>	58	62	0	0%
10 <sup>th</sup> - Nassau	2,548	1,757	0	0%
10 <sup>th</sup> - Suffolk	11,645	11,221	442	4%

## PROBLEM-SOLVING COURTS

Problem-solving courts are located throughout the State and offer new solutions to problems such as addiction, domestic violence, child neglect, and quality-of-life crimes in an effort to end the revolving door of justice and improve the outcomes for victims, communities, and defendants. They frequently integrate the work of more than one traditional court. The work of the problem-solving courts is outlined here.

### Drug Treatment Courts

Drug Treatment Courts provide court-mandated substance abuse treatment to non-violent addicted offenders, as well as to parents charged in Family Court child neglect cases, and juveniles, in an effort to end the relentless cycle of addiction and recidivism. Participants are subject to rigorous judicial monitoring.

As of the end of 2003, there were 109 drug courts around the State with a total of 5,066 open cases: 4,756 of these in criminal treatment courts and 310 in family drug treatment courts. See Chapter Three for additional information.

### Domestic Violence Courts

Domestic Violence Courts were introduced in 1996 to handle cases of violence between intimates in an effort to enhance defendant accountability and increase victim safety. These courts handle felony and misdemeanor cases, bringing together a range of criminal justice and social service partners to provide a coordinated response to domestic violence.

## Integrated Domestic Violence Courts

In 2001, the DV Court concept was taken one step further with the development of Integrated Domestic Violence Courts, in which one judge is assigned to handle all the legal issues relating to a domestic violence case. Approximately 25% of criminal domestic violence cases also have a related case in another court.

Under this “one family/one judge” model, both criminal and civil matters, such as custody, visitation, civil protection orders, and matrimonial actions are handled as an integrated whole, rather than parceled out to various judges in different courtrooms. At the end of 2003, there were already 11 such courts in operation. See Chapter Two for additional information.

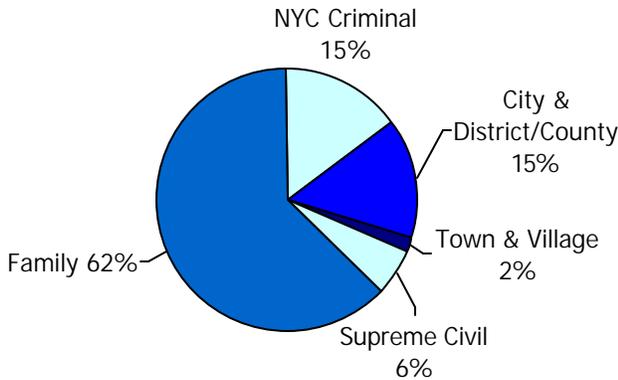
Table 17 shows caseload activity for the six courts in operation for the entire year. In these courts, 3,906 new cases were assigned to IDV parts, while the cases of 942 new families were added to the docket of the IDV courts. Figures 9 and 10 break down the filings by court of origin and case type. Sixty-two percent of the cases originated in Family Court and 6% in Supreme Court, Civil Term.

The remaining 32%, originated in courts with criminal jurisdiction. The case types parallel the courts of origin. Sixty-two percent are case types found in Family Court (custody and support issues 31%, child protective 6% and family offense 25%). Criminal cases make up 31% of the filings, matrimonial 5% and the remaining 2% were other case types or unable to be determined.

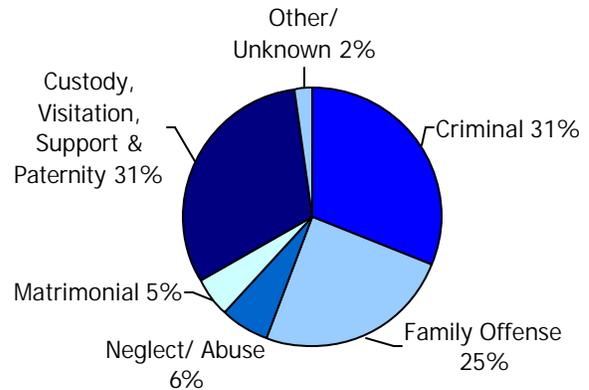
**Table 17**  
**CASELOAD ACTIVITY IN INTEGRATED DOMESTIC VIOLENCE COURTS**

County	Cases			New Families
	Filings	Dispositions	Pending	
<b>Total State</b>	<b>3,906</b>	<b>3,045</b>	<b>1,912</b>	<b>942</b>
Bronx	1,350	1,142	797	454
Monroe	242	175	91	55
Onondaga	192	124	68	46
Rensselaer	1,177	1,004	436	186
Suffolk	701	510	284	138
Westchester	244	90	236	63

**Figure 9**  
**Integrated Domestic Violence Filings by Court Origin - 2003**



**Figure 10**  
**Integrated Domestic Violence Filings by Case Type - 2003**



### Mental Health Courts

The first Mental Health Court was opened in New York State’s Kings Supreme Court in 2002. This Court links mentally ill offenders with court-monitored mental health treatment in an effort to provide offenders with structure and assistance in leading normal lives. As of the end of the year, close to 200 defendants had been referred to the Brooklyn Mental Health Court. Of those, 62 had become active participants under court supervision, while an additional 17 had been accepted for participation and were awaiting placement in community-based treatment programs. Four additional Mental Health Courts began operation during the year.

### Community Courts

The three Community Courts currently in operation represent a collaboration among the courts, local civic organizations, and businesses and social services agencies that are working to improve the quality of life at the neighborhood-level, while grappling with the range of issues facing the courts today. During the year, the three courts handled a total of 51,000 cases.

The Midtown Community Court, located in Manhattan, has been addressing quality of life issues for 10 years. The Court incorporates state-

of-the-art technology with community service sentences as an alternative to incarceration, and on-site social services to deal with crimes such as prostitution, graffiti, and illegal vending.

The Red Hook Community Justice Court opened its doors in 2000, with a single judge assigned to hear criminal, civil and Family Court cases. It was the nation’s first multi-jurisdictional community court and provides an array of sanctions and services including community restitution projects, on-site job training, and drug treatment - all rigorously monitored by the Court. The Justice Center also runs the Red Hook Youth Court, which uses peer pressure to ensure that teenagers who have committed low-level crimes repay the community and receive the help they need to avoid further, more serious incidents with the court system.

The Harlem Community Justice Center, which opened in 2001, is a multi-jurisdictional community court hearing Housing Court cases as well as Family Court cases involving youths arrested on drug charges. The Court offers a resource center for the public on landlord-tenant matters and a youth court, seeking new responses to handling youth offenders.

## COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM

### Description

The Community Dispute Resolution Centers Program (CDRCP), which is part of the Office of Alternative Dispute Resolution Programs, administers, funds, and oversees New York's network of community-based, not-for-profit dispute resolutions centers. These centers serve as a community resource where individuals can discuss and resolve their interpersonal disputes. Cases are referred to the centers from the courts and community agencies.

After center staff carefully screen each case, a neutral third-party mediator, who has been trained in accordance with CDRCP standards, helps the parties work together to develop a mutually agreeable solution. This process gives people in conflict the opportunity to take responsibility for resolving their own disagreements, prevents minor matters from escalating into more serious offenses, and addresses the underlying concerns of all parties. Mediators are trained to help parties with a variety of interpersonal issues, including criminal, civil and/or family matters. A more extensive review of court-based and court-referred ADR programs can be found in Chapter Two.

### Caseload Activity

In calendar year 2003, the centers determined that 52,412 cases involving 122,386 individuals were appropriate for dispute resolution (see Table 18). Of these cases, the centers conducted 30,268 conciliations, mediations and arbitrations that served 70,608 people. Parties entered into voluntary agreements in 85% of the cases that were mediated or conciliated. Centers report that disputants paid to one another a total of \$7,280,052 either through mediated agreements or arbitration awards. The average payment per case was \$2,083. The average single-hearing mediation or arbitration took 16 days from intake to final disposition. The average multiple-hearing case took 56 days for resolution. (The more complex cases, such as custody, visitation or selected civil disputes, are often handled in multiple sessions.)

The centers continued to help families in New York State resolve highly emotional family disputes, including 9,769 child custody, visitation, or support cases; 538 divorce or separation cases; and 2,021 PINS (Persons in Need of Supervision) cases.

A total of 8,936 cases (17% of the overall caseload) involved disputes among family members and domestic partners, including cases between parties who are married, separated or divorced from one another.

Table 18

COMMUNITY DISPUTE RESOLUTION CENTERS<sup>1</sup> WORKLOAD: NEW YORK STATE BY COUNTY - 2003

Location	Total Cases	Total Dispositions	Conciliated	Mediated Agreement	Mediated No Agreement	Arbitrated
<b>Total State</b>	<b>52,412</b>	<b>30,268</b>	<b>13,050</b>	<b>12,036</b>	<b>4,350</b>	<b>832</b>
New York City	9,803	5,803	1,074	3,285	1,273	171
New York	1,753	1,040	139	595	244	62
Bronx	1,816	1,032	259	569	180	24
Kings	2,843	1,689	217	903	525	44
Queens	2,070	1,198	308	622	247	21
Richmond	1,321	844	151	596	77	20
Outside New York City	42,609	24,465	11,976	8,751	3,077	661
Albany	468	380	5	251	91	33
Allegany	57	31	6	23	2	0
Broome	1,439	694	67	486	131	10
Cattaraugus	209	95	13	69	13	0
Cayuga	55	30	1	21	6	2
Chautauqua	1,081	265	18	176	71	0
Chemung	461	249	32	190	20	7
Chenango	497	88	24	55	9	0
Clinton	547	306	125	124	52	5
Columbia	164	72	3	49	18	2
Cortland	119	53	2	41	10	0
Delaware	402	139	29	95	14	1
Dutchess	976	284	5	143	118	18
Erie	16,903	10,084	9,269	531	128	156
Essex	46	23	5	17	1	0
Franklin	27	12	1	10	1	0
Fulton	181	75		45	29	1
Genesee	255	145	21	98	24	2
Greene	556	217	185	23	6	3
Herkimer	608	284	167	99	7	11
Jefferson	484	266	128	112	23	3
Lewis	39	17	7	8	1	1
Livingston	352	260	31	204	25	0
Madison	77	24	9	10	5	0
Monroe	915	495	63	304	89	39
Montgomery	215	117	6	74	32	5
Nassau	3,687	3,020	230	1,607	1,121	62
Niaqara	603	177	32	127	16	2
Oneida	516	260	20	152	14	74
Onondaga	1,384	640	146	411	53	30
Ontario	190	102	3	80	13	6
Orange	497	361	17	209	127	8
Orleans	8	4	1	1	2	0
Oswego	270	125	7	107	11	0
Otsego	448	185	15	141	27	2
Putnam	117	81	3	34	35	9
Rensselaer	152	109		69	40	0
Rockland	193	136	5	59	47	25
Saratoga	236	97	3	54	32	8
Schenectady	421	175	13	104	56	2
Schoharie	38	21	2	12	6	1
Schuyler	118	78	43	34	1	0
Seneca	70	44	4	26	14	0
St. Lawrence	494	480	280	193	0	7
Steuben	407	185	65	96	14	10
Suffolk	672	543	7	303	173	60
Sullivan	284	251	16	173	62	0
Tioga	135	58	14	38	6	0
Tompkins	536	224	21	151	52	0
Ulster	950	243	34	146	62	1
Warren	17	2	0	1	1	0
Washington	275	178	152	24	2	0
Wayne	158	82	5	65	11	1
Westchester	2,455	1,805	614	1,001	137	53
Wyoming	25	13	0	11	2	0
Yates	120	81	2	64	14	1

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

"Persons Served"

was set to 1 for each case in which the number of persons served was not reported.

Source: Compiled August, 2004 from data submitted to the State ADR Office by Community Dispute Resolution Centers

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## CHAPTER 2

# Administration of the Courts

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### 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 Administrative Judge of the Courts (or Chief Administrator of the Courts if the appointee is not 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 Administrative Judge, 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. 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.

In addition to the overall supervisory duties of these 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, a District Administrative Judge is responsible for supervising all courts and agencies. In New York City, an Administrative Judge supervises each major court. The Administrative Judges manage court caseloads and are responsible for general administrative functions, including personnel and budget administration.

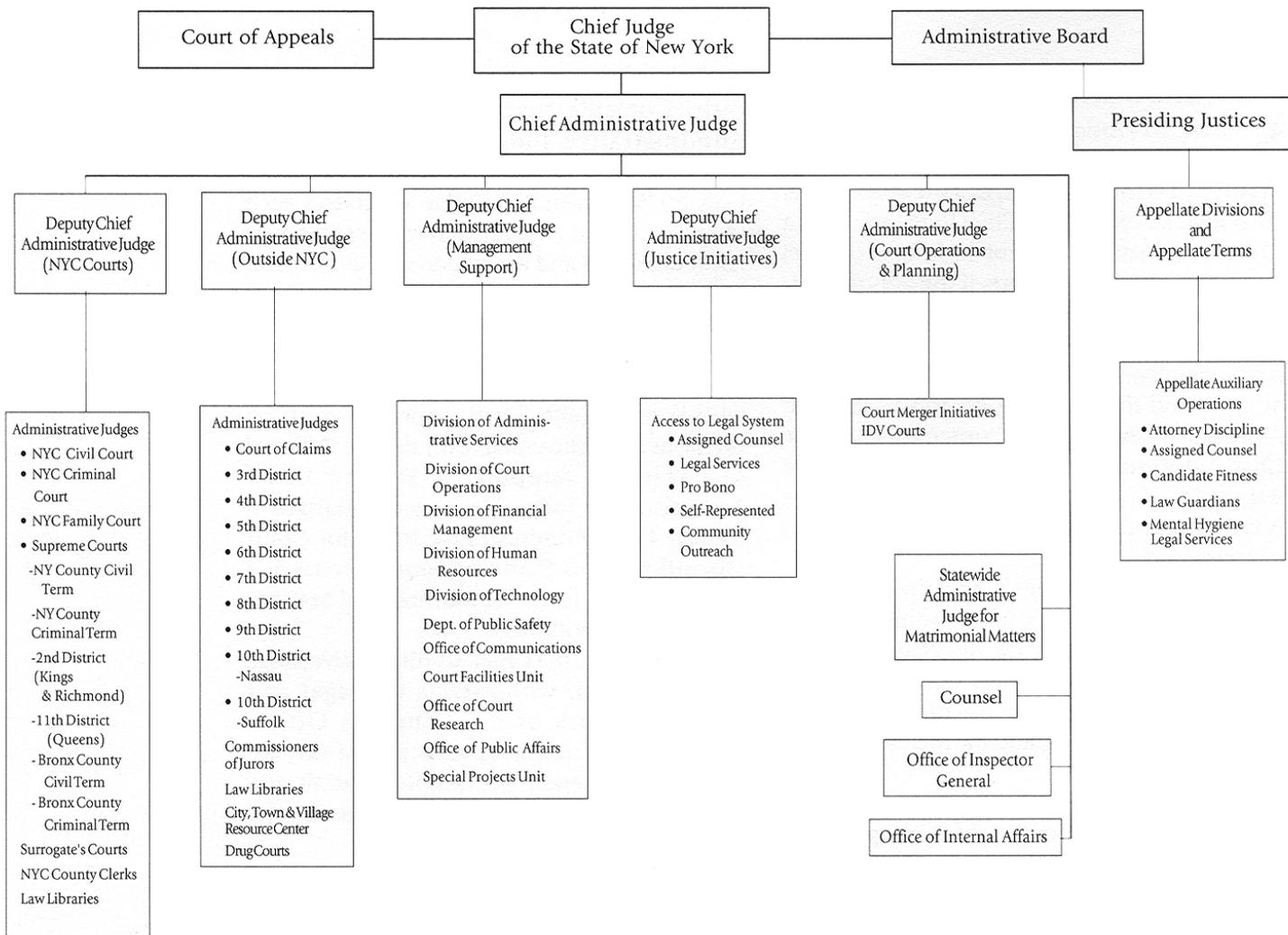
The Chief Administrative Judge is also assisted by a Deputy Chief Administrative Judge who is responsible for the operations of the divisions and offices that comprise the Office of Management Support, a Deputy Chief Administrative Judge for Justice Initiatives, a Deputy Chief Administrative Judge for Court Operations and Planning, and a Statewide Administrative Judge for Matrimonial Matters. (Their work is outlined below.)

In addition, the Chief Administrative Judge has a Counsel, who directs the legal and legislative work of the Counsel's Office. Counsel's Office prepares and analyzes legislation, represents the UCS in litigation, and provides various other forms of legal assistance to the Chief Administrative Judge.

The legislative work of Counsel's Office and its supporting advisory committees is reported in Chapter Four. The work of other advisory committees which have been established to assist the Chief Judge and the Chief Administrative Judge is reported in Chapter Three.

Two administrative offices also report directly to the Chief Administrative Judge. These are the Office of the Inspector General (whose work is outlined below) and the Office of Internal Affairs, which performs internal audits and investigations. (See Figure 11 for a diagram of the administrative structure of the UCS.)

Figure 11  
UNIFIED COURT SYSTEM ADMINISTRATIVE STRUCTURE



## DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR MANAGEMENT SUPPORT

The Deputy Chief Administrative Judge for Management Support supervises the Office of Management Support which provides the administrative services required to support all court and auxiliary operations. The Office consists of five separate Divisions: Court Operations, overseeing trial court operations, legal information and records management, security administration, and alternative dispute resolution programs; Financial Management, responsible for the Judiciary budget and payroll operations; Human Resources, encompassing personnel administration, employee relations, judicial benefits, professional development and the workforce diversity office; Administrative Services; and Technology. In addition, there are three offices: Court Research, providing caseload activity statistics and related services; Public Affairs; and Communications, which serves as the spokesperson for the court system. Also included under the direction of the Office of Management Support are: a Facilities Unit that assists localities in meeting their court facility obligations, the Department of Public Safety, and a Special Projects Unit which works with the courts in implementing the model courts developed by the Center for Court Innovation. (The Center's work is highlighted in Chapter Three.)

## 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, on behalf of the Chief Administrative Judge, fiscal policies and procedures, and performs other related functions. In addition, it supports UCS's goals and objectives by requesting and allocating the necessary funds to carry them out.

The Division also oversees the operations of the Central Payroll Office located in New York City and Albany. This office is responsible for the accurate and timely biweekly payment of over 12,000 judges and nonjudicial employees. Central Payroll processes all employee deductions, including those for State and local taxes, and health insurance, as well as thousands

of overtime claims for each pay period. The payroll office also audits all New York City-based employee time records to ensure the accuracy of leave accrual credits and usage, appropriate payment for overtime, and other related matters.

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 to the State Legislature by the Governor without revision, recommendations may be included, as deemed appropriate by the Governor.

The court operations budget request for the UCS prepared by the Division of Financial Management includes expenses for personal services (salaries for judges and nonjudicial personnel) and nonpersonal services (all other expenses, including equipment and supplies). Over 80 percent of the budget is allocated to the payment of personal services.

The budget request that was submitted for the 2003-04 fiscal year was approved by the Legislature with a reduction of \$10 million, to be largely offset by a retirement incentive program. A total of \$1.4 billion was appropriated for court and agency operations, reflecting a one percent increase over the previous year's allocation. In recognition of the serious deficit facing the State as a result of a weakened economy, the budget request did not include provisions for any new nonjudicial positions. The budget did, however, include funding for increased security for court facilities as well as funds to support initiatives in the Family Court, including support for the increased workload associated with the Adoption and Safe Family Act, Family Treatment Courts to address the growing problem of drug abuse and child neglect, and dedicated Domestic Violence parts. In addition, the budget provides funding for the continuation of drug treatment courts being phased in throughout the State. Included in the court and agency operations' base budget component are funds necessary to meet the court system's usual and normal budgetary requirements: support of current judgeships; payment of service increments and longevity awards to eligible employees in April 2003; continued automation for judges' chambers,

courtrooms, and operations offices under CourtNet; continued jury reform initiatives; and contractual services such as court security and law guardian representation.

## Division of Court Operations

The Division of Court Operations oversees statewide responsibilities in the areas of trial court operations, records management, legal information, security administration, and alternative dispute resolution. In addition, it coordinates activities related to the Americans with Disabilities Act and the UCS Domestic Violence Policy as they impact on court operations. The mission of the Division is to assist in the development of standards and the establishment of guidelines, as well as to support the trial courts, jury offices, and librarians in carrying out their mandate to provide efficient and quality service for all court users. In 2003, the Division's offices met their challenges in the following ways:

### Office of Trial Court Operations

The Office of Trial Court Operations (TCO) provides direct operational assistance and administrative support to courts and court agencies by identifying strong business practices and acting as a network for sharing these practices to insure improved and enhanced delivery of court services.

In carrying out its mandate, the Office works with other divisions of OCA. During the year, TCO collaborated with the Division of Technology to achieve the successful implementation of the Universal Case Management System (UCMS) in Family Court in all 62 counties in the State.

TCO worked closely with the Office of Court Research to conduct statistical reviews and address reporting issues in several Surrogate's Courts. The Office is also cooperating with the Seventh Judicial District Office and its Surrogate's Courts to expand implementation of their case management file system to Surrogate's Courts around the State.

The Office continued its efforts with the Office of Court Research to address statistical reporting issues for City and District Court operations. TCO also updated a Tenant's Guide in Landlord Tenant Matters for courts outside New York City. The guide is a simple "how to" booklet with relevant forms included.

On the automation front, the Office linked to payroll information to create the court system's first photo-identification database and produce the UCS photo-identification card system. Additionally, the Division's Security Administration Unit made significant strides in data collection by developing databases which improve efficiency and provide management reports to assist statewide court operations.

### Office of Records Management

The Office of Records Management (ORM) develops standards and guidelines for managing information throughout the court system. This continuously expanding responsibility involves developing new and updated retention schedules for the courts and court agencies and writing and updating guidelines for the use of information formats including paper, film, and digital. The Office also consults with courts and court agencies on the best use of information formats, information scanning, and the housing of long-term paper records, where appropriate.

This year, a new guideline (General Administrative Schedule) was developed to allow courts and court agencies to better manage routine daily information. The Office also worked closely with OCA's Counsel's Office to update Part 104 of the Rules of the Chief Administrator in relation to the retention and disposition of electronic records. In addition, the Office streamlined several retention schedules and related forms to make document management a universally more efficient process.

A major new unit of ORM opened in September 2003—the UCS Records Center at the Brooklyn Army Terminal. By maintaining the highest document management standards in the areas of security, temperature/humidity and quality control, this full-service center has begun to accept records for long-term storage from various courts in New York City. This service will result in increased efficiency and savings for the court system by moving records from private off-site storage areas into the ORM-managed secure facility.

### Office of Legal Information

The Office of Legal Information provides support to courts, law libraries, and the public in the areas of legal research, library administration, and library automation. The Office assists in the development, coordination, and implementa-

tion of policy and programs that enable the court system to make efficient use of available print and computer-assisted legal information. Toward this end, the Office oversees the centralized purchase program for legal reference materials, which supports all law libraries and Supreme, County, Family, Surrogate's, City and District Courts.

Pursuant to statute, the UCS supports a public access law library providing resources to the bar, local attorneys, and the general public in every county of the State. The Office provides professional library administrative assistance as well as technical support for library automation projects to each UCS court law library and public access law library. In order to further assist members of the community, the Office facilitated the creation of the 1-800- COURT-NY toll-free telephone number, hosted by a team of law librarians available to answer a wide range of court-related questions and refer callers to the appropriate resource.

The Office also administers UCS-LION (Library and Information Network), by serving as the primary system administrator, providing for daily maintenance, as well as long-range planning, and upgrading software and servers. The LION network provides on-line catalogues of the collections of the court law libraries both to court personnel and to the public. In addition, LION provides inventory records, databases for tracking circulation, acquisitions, receipt of materials, claim notices, and indices of Appellate Division records, and briefs housed in the UCS court law libraries.

This year, the Office joined the QuestionPoint project which originated through the joint efforts of the Library of Congress and the On-line Computer Library Center. The UCS QuestionPoint *Ask a Law Librarian* Virtual Reference Desk program is intended to bring the services of a law librarian to the desktop of court legal researchers using interactive real-time chat and on-line e-mail forums.

### **Office of Alternative Dispute Resolution Programs**

The court system utilizes a variety of alternative dispute resolution processes as expeditious and cost-effective options to litigation. The Office of Alternative Dispute Resolution Programs helps courts at every level to design, implement, and evaluate court-annexed ADR initiatives that offer

arbitration, mediation, neutral evaluation, or summary jury trials.

During the year, the ADR Office assisted the New York City Family Court in implementing a court-based child-permanency mediation program. A working group, which included attorneys and representatives from the courts and various service providers, developed a protocol for a post-adjudicative pilot mediation program in Kings County. A week-long training program on child-permanency mediation was offered to experienced mediators from around the State. A pilot program in New York County is planned for early 2004 and plans are underway to expand the program to an additional five counties outside New York City.

The ADR Office continued providing support to the Board of Governors for the Attorney-Client Fee Dispute Resolution Program. Pursuant to Part 137 of the Rules of the Chief Administrator, the Program offers arbitration and, in some cases, mediation for fee disputes between attorneys and clients in most types of civil cases. The ADR Office helped local bar associations and judicial district administrative offices train arbitrators throughout the State and responded to daily inquiries from attorneys and clients regarding the program. ADR Office staff also maintained the Board of Governors' web site ([www.nycourts.gov/admin/feedispute](http://www.nycourts.gov/admin/feedispute)), which provides attorneys and clients with the rules and forms necessary to participate in the program.

The ADR Office also administers the Community Dispute Resolution Centers Program, which supplies financial support and program oversight to a statewide network of not-for-profit, community-based dispute resolution centers. Since 1981, these centers have provided dispute resolution services for minor civil, criminal, and family matters referred from courts and community agencies; the centers now provide services to all 62 counties in the State.

This year, the ADR Office revised its training guidelines for mediators and trainers in the community dispute resolution centers. These revised guidelines modify the certification process for new and existing trainers and, for new mediators, increase the minimum hours of training required as well as enhance apprenticeship opportunities available. The Office also continued its collaboration with the United States Department of Agriculture to

provide mediation services in New York State for farm-related matters. The work of the CDRCP is outlined further in Chapter One.

The Office maintains a website at [www.nycourts.gov/ip/adr](http://www.nycourts.gov/ip/adr) and publishes *The New York Mediator*, which is written primarily for mediators who serve in the community dispute resolution centers.

## Division of Technology

The Division of Technology (DoT) provides automation services for the Unified Court System. These services include software applications support, network support, telephone, e-mail and Internet services, and support for technology purchasing statewide. In addition, DoT operates the statewide Domestic Violence Registry and a Technical Support Center which is available 24 hours a day, seven days a week.

### CourtNet

The backbone of the court system's automation system is CourtNet, a high-speed network that extends to all court locations statewide. First introduced in 1996, CourtNet now supports over 15,000 court employees at over 250 locations. During the year, CourtNet achieved a new level of network reliability and functionality as the redundant CourtNet backbone now reaches Buffalo, Rochester, Syracuse, Binghamton, Poughkeepsie, Albany, and New York City. In addition, a 75-mile fiber optics ring has been completed to link courthouses in Manhattan, Brooklyn, Queens, and Nassau. DoT is in the process of extending the optical network to Suffolk County, Bronx County, and White Plains.

### Software Applications

DoT's programming staff has written and maintains over 30 software applications supporting statewide case-processing systems and administrative applications. A major initiative currently underway is the creation of a centralized automated case-processing system—the Universal Case Management System (UCMS)—to be used by all courts statewide. The installation of the Family Court component of UCMS was completed in the fall, and work has begun on the criminal and local civil court components of this system.

During the year, several major enhancements were made to the electronic filing system for tax certiorari cases in New York

County. These included credit card payment of the filing fee over the Internet, streamlining the entry of multiple cases, and creating the ability for the system to automatically create a petition from the data entered by the filer. As a result, 6,066 tax certiorari cases were filed electronically in 2003.

As outlined more fully below, early in 2003, the Chief Judge announced a comprehensive program to reform the fiduciary appointment process in New York State. To support the changes that were subsequently made to the fiduciary rules, a new automated system was created which permits prospective fiduciary applicants to apply for appointment through the Internet. This system went live on May 28, and collected over 3,778 applications during the remainder of the year.

An automated program was developed to track and manage the multiple cases that are heard together in the Integrated Domestic Violence Courts that are being implemented throughout the State. This system is currently linked to the existing Criminal and Family Court automated systems and, in the future, will be integrated into UCMS.

### Domestic Violence Registry

The Domestic Violence Registry was established in October 1995, to collect all family offense orders of protection issued by the courts statewide and transmit these orders to the New York State Police Information System (NYSPIN). In turn, NYSPIN transmits the orders of protection data to the National Crime Information Center (NCIC). In January, programming was completed to permit orders of protection to be added directly to the Registry through the Family Court component of UCMS. During the year, the courts submitted 164,780 orders to the Registry.

### Telecommunications Services and Video Conferencing

DoT's Telecommunication Office has traditionally provided telephone support for all courts in New York City. The Office is now involved in a major initiative to implement a voice-over IP phone system in all of the major courthouses throughout the State, using the CourtNet network as its backbone. This phone system merges computer and telephone technologies. It allows for the transmission of phone messages through the e-mail system, and

permits phone users to keep the same number if they change location. It also provides free long-distance calls within CourtNet. During the year, these phones were installed in the Supreme Court in Queens County, the Family Court in New York County, and in all of the courts located in Buffalo.

Also operating through CourtNet is the UCS's videoconferencing system, which has been expanded to all court administrative offices, 14 courtrooms in the Supreme Courts within New York City, and various courthouses outside New York City. Videoconferencing has been used for inmate video appearance, court administration, and training throughout the State.

#### **E-mail, Intranet and Internet Web Site Services**

Over 15,000 users in all court locations are part of the statewide e-mail system maintained by DoT. This e-mail system has become the major form of communication within the court system, daily carrying an average of 70,000 messages. The court system's Intranet, providing a rich source of information, is available to employees at all court locations.

The Court System's public web site is located at: [www.nycourts.gov](http://www.nycourts.gov). This easy-to-navigate web site contains a vast and always expanding array of information on the courts, juror services, and career opportunities, with special separate sections geared to the needs of litigants and attorneys. Information available there is highlighted throughout this report.

### **Division of Human Resources**

The five operational offices of the Division of Human Resources provide a wide range of ongoing personnel and employment-related support to the courts. The Personnel Office administers the Judiciary's civil service system and oversees implementation of the classification plan and competitive-based staffing. The Employee Relations Office oversees labor/management initiatives and negotiates and administers collective bargaining agreements with the 13 unions that represent the court system's nonjudicial personnel.

The Career Services Office and the Workforce Diversity Office deliver a wide range of educational programs and provide resources and support for employee development. The Judiciary Benefits Office works closely with Executive Branch agencies to administer health and retirement benefits and coordinates

supplemental benefits for judges and court system employees.

Throughout the year, the Division offered a range of educational programs and services to support and enhance the work lives of judicial and nonjudicial employees. Some of these programs are highlighted below.

#### **Employee Development**

The Career Services Office introduced new training initiatives as part of its ongoing mission to support and enhance the professional development of court system personnel. Career Services expanded its program offerings for specific job titles, in particular court interpreters and court clerks. For the first time, court interpreters attended a professional development program with the focus on practical skills enhancement. Two additional new programs designed specifically for court interpreters—a special orientation program and a workshop on ethics and professionalism—were presented.

Court clerical employees were offered a new program, "Courtroom Presentation Skills," designed to provide newly-appointed court clerks with the opportunity to practice skills such as taking a verdict, polling jurors, and calling the calendar in a moot court environment. In response to a new law that allows a court clerk to become a notary public without sitting for the notary examination, Career Services presented a training program on the duties and responsibilities of a notary.

Career Services continued to build upon educational programs offered in previous years. Court managers participated in seminars which focused on new initiatives, administrative programs, and legislative updates directed to specific court types. Court Reporters attended the second annual professional development program, concentrating on state-of-the-art technology and skill-building techniques. Always in great demand is the Office's Professional Development Program, designed to enhance work skills for employees serving in clerical support positions. Making the Transition, a program tailored to employees who have recently been promoted to positions with supervisory responsibility, was also offered throughout the year.

As in previous years, the Court Officers' Academy expanded the many initiatives it makes

available to the more than 5,000 peace officers employed by the court system.

### **Workforce Diversity**

The Workforce Diversity Office continued its efforts to support diversity and professionalism in the delivery of court services. The Office provided educational programs for employees, in particular managers and supervisors, and coordinated mandatory sexual harassment training for judges and nonjudicial personnel. The Office also continued to provide a variety of programs to enhance recruitment efforts.

The Office moved forward with the second year of its highly successful Legal Fellows Program. This one-year fellowship is available to law school graduates interested in pursuing a career in public service. The Fellows gain hands-on experience in courtroom proceedings and court operations. They also participate in educational forums facilitated by a variety of professionals who are dedicated to a career in public service.

## **Division of Administrative Services**

The Division of Administrative Services provides a wide range of support services to the trial courts and to OCA's divisions and offices. These services include key office management functions that support the day-to-day operation of central and local administration and major purchasing, contract procurement, accounts management, and revenue processing responsibilities. They also include high-volume data-entry services and management of criminal history search operations serving private businesses and government agencies. In addition, the Division performs significant statewide information management functions involving a variety of registration, certification, and application processes (largely related to the status of attorneys and case processing) and oversees the staff of the Continuing Legal Education Department.

### **Attorney Registration**

Section 468-a of the Judiciary Law and the Rules of the Chief Administrator (22 NYCRR §118) require all duly admitted New York attorneys to file a biennial registration form and pay a fee. The filing requirement is mandatory for all

attorneys licensed to practice law here, whether resident or nonresident and whether or not in good standing; attorneys able to certify that they are "retired" from the practice of law, however, are exempt from payment.

Effective July 14, 2003, section 468-a of the Judiciary Law was amended to increase the biennial registration fee from \$300 to \$350. The additional \$50 was earmarked for the newly established Indigent Legal Services Fund. An additional \$60 of each registration fee paid is allocated to the Lawyers Fund for Client Protection, with the balance going to the Attorney Licensing Fund.

As of the end of calendar year 2003, more than 207,000 attorneys were registered with OCA. Table 19 reflects the number of attorneys with business addresses in each county within the State, as well as those who list addresses elsewhere.

The Attorney Registration Unit receives 300 to 400 phone calls a day regarding NYS attorneys and responds to hundreds of questions a week received in e-mails and letters. During the year, the Attorney Registration Unit processed 78,201 registrations and collected \$22,443,300 in registration fees.

### **Secure Pass Identification Card**

Since April 2002, attorneys have been able to obtain a "Secure Pass" identification card. This ID card provides attorneys with convenient access to courthouses throughout the State without being subjected to magnetometer screening, while maintaining the highest level of security for court facilities. Attorneys applying for a card are required to pay a \$25 processing fee and undergo a thorough application process, including an electronic criminal history search.

The card is designed with enhanced security features incorporating cutting-edge technology and replaces attorney identification cards which were previously issued by Administrative Services. Similar identification cards are now available to tenants of court facilities and appropriate governmental agencies for employees who regularly work in court facilities. Applicants must be from a pre-approved list of entities and are issued cards free of charge.

During the year, the Secure Pass Unit issued a total of 12,683 Secure Pass ID cards and collected \$ 233,325 in processing fees.

**Table 19**  
**ATTORNEY REGISTRATION BY LOCATION – Calendar Year 2003**

**COUNTY OF BUSINESS\***

<i>Location</i>	<i>Total</i>	<i>Location</i>	<i>Total</i>
Albany	4,080	Otsego	119
Allegany	49	Putnam	291
Bronx	2,264	Queens	5,115
Broome	620	Rensselaer	421
Cattaraugus	106	Richmond	1,190
Cayuga	110	Rockland	1,427
Chautauqua	240	St. Lawrence	117
Chemung	177	Saratoga	491
Chenango	67	Schenectady	419
Clinton	118	Schoharie	53
Columbia	175	Schuyler	28
Cortland	66	Seneca	38
Delaware	82	Steuben	149
Dutchess	868	Suffolk	6,104
Erie	4,547	Sullivan	215
Essex	98	Tioga	57
Franklin	77	Tompkins	347
Fulton	75	Ulster	454
Genesee	96	Warren	216
Greene	106	Washington	77
Hamilton	11	Wayne	92
Herkimer	77	Westchester	8,990
Jefferson	171	Wyoming	48
Kings	6,612	Yates	21
Lewis	20		
Livingston	83	Total In-State	140,479
Madison	102	Outside N.Y. State	57,703
Monroe	3,188	Out of USA	9,231
Montgomery	83		
Nassau	12,568	Total	207,413
New York	72,599		
Niagara	359		
Oneida	549		
Onondaga	2,319		
Ontario	191		
Orange	891		
Orleans	27		
Oswego	129		

**Number of Attorneys by  
Judicial Department of Business\***

First Department	74,863
Second Department	44,056
Third Department	8,951
Fourth Department	12,609
<b>Total by Department</b>	<b>140,479</b>

\* If no business address, county of residence

**Appointment Reporting Process**

Effective June 1, 2003, a new Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36) was adopted regulating fiduciary appointments by the courts. This Rule required the Chief Administrator to establish new lists of persons eligible to serve, as well as new training requirements, criteria for disqualification from appointment, and new limitations on compensation. The Rule also changed the procedures for appointment, mandated a new application form, added qualifications for appointment, and expanded the categories of appointments covered by the Rules.

Part 36 now includes guardians, guardians ad litem, privately paid law guardians, court evaluators, attorneys for alleged incapacitated persons, court examiners, supplemental needs trustees, receivers, and referees. In addition, the new Rule requires individuals appointed by judges to perform services for guardians or receivers in the capacity of counsel, accountant, auctioneer, appraiser, property manager, or real estate broker to be selected from lists maintained by OCA.

As a result, numerous improvements were made in the systems, forms, and clerical processes required to implement the new Rules. A new application for appointment form was developed and made available to applicants in an on-line format accessible via the Internet. As of the end of 2003, over 4,500 individuals had applied, met the eligibility requirements, and were placed on approved lists in all appointment categories.

Once new forms for appointment, compliance, and approval of compensation were put into use, the database used to record the appointment and fee data collected from these forms was upgraded and improved. And, in November, an automated system that allows fiduciary clerks to track the appointment process in the courts and generate required forms on-site became operational.

During the year, there were 10,229 notices of appointment filed by fiduciaries with the Chief Administrator. Section 35-a of the Judiciary Law requires judges who approve the payment of a fee for more than \$500 for services performed by any person appointed by the court pursuant to Part 36 to file a statement of approval of compensation with OCA. In 2003, OCA received a total of 5,818 statements of approval of compensation.

**Retainer and Closing Statements**

In accordance with the Rules of the Appellate Division, First Department (22 NYCRR§603.7) and Appellate Division, Second Department (22 NYCRR§691.20), 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 and Second Departments must file a retainer statement with OCA. These retainer statements include the date of agreement, plaintiff name, and terms of compensation.

In addition, in any case or proceeding that requires a retainer statement to be filed, a closing statement must be filed within 15 days after the attorney receives or shares in 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. A closing statement must also be filed if an action is abandoned, or if the agreement is terminated without recovery.

During 2003, a total of 422,383 retainer and closing statements were processed. Of these, 172,119 were filed in the First Department, 228,226 in the Second Department, and 22,038 in the Fourth Department. Effective May 28, 2003, the Appellate Division, Fourth Department, repealed sections 1022.2 and 1022.3, of their Rules, thereby removing the requirement that attorneys representing a client who is a resident there file statements with OCA.

**Adoption Affidavits**

In accordance with the rules of the respective Appellate Divisions, 22 NYCRR§§603.23 (1<sup>st</sup> Dept.), 691.23 (2<sup>nd</sup> Dept.), 806.14 (3<sup>rd</sup> Dept.), and 1022.33 (4<sup>th</sup> Dept.), all attorneys handling adoption proceedings must file an affidavit with OCA concerning the adoption. The objective of the filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

In order to help expedite finalization of adoptions, the Uniform Rules of the Family and Surrogate's Courts [22 NYCRR§§205.53(b)(7), 207.55(b)(7)] were changed, effective as of October 8, 2003, to eliminate the requirement that a receipt of this filing be presented to the court prior to entry of the decree. During 2003, 6,545 adoption affidavits were filed with OCA.

### Criminal History Search Unit

On July 14, 2003, pursuant to Chapter 62 of the Laws of 2003, the Criminal History Search Unit was directed to discontinue its sale of county criminal records searches and, instead, sell statewide criminal history public records that include felony and misdemeanor convictions from all 62 counties in the State. This law directs that OCA be solely responsible for the sale of criminal history record searches produced by a search of its electronic database and to charge \$52 per name searched. This change also precludes the individual county courts from selling their electronic county criminal history records.

The revenue generated from each criminal history search request is allocated as follows: \$16 to OCA's Judiciary Data Processing Offset Fund, \$27 to the Indigent Legal Services Fund, and \$9 to the Legal Services Assistance Fund.

For calendar year 2003, the Unit received \$24,123, 532 in payment for criminal history record searches.

### Continuing Legal Education

Continuing legal education is mandatory for attorneys in New York State. Newly admitted attorneys are required to complete 32 hours of accredited CLE within the first two years of admission. Experienced attorneys (those who are admitted to practice in the State more than two years) are required to complete 24 hours every two years. The CLE program has been designed with flexibility, so that experienced attorneys may fulfill their requirement in a variety of ways, ranging from attendance at live CLE programs, or participating in taped or on-line courses, to teaching and lecturing,

performing *pro bono* legal services, or writing articles that increase the professional legal competency of attorneys.

During 2003, the initial three-year periods of accreditation of many providers expired. In order to determine if they were eligible for reaccreditation, CLE staff audited providers by attending programs and evaluating year-end reports. Providers whose past CLE activities were found to be deficient are currently being monitored by CLE staff.

In addition, the CLE Board reviewed the financial aid policies of many providers and issued financial aid policy guidelines. The Board also adopted a broadened definition of "legal research-based writing," to encompass articles that had not formerly been eligible for CLE publication credit.

The CLE website is located at [www.nycourts.gov/attorneys/cle](http://www.nycourts.gov/attorneys/cle), and inquiries can be directed to [CLE@courts.state.ny.us](mailto:CLE@courts.state.ny.us).

### Court Facilities

Since the adoption by the State of the Court Facilities Act (CFA) in 1987, the UCS has been providing guidance, direction, and financial assistance to local governments to help them meet their financial responsibilities. In accordance with the CFA, the State administers a capital planning process that requires localities to assess their court facilities' needs and propose required improvements. The State then provides both technical assistance and interest subsidies to help defray the borrowing costs. It also reimburses localities for all facilities-related expenses associated with the Appellate Division courts. Collectively, these programs have sparked a renaissance in court facilities across the State and

James O'Connor



*A state-of-the-art courtroom in the new Queens County Family Court*

now provide over \$90 million a year to cities and counties to help meet their court facilities needs.

During the year, several major new court facilities were completed and placed into operation. In Syracuse, a new building to house the Onondaga County Court, the District Attorney, and the City Court was completed. In Erie County, a building that formerly housed a law school and State offices was renovated to serve as the new law library for one of the State's largest metropolitan areas. In New York City, a new City-wide records storage facility was completed and placed in service in a building that formerly served as part of the Brooklyn Navy Yard (see the Division of Court Operations above). In the City of Kingston, the facility that houses the City Court was completely rebuilt and more than doubled the space afforded to the Court.

The Judicial Institute, the court system's statewide judicial training and resource facility, opened its doors on the campus of Pace University in White Plains. The building was financed through the issuance of Dormitory Authority bonds.

The provision of facilities for New York's highest tribunal, the Court of Appeals, has always been a State responsibility. In the late 1990s, in response to a recognition that this proud and distinguished facility was in need of modernization and expansion, a renovation plan was developed, capital funding obtained, and the State Dormitory Authority authorized to manage the design and construction of this work. With the completion of the project this year, the Court of Appeals building has now been completely modernized and its profile expanded to provide critically needed additional space to the Court, while preserving its historic character and architectural significance.

Meanwhile, across the State, work continued on various major court improvement projects. In Jefferson County, a former post office facility is being converted into a new court complex. In Westchester County, construction of a new Family and County Court building continued. Construction of the two largest and most ambitious court facilities ever built in this State – the 74-courtroom Kings County Supreme/Criminal and Family Courthouse being privately developed and the new 47-courtroom Bronx County Supreme/Criminal Courthouse being built by the State Dormitory Authority -

continued on schedule. And, as the year drew to a close, Albany County broke ground for two major new court facilities: a Family Court to be built by a private developer and a new County Court building.

## Office of Public Affairs

The Office of Public Affairs strives to enhance public understanding of the Judiciary, while keeping court employees apprised of the courts' latest initiatives. In this capacity, the Office develops and implements outreach strategies, managing a variety of special events, educational programs, and annual tributes acknowledging outstanding achievement by nonjudicial personnel. In addition, the Office oversees the courts' repository of public information materials (responding to thousands of requests for information each year) and publishes a quarterly newsletter for jurors, highlighting court initiatives, people in the courts, and related news.

Working diligently to build bridges between New Yorkers and their courts, the Office partnered with Court TV to produce a public service announcement aimed at enhancing citizen participation in juror service and increasing minority representation among jury pools across the State. The Office is developing a poster for distribution statewide, featuring New York celebrities who have served as jurors, to underscore the vital role jurors play in our justice system and emphasize that all qualified citizens — even the rich and famous — are required by law to perform this important civic duty.

During the year, the Office sought input from high school teachers to generate an ongoing dialogue between teens and court experts, leading to a lively "telechat" in the spring that placed Deputy Chief Administrative Judge Pfau in touch with students from several high schools. The teens queried the judge on juvenile crime, public access to the courts, and other topical legal issues. A summary transcript of this informative discussion is now available to schools and the general public. The Office continues to strengthen its ties with educators and members of the bench and bar by devising print, on-line, audiovisual, and other projects to acquaint students of all ages with the history, role, and operations of the state courts.

The Office also works with court administrators and outside agencies to develop educational programs for court employees on court policies and initiatives. Of particular

significance this year was a program to promote awareness about domestic violence and familiarize employees with the courts' domestic violence workplace policy. The program also highlighted local services available to victims and their families.

As events manager for the courts, the Office was responsible for coordinating numerous programs during the past year, including the Chief Judge's State of the Judiciary address and Law Day ceremony, as well as the tenth anniversary celebration of the New York County Supreme Court Commercial Division.

physical security components for new and renovated court facilities.

The Department is responsible for the development and implementation of emergency preparedness planning and procedures throughout the court system. This includes compliance with OSHA regulations for emergency procedures and the completion of emergency plans for each court location, as well as conducting and reviewing evacuation drills at the various facilities. In the spring, the second phase of the full building evacuation drills were held in court facilities throughout New York City.

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*Chief Judge Judith Kaye addressing New York City Mayor Michael Bloomberg and the other attendees at the tenth anniversary of the Commercial Division of New York County Supreme Court*

## Department of Public Safety

The Department of Public Safety was created following the events of September 11, 2001, to develop, oversee, and implement security policies and procedures throughout the State court system. In carrying out its mandate, the Department consults with and advises court administrators on security matters, establishes procedures for handling threats against the Judiciary, and is responsible for maintaining the Court Officers' Rules and Procedures Manual. The Department also oversees requests for security equipment and works closely with the Court Facilities Unit to design and implement

These drills were conducted with the assistance of the Police and Fire Departments and the New York City Office of Emergency Management. The drills were successful and provided real-time experience in all aspects of the evacuation process.

The Department has been instrumental in establishing the Mobile Security Patrol (MSP) Unit, which uses marked vehicles to provide increased security, particularly during off-hours, for court facilities located in New York City. The Unit creates a public presence and serves as a deterrent against potential crimes aimed at the courts, as well as allowing for the quick and efficient response to security-related incidents.

The Department also serves as a liaison between the law enforcement and public safety community, at the local, State and federal levels. These relationships allow for the free flow of information among agencies, foster cooperation in handling common issues, and assist in an ongoing effort to develop new initiatives to enhance security and public safety in the State courts.

### Office of Court Research

The Office of Court Research provides caseload activity statistics, jury system support, and operations research services to all courts within the UCS. In its role as the statistics repository for the court system, the Office prepares analyses of caseload activity for court administrators in the area of caseload performance, judicial needs analysis, and court staffing. The Office also provides caseload activity information to other agencies, the press, and the public.

In addition, the Office provides support to the Chief Judge's Jury System Improvement Project. As part of that effort, this year the Office coordinated the Jury Trial Project which includes over 40 trial judges who are experimenting with innovations to improve the trial process for all participants. These innovations include the use of mini-opening statements and note-taking and questioning by jurors, as well as providing jurors with a written copy of the judge's charge. The Office also provided staff support to the Commission on the Jury, whose mandate is to determine ways to improve the utilization of jurors' time. The work of the Commission is highlighted in Chapter Three.

The Office joined with the Department of Technology to coordinate a number of improvements to jury operations. These efforts resulted in an improved juror web site, available at [www.nyjuror.gov](http://www.nyjuror.gov), that supplies timely information to over 1,000 jurors a day, the creation and distribution of The Jury System Guide for Employers and Employees, and the successful testing of a system that permits prospective jurors to qualify by phone or via the Internet.

### OFFICE OF THE DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES

The Office of the Deputy Chief Administrative Judge for Justice Initiatives, under the leadership of the Hon. Juanita Bing Newton, provides statewide oversight for the development and implementation of programs to assure meaningful access to justice for all New Yorkers. The Office seeks to eliminate existing disparities and barriers that directly impact the public's ability to access the justice system, focusing on four major areas: strengthening the delivery of legal services for poor and moderate-income New Yorkers, increasing the provision of *pro bono* services for those unable to retain counsel, addressing the needs of self-represented litigants as they navigate the legal system, and expanding community education and outreach programs that inform the public about the courts.

This year, the Office launched CourtHelp ([www.nycourthelp.gov](http://www.nycourthelp.gov)), a web site designed to assist litigants without lawyers find and use New York's courts more easily. CourtHelp provides – in one place and with plain-language text and straightforward graphics – factual information about the courts. It includes: courthouse information for every trial and appellate court, guidance for obtaining assistance at court as well as court forms and answers to common questions about the law. It also contains law library locations, lawyer referral contacts, and links to other legal services and research. CourtHelp has been well-received – in its first months of operation, the web site averaged almost 600 visits a day. Plans are underway to expand the site to include additional legal information and resources.

To further ensure that the public and, particularly, self-represented litigants have the necessary information to proceed with their court matters, the Office, in conjunction with the Office of Management Support, developed the Facilitating Access Training Program. This training program, designed for court personnel, emphasizes the court system's responsibility to provide comprehensive information to the public without giving legal advice. Written materials supplement the training, including two reference manuals which contain guidelines for determining the information which can and

Faye Ellman



*DCAJ for Justice Initiatives Juanita Bing Newton addressing the Indigent Defense Summit, as Chief Administrative Judge Lippman and Brooklyn D.A. Charles Hynes listen*

should be provided, as well as frequently asked questions and suggested responses.

In an effort to address the needs of poor litigants in criminal matters, the Office hosted an Indigent Defense Summit in November. This successful, day-long event brought together experts in the criminal justice field to examine all aspects of the current indigent defense system and generate ideas for strengthening it. A detailed report will be issued in early 2004.

## OFFICE OF THE DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR COURT OPERATIONS AND PLANNING

The Office of the Deputy Chief Administrative Judge for Court Operations and Planning, under the leadership of Hon. Judy Harris Kluger, is responsible for long-range planning for court reform and the oversight and direction of court restructuring projects. The mandate of the Office is to improve the functioning of the court system through strategic planning, to develop proposals for legislative change, and to implement operational restructuring.

Since its establishment in January, the Office's focus has been on the implementation of Integrated Domestic Violence (IDV) Courts, in an effort to better serve families in crisis. Based

on the one family-one judge concept, the IDV Courts allow a single judge to hear related cases pertaining to one family when the underlying issue is domestic violence. Prior to the establishment of IDV Courts, domestic violence victims and their families were required to appear in multiple courts in front of multiple judges to address their criminal, family and matrimonial problems.

The Office is building on a successful IDV pilot program that was begun in 2001 and is evolving with the support and assistance of the Center for Court Innovation. The goal is to establish IDV Courts throughout the State by the end of 2006, in order to improve the justice system's treatment of families through fewer court appearances, more informed judicial decision-making, and more consistent court orders. The IDV Courts will also ensure greater offender monitoring and accountability, and provide enhanced access to social services for victims and their families.

Currently, there are six IDV Courts – in Bronx, Monroe, Onondaga, Rensselaer, Suffolk, and Westchester Counties – which have been operating for a year or more. By the end of 2003, five additional IDV Courts opened in Erie, Queens, Richmond, and Tompkins Counties and in the Fourth Judicial District, encompassing Clinton, Essex and Franklin Counties.

To assist the operations of the local IDV Courts, the Office provides training, operational

manuals, and technical assistance. The Office offered a three-day intensive legal training program to prepare IDV judges and their staff to handle criminal, family, and matrimonial law issues arising in the IDV context. The program also addressed cultural competency and the history and context of the court system's handling of domestic violence. A technical assistance team, consisting of one representative from Judge Kluger's office and one from the Center for Court Innovation, is assigned to each court to help create operational protocols, draft planning documents, secure technical assistance, and collaborate with local agency and service providers.

To ensure that the IDV Courts are responding effectively to community needs, a comprehensive evaluation system is in place and a statewide advisory group comprised of representatives from all agencies and services involved meets twice a year to review feedback from providers and discuss court performance.

## OFFICE OF THE STATEWIDE ADMINISTRATIVE JUDGE FOR MATRIMONIAL MATTERS

The Office of the Statewide Administrative Judge for Matrimonial Matters, under the leadership of Hon. Jacqueline Silbermann, is responsible for the effective delivery of information and services relating to matrimonial matters to judges, nonjudicial employees, matrimonial counsel, and litigants. Matrimonial cases, which constitute a significant portion of the civil trial calendar, reflect the most serious social and economic issues of concern to society. The Office focuses on enhancing matrimonial litigation for the betterment of all involved.

The Office is committed to focusing its resources on programs designed to minimize the level of litigation in cases involving children. This helps protect this vulnerable population and reduce the burden that protracted custody litigation places on the court system. This year, a parenting form was developed and tested. It will require each parent in a contested custody matter to detail the decision-making and scheduling plans for their children. A comparison of the parties' forms prior to trial will help facilitate the courts' ability to foster agreements on the

all-important issue of custody by identifying areas of agreement and building on them.

In addition, the Office implemented a pilot program in Supreme Court, New York County, to mediate post-judgment custody cases and helped create a mediation project for high-conflict custody cases to be implemented there in spring, 2004. The Office is also reviewing a certification process for forensic experts in this area.

The Office plays an active role in providing continuing education and training for judicial and nonjudicial court personnel. Over the summer, the Office offered training for matrimonial judges at the annual judicial seminars and, in September, for judges and staff assigned to Integrated Domestic Violence (IDV) parts. The Office also created a primer to educate new matrimonial judges on the basic principles of matrimonial law, including the grounds for divorce, equitable distribution, maintenance, child support, custody, and procedural/ethical rules governing practice.

The Office is responsible for monitoring the implementation of the Matrimonial Rules, which were adopted by the Administrative Board of the Courts in 1993 to govern case management and attorney-client relations in domestic relations matters. In recognition of the tenth anniversary of the adoption of the Rules, the Office produced a comprehensive report on their effectiveness entitled, "The Matrimonial Rules—Ten Years Later." The report included a brief history of the need for the Rules and the impressions of the bar on their effectiveness. It also included a statistical analysis of the improvements achieved in case management as a result of the implementation of the Rules and recommendations for future improvements.

## Office of the Inspector General

The Office of the Inspector General is the investigative arm of the court system. The Office has statewide jurisdiction to investigate claims of wrongdoing in the court system, monitor and investigate allegations of work-related bias involving court system employees, and monitor and enforce the rules concerning fiduciary appointments. The Inspector General is responsible for investigating complaints from court employees and court users concerning misconduct, criminal activities, conflicts of

interest, and incompetence. In addition to the Inspector General, the Office includes the Managing Inspector General for Bias Matters and the Managing Inspector General for Fiduciary Appointments.

The Managing Inspector General for Fiduciary Appointments focuses on ensuring compliance with the fiduciary rules and investigates complaints about court appointments. The Managing IG is responsible for evaluating and making recommendations to enhance and improve the fiduciary appointment process, as well as assist in the implementation of any rule changes. During the year, the categories of court appointments regulated by Part

36 of the Rules of the Chief Judge (22NYCRR) were expanded to include court examiners and law guardians. The Managing IG has been focusing on these positions to ensure compliance with the Rules.

The Managing Inspector General for Bias Matters is responsible for investigating complaints from court employees and court users concerning allegations of bias based upon race, sex, sexual orientation, age, marital status, disability, national origin, or religion.

This year, the Inspector General's Office took part in statewide training programs focusing on ethics and supervisory skills, along with informational workshops on the role of the IG's Office.

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## CHAPTER 3

# Highlights of Programs and Advisory Committees

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### Center for Court Innovation

The Center for Court Innovation is a unique public-private partnership that serves as the independent research and development arm of the court system, promoting ongoing innovation and improving the judicial response to problems such as addiction, mental illness, domestic violence, and juvenile delinquency.

The Center's primary role is to create demonstration projects that test new strategies and technologies in an effort to improve the way courts serve citizens. The goal is to use demonstration projects as laboratories, where new ideas can be field-tested and, if successful, implemented system-wide (examples include the Midtown Community Court, Red Hook Community Justice Center, and the Brooklyn Mental Health Court). The Center also shares

its lessons with other court systems, helping keep New York at the cutting edge of court innovation around the country and beyond.

Highlights from the Center's work in 2003 include:

#### Exporting Innovation Abroad

The Center's demonstration projects have, over the years, inspired the creation of similar courts around the country. The concept of problem-solving justice now has gone international. The British government intends to create community courts and integrated domestic violence courts in England and Wales, starting with an Integrated Domestic Violence Court in London, and a community court in Liverpool similar to the Red Hook Community Justice Center.

Edward Shioni



*British Secretary of State Lord Falconer of Thoroton shares a light-hearted moment with Chief Judge Kaye, Chief Administrative Judge Lippman, and New York City Mayor Bloomberg at the 10th anniversary celebration of the Midtown Community Court*

The pilot in Liverpool will build on Red Hook's core philosophy by focusing on quality-of-life offenses. It will impose punishment, as well as provide assistance. The Liverpool courtroom, similar to the Justice Center, will serve as a hub around which numerous criminal justice and social service agencies will be based. As in Red Hook, the goal is to make communities safer and stronger, while helping to solve the problems that bring people to court.

The Integrated Domestic Violence Court, to be launched in the London neighborhood of Croydon, will seek to improve the safety of victims while holding offenders more accountable for their behavior.

Staff from the Center for Court Innovation traveled to Great Britain to assist in the planning of both of these projects and will continue to serve as consultants.

#### **Drug Court Study**

The Center made a significant contribution to the growing body of research about drug courts by releasing the most comprehensive statewide analysis to date of drug treatment court efficacy. The report, which was funded by the U.S. Department of Justice, found that New York drug courts had reduced recidivism by an average of nearly 32 percent.

The study was an in-depth, multi-site statistical analysis of drug court programs which link non-violent, addicted offenders to judicially-monitored drug treatment instead of incarceration. The evaluation was the first in the nation to consistently demonstrate a meaningful reduction in recidivism across a large number of sites over a long-term tracking period.

Researchers from the Center studied 11 courts, representative of urban, suburban, and rural regions in the State. Their data revealed that participants in court-mandated treatment remain there longer than those who seek treatment voluntarily. After one year, over 60 percent of participants were found to have either successfully completed their programs, or were continuing in treatment, compared to a random sampling of in-patient programs nationwide, which showed only 10 to 30 percent of participants who had completed or were continuing in treatment.

More significantly, in comparing participants enrolled in six of the State's oldest drug court programs to similar defendants from each jurisdiction who did not enter a drug court, the study found an average decline in recidivism of 31.7 percent for drug court participants (including both graduates and those who do not complete the program) in the year following program completion.

#### **Tributes**

In March, the Red Hook Community Justice Center received the Rudy Bruner Award for Urban Excellence. This award recognizes achievements based on architecture, urban design and planning. The silver medal and \$10,000 prize were given in recognition of the Justice Center's "positive impacts" on the community. The selection committee cited the Justice Center for "empowering community members to deal pro-actively with the issues that affect the community." The committee also noted that the Justice Center provides services aimed at moving people from poverty to self-sufficiency and, together with the Midtown Community Court, serves as a model for change.

In December, the Midtown Community Court celebrated its tenth anniversary with a ceremony that brought Chief Judge Kaye, New York City Mayor Michael Bloomberg, and Lord Falconer of Thoroton, the highest-ranking judicial official in Britain, to the midtown-Manhattan courthouse. The Midtown Court targets quality-of-life offenses, such as prostitution, shoplifting, fare-beating, and vandalism. It sentences low-level offenders to community service, while at the same time offering them assistance with the problems that often underlie criminal behavior. At the anniversary ceremony, Chief Administrative Judge Lippman confirmed that the Midtown Court was no longer an experiment, but rather a "permanent part of the judicial landscape in New York."

Mayor Bloomberg acknowledged the Midtown Court's impact in the changing face of Times Square: "Ten years ago, Times Square was seen as the quality-of-life crime capital of the City. Today, it is the heart of New York ...[t]he Midtown Community Court brought justice to a problem area, and the results couldn't be clearer."

### **New Directions**

Using grant funding, the Center is working on a plan for New York City Family Court that focuses on the needs of families and children who are involved in abuse and neglect cases. The plan, known as the “Blueprint for Change,” was developed in consultation with the Judiciary, the Administration for Children’s Services, social service providers, the legal community, and, importantly, Family Court litigants themselves. Under the Blueprint, Family Court will focus on improving inter-agency collaboration, case flow, and calendar management, as well as communication with litigants.

## **Court Drug Treatment Program**

The Office of Court Drug Treatment Programs (OCDTP), directed by Deputy Chief Administrative Judge Joseph J. Traficanti, Jr., is responsible for developing and overseeing a statewide drug treatment court initiative to provide court-mandated substance abuse treatment to non-violent addicted offenders, as well as parents charged in Family Court child neglect cases, in an effort to end the relentless cycle of addiction and recidivism.

The mandate of the Office, which was established in 2000, is to ensure that non-violent addicted offenders brought before the courts will be offered an opportunity for treatment. The Office is well on the way towards meeting this goal. As of December 1, there were 108 drug courts in operation: 78 in the criminal courts, 24 in the family courts, and six focused solely on juveniles. As of October 1, there had been over 16,000 participants in the program and over 5,000 graduates. Another 77 community teams are actively engaged in the planning process to open new drug courts in the coming year.

Each drug court is locally-based and reflects the legal culture of the community. Financial support for this project comes from local communities, the court system, and the federal government. The framework is provided by the intense training each team receives and the oversight provided through continuous evaluations and assistance from the OCDTP.

The OCDTP is working with the Center for Court Innovation to produce a *best practices* manual for the Drug Treatment Courts. Planning is underway to develop a continuing education program for drug court judges and other members of the team.

Research and evaluation of this project is critical to meeting the goal of statewide implementation. All treatment courts use a single data base, either the criminal or family model, which provides case management tools as well as the means to gather uniform statistical data. As detailed above, researchers at the Center for Court Innovation recently completed a statewide evaluation based on data collected from the treatment courts. Their report documents a significant decrease in recidivism rates realized by graduates of the drug treatment courts over the three-year term of their study.

Of great interest to local and State government officials is the data on cost savings which is beginning to be collected. These savings are the result of graduates finding employment and reuniting with their children, thus reducing the costs of social services and foster care and enabling the birth of drug-free babies. Additional savings are realized throughout the criminal justice system by a reduction in continued criminal activity.

Moving forward, the main focus of the Office is expected to shift from the implementation of new drug treatment courts to the institutionalization of the drug court program into the normal operational activities of the court system.

## **Commission on Public Access to Court Records**

Chief Judge Kaye established the Commission on Public Access to Court Records in 2002 to help develop a comprehensive policy related to Internet access to court records. As court users and the public increasingly rely on electronic transactions and the Internet, there is a need to establish a policy that balances the public’s well-established interest in open access to court records with important competing interests in privacy and security. The development of an appropriately balanced policy requires consideration of the interests and concerns of a wide variety of constituencies who use and

rely on information from the courts, as well as a careful analysis of the practical implications of attempts to balance these interests. The Commission's goal is to help the court system create its policy.

To assist with this development, the Commission has reviewed established court practices and policies related to electronic and paper access to records, as well as applicable current New York and federal law. It has also considered various existing policies addressing the balance between public access to court and other records and the preservation of privacy and security.

To provide an opportunity for interested parties to comment and submit suggestions, the Commission conducted public hearings in Albany, New York City, and Buffalo. The Commission received testimony from a wide range of constituencies, including various media and press organizations, bar associations, domestic violence prevention entities, privacy advocates, and the State Attorney General's office. In consideration of the testimony from these public hearings, its own investigations and analysis, the Commission is developing recommendations for submission to the Chief Judge in early 2004. Further information about the Commission and its work may be found at [www.nycourts.gov/ip/publicaccess](http://www.nycourts.gov/ip/publicaccess).

## Parent Education Advisory Board

The Chief Judge established the Parent Education and Awareness Program in 2001, to inform judges and others about the benefits of parent education for individuals going through a divorce and to foster increased utilization of this resource. At the same time, she appointed the Parent Education Advisory Board, chaired by Hon. Evelyn Frazee, to develop uniform standards for parent education programs. The courts are charged with overseeing the implementation of these standards and referring parents to the programs.

In October, the 19-member Board issued its Report to the Chief Judge and Chief Administrative Judge. This report is the culmination of two years of study that included reviewing literature on parent education, domestic violence, and child development, as well as interviewing leading experts in the field

and drawing on the experiences of other states. As detailed in its report, the Board has established a statewide system of certification and monitoring, and developed standards that parent education programs will be required to meet in order to receive court referrals.

The Board is now implementing its certification program, which includes reviewing written applications from existing and new parent education providers and conducting on-site visits to programs. The Board will also be developing training for providers on the new curriculum guidelines, and education and training programs for judges and nonjudicial staff on the implementation of the Board's recommendations. The complete implementation of this child-centered program – the first phase of which the Board expects to complete by summer 2005 – will promote the healthy adjustment and development of children by educating parents about what they can do to help their children through this challenging transitional time.

## New York State Judicial Institute

The New York State Judicial Institute is the court system's judicial training and resource facility. It was created through a unique partnership between the New York Courts and Pace University Law School. The Institute opened in May in a specially designed building featuring state-of-the-art technology, located on the campus of Pace Law School in White Plains.

Under the auspices of the JI, the training offered to State judges has been expanded and enhanced. The Institute's primary focus is the teaching and upgrading of the skills judges need to handle their daily caseload. This includes comprehensive, multi-day annual summer programs. In addition, there is now a year-round program of education for trial judges on subjects of immediate interest. This year, training sessions were held on the court system's new fiduciary rules, as well as on judicial campaign ethics.

Similarly, the orientation and training programs for newly-elected and newly-appointed judges have been expanded beyond routine lectures on the law, to include hands-on interactive workshops which emphasize the rapid development of essential courtroom skills. In December, attendees

Colleen Brescia



*Chief Judge Kaye and Lt. Governor Mary O. Donohue cut the ribbon at the opening ceremonies of the Judicial Institute*

observed and presided over realistic courtroom situations designed to develop courtroom management and legal skills, and reflect on issues regarding appropriate judicial temperament.

The JI also hosted specialized training for judges from the Commercial Division of the Supreme Court, the justices of the Kings County Supreme Court and the judges of the New York City Criminal Court. Curriculum topics for these courts have included ethics, search warrant procedures, and electronic discovery. And, to enable judges to serve in the court system's innovative problem-solving courts, the JI has conducted training for the Integrated Domestic Violence Courts, the Drug Treatment Courts, and the Mental Health Courts.

The JI's close relationship with Pace Law School has provided a beneficial opportunity for collaboration. In October, the JI co-hosted a conference on prison reform which brought together judges, attorneys, leading academics, prison officials, and national and international penal experts to chart a course for future prison reform efforts. An international symposium on the Role of the Judiciary in the Shaping of Environmental Laws is scheduled for fall 2004 and will be co-sponsored with the United Nations Environment Program, the

Commission on Environmental Law of the International Union for the Conservation of Nature, and Pace Law School.

### **Guardian & Fiduciary Services**

Guardian & Fiduciary Services (GFS), which was established in 2001, is the central clearinghouse for all information about fiduciary practices and procedures. Its goal is to support and improve the standards of practice in order to provide greater protection to those in need of guardianship. GFS serves as a resource for judges, court personnel, attorneys, fiduciaries, and the public.

During the year, GFS focused on the implementation of the new Part 36 of the Rules of the Chief Judge, which substantially revised eligibility for and the process of making fiduciary appointments. As part of this effort, GFS collaborated with Administrative Services and DoT in the development of a new fiduciary appointment process, which includes a sophisticated on-line database system capable of accepting enrollment over the Internet. This system provides current up-to-date information for judges who need to evaluate the background and qualifications of potential eligible appointees. It serves as the foundation of the fiduciary clerk processing system for tracking

appointments and compensation and allows public access to its data. The GFS also helped create new forms for use in the fiduciary appointment processing system.

Education and training are a significant part of the responsibilities of GFS. During the year, GFS organized, certified, or participated in dozens of programs, including those for Article 81 guardians, court examiners, law guardians, and guardians *ad litem*. Special attention is being provided to fiduciary clerks with a series of statewide meetings and regular interactions.

GFS is continuing to develop and enhance its popular web site located at [www.nycourts.gov/ip/gfs](http://www.nycourts.gov/ip/gfs). Information pertinent to all aspects of the fiduciary system, as well as the link for public access to appointment and compensation data, are available.

## Ethics Commission for the Unified Court System

In order to help preserve the integrity of governmental institutions, New York State requires that all public employees disclose potential areas of conflict of interest resulting from their private activities. Pursuant to Section 211(4) of the Judiciary Law, all judges and justices, officers, and employees of the courts who receive annual compensation at or above a specified statutory filing rate, or hold policy-making positions, must file annual statements of financial disclosure setting forth detailed personal and financial information. In filing year 2003 (for reporting year 2002), the filing rate was \$70,851.00 and approximately 4,700 employees were required to file financial disclosure statements.

Since 1990, the Ethics Commission for the Unified Court System has been responsible for administering the distribution, collection, review, and maintenance of financial disclosure statements. The powers and duties of the Commission are set forth at 22 NYCRR, Part 40 and the procedures promulgated by the Commission are found at 22 NYCRR, Part 7400. In 2003, the Commission was comprised of two judges, one law professor, and two attorneys in private practice.

Any employee who fails to timely file with the Commission is subject to disciplinary action by the Chief Administrative Judge or, in

the case of a judge, by the Commission on Judicial Conduct. The Commission reviews each statement filed and requires individuals to submit revised statements if any deficiencies are found. The information contained in the statements is available for public inspection, except for the categories of value and amount, the names of unemancipated children, and any information deleted by the Commission at the request of the filer. This year, the demand for public inspection increased dramatically, with more than four times as many requests as in the previous year, indicating a growing trend of public interest in the inspection of financial disclosure statements.

Information regarding the Commission, and copies of the Commission's forms can be found at [www.nycourts.gov/ip/ethics](http://www.nycourts.gov/ip/ethics).

## Commission to Promote Public Confidence in Judicial Elections

In January 2003, Chief Judge Kaye announced the creation of the Commission to Promote Public Confidence in Judicial Elections, in order to undertake an examination of New York State's judicial election process and make recommendations to promote dignified judicial campaigns and an independent and impartially elected judiciary.

The Commission issued an interim report in December which concluded that New York's elected judges are overwhelmingly well-qualified, hardworking, and dedicated to the highest ethical standards. At the same time, however, the Commission found strong evidence that public confidence in judicial elections is sagging.

The Commission's Interim Report identified specific weaknesses in the elective system and proposed a number of solutions, including pre-screening of all judicial candidates to ensure that they are qualified to assume judicial office, new rules to minimize the influence of campaign contributions by lawyers, and clarification of the rules governing permissible candidate conduct and speech. The report also recommended requiring electronic filing of publicly searchable campaign disclosure statements by all New York judges in order to achieve greater transparency in judicial campaign financing, the adoption of new rules to curb potential abuses in campaign expenditures, and improved voter education.

In addition, the report called for education for judicial candidates on the ethical conduct of election campaigns.

Most of these recommendations will be forwarded to the Court of Appeals for approval in 2004; others are being implemented administratively by OCA. The Commission's final report, expected in 2004, will focus on longer-term issues affecting the judicial election system, including public financing, judicial nominating conventions, retention elections, and voter education.

### Advisory Committee on Judicial Ethics

The Advisory Committee on Judicial Ethics was established in 1987. Its statutory mandate is to issue advisory opinions to judges and justices of the Unified Court System "at the request of any one judge or justice concerning . . . issues related to ethical conduct or proper execution of judicial duties," as well as "possible conflicts between private interests and official duties." Judiciary Law §212(2)(1). The identity of the judge making a request remains confidential. Action taken by a judge in accordance with the findings or recommendations of the Advisory Committee contained in an advisory opinion is "presumed proper for the purpose of any subsequent investigation by the state

commission on judicial conduct." Judiciary Law §212(2)(1)(iv).

The Committee consists of 22 judges, active and retired, who serve or have served in venues throughout the State ranging from local courts to the Appellate Division. The members generally meet seven times a year to consider the written requests of judges, as well as non-judge candidates, for judicial office. The issues that generate the most questions concern disqualification, political activities, extra-judicial activities, and charitable fund-raising. To date, more than 2,000 opinions have been issued and are available in periodically published volumes and most legal research services, as well as at [www.nycourts.gov/search/ethics-opinions.asp](http://www.nycourts.gov/search/ethics-opinions.asp).

In September, the Committee issued the *Judicial Campaign Ethics Handbook*, which is intended to inform and guide candidates for election to judicial office concerning the ethical issues and constraints involved in an election campaign. The *Handbook* has been distributed to all UCS judges and justices, as well as to non-judge candidates for judicial office and other interested parties. As part of its ongoing efforts to share information in this frequently changing area of the law and to maximize its role as a resource to judicial candidates, the Committee is planning seminars for judicial candidates in summer 2004, immediately prior to the active campaign season.

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*Members of the Advisory Committee on Judicial Ethics*

## Commission on the Jury

Chief Judge Kaye announced the formation of the Commission on the Jury in spring 2003. The Commission is a special panel charged with finding ways to better utilize the time of citizens who report for jury service. The 28-member Commission is composed of judges, prosecutors, defense attorneys, civil litigators, and jury commissioners. It was created following the release of a study which revealed that 82 percent of New Yorkers called for jury service are never selected to serve on a trial.

In carrying out its mandate, the Commission is working to identify the issues and circumstances contributing to the “82% Problem.” Its goals are to craft innovative and efficient solutions to increase the number of jurors chosen to serve on trials and decrease juror downtime. The Commission is also building on the reforms made to enhance juror service following the issuance of the 1994 report from the Jury Project, in order to further improve the service experience for all those called.

So far, the Commission has held seven public hearings throughout the State, receiving testimony from over 120 witnesses about the jury experience in New York. The Commission is also consulting with state and national experts in the area of jury system management and juror utilization.

The Commission plans to issue its report and recommendations some time in 2004.

## Permanent Commission on Justice for Children

The Permanent 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. The Commission develops initiatives to improve the outcome of the court process for these children, to assess and improve State court child protective proceedings, and to assist children and their families obtain vital services. The Commission’s projects seek to highlight the connection between preventative services, healthy development, and permanent homes for children.

During the year, the Commission continued its work on implementing the federally funded Court Improvement Project (CIP), with the goal of improving the handling of child abuse and neglect cases in Family Court. As part of this Project, courts have implemented “best practice parts” in order to work towards expediting the court process and decrease the amount of time children spend in foster care. Model courts which incorporate many elements of the best practice protocol continue to thrive in Erie and Westchester Counties.

In September, the CIP, working with the NYS Office of Children and Family Services (OCFS) and the National Council of Juvenile and Family Court judges, presented Sharing Success, a conference for Family Court judges and local social services commissioners and their respective staffs. The over 250 attendees at the conference heard speakers from courts around the country which are implementing reforms in the handling of child welfare cases.

Another major initiative was commenced in cooperation with OCFS and the court system’s ADR Office. Funding was provided to start planning a number of child welfare permanency mediation projects across the State.

The Commission also expanded its Babies Can’t Wait Project, which focuses on enhancing prospects for the healthy development and permanency placement for infants in foster care. The Project is now operational throughout New York City, as well as in Erie County. At the end of the year, the Commission received a two-year grant from the New York Community Trust to further expand Babies Can’t Wait by providing early childhood expertise to New York City Family Court.

During the year, the Commission’s 32 Children’s Centers provided childcare for 52,745 children and continued a literacy program that distributed books to children who visit those centers. The five centers in the Ninth Judicial District were able to participate in a Reading is Fundamental (RIF) program which prepares and motivates children to read by delivering free books and literacy resources to families who need them most. This program has the potential to reach 6,000 children a year at participating centers.



*Participants at the Minorities Commission's Conference on Leadership Development, held at the Judicial Institute*

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

The Franklin H. Williams Judicial Commission on Minorities focuses on increasing diversity within the workforce, eliminating bias, promoting respect and sensitivity among employees, and serving as a conduit for concerns of minorities within the court system.

The Commission works to achieve these goals through regular dialogue and frequent meetings with the Chief Judge and her immediate administrative staff, as well as with administrative judges throughout the 12 Judicial Districts, various bar associations, and the fraternal organizations within the courts, as well as its own Buffalo Advisory Committee. It also conducts an extensive outreach program to increase awareness of the courts in local communities and focus attention on job opportunities in the courts.

In an effort to constantly assess the status of minorities within the court system, the Commission continued collecting data and statistics on minority hiring and promotional practices, as well as analyzing data received from the Office of Workforce Diversity and the Office of the Inspector General. The Commission also

met with the Executive Assistants from the upstate Judicial Districts to determine their outreach and promotional efforts for minorities during the year.

On May 21, the Commission held a conference at the Judicial Institute on minority concerns within the court system, with particular attention to issues affecting downstate communities. Approximately 200 minority court employees and court decision-makers, among others, participated.

The focus of the conference was a comparison between the status of minorities within the courts in 1991, when the original Commission on Minorities Report was issued, with their present status. Participants were given a summary of the original report with its recommendations and then charged with the task of assessing how far minorities have come, and how many of the originally identified goals have been met. They also took part in workshops where new issues were discussed and recommendations were proposed for submission to OCA. Plans are underway to hold a similar conference in 2004 for those employees who work in the upstate Judicial Districts.

### Lawyer Assistance Trust

The Lawyer Assistance Trust completed its second year of operation in 2003. Established to bring statewide resources and awareness to the prevention and treatment of alcohol and substance abuse among attorneys, judges, law faculty, and students, the Trust is governed by a 21-member board and funded through attorney registration fees.

A major highlight this year was the Trust's sponsorship of a conference in New York City entitled: "Meeting Our Responsibilities: Law

During the year, the Trust's Grants Program awarded a total of \$75,000 to lawyer- assistance programs conducted by bar associations in Erie and Nassau Counties and New York City, as well as to the NYS Bar Association, to help fund a variety of programs, informational brochures, and services.

A new rule of the Appellate Division, Fourth Department governing attorney disciplinary proceedings provides that, under certain circumstances, attorneys with drug or alcohol abuse problems may be diverted to a



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*Attendees at the LAT conference "Meeting our Responsibilities: Law Schools and Substance Abuse," held at the Association of the Bar of the City of New York*

Schools and Substance Abuse." Joining the Trust in co-sponsoring the event were the American Bar Association and a coalition of bar associations and lawyer assistance programs. Nearly 150 participants from all over the country attended this first-ever conference dedicated to examining the role of law schools in addressing alcohol and substance abuse in the legal profession. Speakers included two former law students who related their experiences with abuse problems and recovery during law school. Other issues addressed included ways to overcome obstacles to implementing drug and alcohol policies in law schools and innovative solutions, including using on-campus student-lawyer assistance program representatives and non-traditional counseling and wellness programs.

court-approved monitoring program. (At the Trust's request, adoption of a similar rule is under consideration in the State's other three Departments.) Under this program, monitors are responsible for documenting whether an attorney in the program is complying with the terms of the monitoring contract established. The Trust, in cooperation with several bar associations, sponsored day-long training sessions for monitors in Rochester and Garden City. Nearly 100 attorneys participated and are now eligible to serve as monitors.

As part of its outreach program, the Trust prepared an informational insert for inclusion in the biennial attorney registration packet received by every attorney registered in New York State. The insert contains questions to help an attorney assess whether he or she – or a colleague – has a problem with alcohol or

substance use. A listing of lawyer assistance resources and contact persons is also provided.

The Trust's newsletter, *LAT NEWS*, has reached a circulation of about 4,000 and a direct mailing of LAT information reached over 30,000 attorneys who are in solo practice or with small firms. The Trust's Internet site is located at [www.nylat.org](http://www.nylat.org).

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

The New York State Judicial Committee on Women in the Courts serves as an advocate for women litigants, attorneys, and court employees, as well as a focal point within the courts for concerns about the status of women and their access to justice. Composed of judges, court officials, bar association representatives, and practicing attorneys, the Committee works with court administrators and outside organizations to address an array of issues.

Education, through publications, conferences, and training programs, is a mainstay of the Committee's work. Many of the Committee's efforts this year have focused on domestic violence, with a particular emphasis on immigrant domestic violence victims and domestic violence in the workplace. The Committee authored a pamphlet for judges entitled, "Domestic Violence, Immigrants, and State Courts: The Basics," and, when newly-hired court interpreters were given initial orientation, planned a presentation for them on domestic violence. In addition, the Committee republished and distributed to OCA employees a pamphlet issued by the NYS Office for the Prevention of Domestic Violence entitled "Finding Safety and Support," and presented a segment on domestic violence in the workplace for management-level court officers.

The Committee continued to work alongside organizations outside the court system on programs of mutual interest. As a co-sponsor with the Lawyers' Committee Against Domestic Violence and the Appellate Division, First Department, the Committee played a major role in organizing a two-day conference at Fordham Law School for lawyers who handle domestic violence cases. Similarly, working with the ADR Committee of the

Association of the Bar of the City of New York, the Committee, through its counsel, helped plan and present a workshop on mediation and domestic violence.

As in other years, the Committee encouraged and provided support to local gender bias and gender fairness committees' activities, including programs for Domestic Violence Awareness Month and Women's History Month. In April, the Committee held a statewide meeting for the chairs of these local committees, focusing on immigrant domestic violence victims and issues of language interpretation.

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

The Committee to Promote Trust and Confidence in the Legal System was established in 1998 to identify and implement initiatives to 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 individuals who have contact with the legal system are treated with respect and equality, as well as to help bring about a greater respect for the legal system. Six local committees assist in implementing the State Committee's recommendations and in making the courts more responsive to individual community needs.

In response to a finding by the State Committee that the public needs greater understanding and knowledge of the legal system, the UCS, through its Office of Public Affairs, has developed education and outreach programs aimed at informing the public about the role and operation of the Judiciary. During the year, Public Affairs continued to develop and expand its web site ([www.nycourts.gov/ip/community\\_outreach](http://www.nycourts.gov/ip/community_outreach)), which includes interactive educational materials for teachers and students on the courts and the Judiciary.

To address their concern for improved and ready access to information for court users, the Committee developed an information network called *Justiceworks*. In addition to a written informational brochure that outlines the various resources and services available to court users, *Justiceworks* operates a toll-free helpline --1-800-433-6435-- to respond to questions about court policies, procedures and service.

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## CHAPTER 4

# Legislation and Rules Revision

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### Legislation

Counsel's Office 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, Surrogate's Court, and the Local Courts (including New York City Criminal Court, New York City Civil Court, the District Courts, City Courts outside New York City, and the Town and Village Courts). Annually, these Committees formulate legislative proposals in their respective areas of concern and expertise for submission to the Chief Administrative Judge. These recommendations are based upon each Committee's own studies, an examination of decisional law and proposals received from the bench and bar. Each Committee's proposals, when approved by the Chief Administrative Judge, are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

During the legislative session, the Advisory Committees also analyze other legislative proposals. Recommendations are submitted

to the Chief Administrative Judge, who, through Counsel, communicates with the Legislature and the Executive on such matters in the form of legislative memoranda and letters to the Governor's Counsel. In addition, the Committees develop forms and provide assistance in related matters.

Counsel's Office also is responsible for drafting legislative measures to implement recommendations made by the Chief Judge in the State of the Judiciary message, as well as measures required by the Unified Court System, including budget requests, adjustments in judicial compensation and measures to implement 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 thereon to the Legislature and the Executive.

In the discharge of its legislation-related duties, Counsel's Office consults frequently with legislators, 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 2003 legislative session, Counsel's Office, with the assistance of the Chief Administrative Judge's Advisory Committees, prepared and submitted 170 new measures for legislative consideration. Of these measures, 13 ultimately were enacted into law. Also during the 2003 session,

Counsel's Office furnished Counsel to the Governor with analyses and recommendations on 38 measures awaiting executive action.

## WORK OF THE ADVISORY COMMITTEES

### Advisory Committee on Civil Practice

During the 2003 Legislative session, one measure proposed by the Advisory Committee on Civil Practice was enacted into law: the reauthorization of the Judiciary's experimental filing by fax and electronic means program (L. 2003, c. 261).

The following are among the Committee's more significant measures proposed for the 2004 Legislative Session:

#### (A) Revision of the Structured Verdicts Provision of CPLR Articles 50-A and 50-B

This measure would amend Article 50-A of the CPLR and repeal Article 50-B which require periodic payments for certain tort judgments. In 2003, in response to a perceived medical malpractice insurance crisis, the Legislature amended Article 50-A, dealing with periodic payments of medical and dental malpractice

awards, to alter the way damages are calculated. However, the Legislature did not similarly amend CPLR 50-B, dealing with periodic payments of personal injury, injury to property, and wrongful death judgments. This measure would amend Article 50-A to also include structured verdicts in these types of cases. In addition, it would repeal the current Article 50-B, and amend Article 50-A to make the procedures utilized more efficient and fair.

#### (B) Establishing a Time Frame for Expert Witness Disclosure

This measure would amend CPLR 3101(d)(1) (Scope of Disclosure) to provide a minimal deadline for expert disclosure (e.g., 60 days before trial) - - a time frame that could be expanded, if directed by the court, to give earlier expert disclosure in certain commercial cases (see below), or as the need arises in other cases.

#### (C) Expanding Expert Disclosure in Commercial Cases

This measure would amend CPLR 3101(d)(1) (Scope of Disclosure), to make possible, within court-enforced boundaries, more extensive expert discovery, particularly the taking of depositions under certain circumstances in commercial cases. The availability of such



*Members of the  
Advisory  
Committee  
on Civil Practice*

Teodora Ernansons

disclosure would promote fairer and more efficient preparation and processing of these cases. Additional information relating to the merits of a case would also promote early settlement. Under this proposal, a “commercial action” would be defined to include the most common forms of such disputes, but exclude personal injury, wrongful death, matrimonial and certain other matters.

**(D) Revision of the Contempt Provisions of the Judiciary Law**

This joint proposal of the Advisory Committees on Criminal Law and Procedure and Civil Practice would substantially revise the law governing contempt. The measure would repeal Article 19 of the Judiciary Law (Contempts) in its entirety, replacing the largely outdated and often confusing language of that Article with more modern terminology, and eliminate provisions that are duplicative or have outlived their usefulness.

At the same time, the measure would retain, in a more comprehensible form, virtually all of the concepts traditionally associated with a court’s exercise of that power, including “summary” contempt, the authority to impose fines and/or jail as sanctions for contemptuous conduct, and the authority to apply these sanctions either as a punishment for such conduct or as a remedy where the conduct interferes with or otherwise prejudices the rights or remedies of a party to an action or proceeding.

## Advisory Committee on Criminal Law and Procedure

Over the last several years, the Committee has worked with OCA’s Office of Court Research (OCR) to address the recurring problem of employers who, in violation of Judiciary Law section 519, penalize or discharge an employee (or threaten to do so) simply because of the employee’s absence or anticipated absence from work due to jury service. This joint initiative came to fruition in 2003 with the publication of *Jury Service in New York State: A Guide for Employers and Employees*. This informational pamphlet is intended to help both employers and employees understand their rights and obligations with regard to trial and Grand Jury service in New York State. More than 10,000 of these pamphlets have been produced and

distributed to, among others, chambers of commerce, public libraries, labor unions, professional groups, community groups, service organizations, and local courts. In addition, the pamphlet is now available at [www.nyjurors.gov](http://www.nyjurors.gov), OCA’s juror information web site.

The following are among the Committee’s more significant legislative measures proposed for the 2004 legislative session:

**(A) Dismissal of Felony Complaint on Consent**

This measure would create a new section 180.85 of the Criminal Procedure Law (CPL) to allow a court to dismiss a “stale felony complaint” when both parties consent to the dismissal. A stale felony complaint is one that has been held for grand jury action but has not been acted upon after the passage of several months or even years. These unresolved accusatory instruments prejudice employment, licensing, and other opportunities for the persons they charge, but present law provides no mechanism for seeking their dismissal, regardless of age.

**(B) Issuance and Duration of Final Orders of Protection**

In 2000, the Legislature amended Penal Law section 65.00 to double the periods of probation for misdemeanor and felony sexual assaults. There was, however, no corresponding change to the provisions of the CPL that establish the duration of so-called “final” orders of protection in sexual assault cases where a sentence of probation is imposed. As a result, such orders must now expire at a point when only about half of the defendant’s probation sentence has been served. This measure would remedy the gap in the law by amending CPL sections 530.12 and 530.13 to extend the permissible period of a final order of protection issued in conjunction with a sentence of probation on a sexual assault conviction.

**(C) Increasing the Permissible Jail Portion of a “Split” Sentence**

Penal Law section 60.01(2)(d) (Authorized dispositions; generally) currently permits a sentencing court to impose, as a condition of probation or a conditional discharge, a definite or intermittent sentence of imprisonment. Under that section, the imprisonment portion



Teodora Ermansons

*Members of the  
Advisory Committee  
on Criminal Law  
and Procedure*

of this so-called “split” sentence may not exceed six months when imposed on a felony conviction, or sixty days when imposed on a misdemeanor conviction. Although this “split” sentence provides an important sentencing alternative in cases where neither a “straight” jail nor a supervisory sentence is considered appropriate, there are many cases where, due to the existing statutory limitations on the length of the jail portion of the sentence, the judge at sentencing may feel constrained to reject the “split” sentence in favor of straight imprisonment. This valuable and cost-effective sentencing option would probably be used more if judges had the discretion to impose a longer jail term as part of the sentence. This measure, which is based on a recommendation by the New York State County Court Judges Association, would accomplish this goal by amending the Penal Law to increase the permissible maximum period of the incarceration portion of a split sentence from six months to nine months for felonies, and from 60 days to 90 days for class A misdemeanors.

**(D) Authorizing a Definite Sentence of Imprisonment for Certain Non-Violent, Non-Drug Class C Felony Offenses**

For certain class C non-violent felony offenses enumerated in subdivision four of Penal Law

section 60.05, imprisonment is mandatory and, except for the class C felony drug offenses listed in that subdivision, this requirement can only be satisfied by the imposition of an indeterminate (*i.e.*, state prison) sentence. For those non-violent, non-drug class C felony offenses that are *not* enumerated in section 60.05(4), a sentence of imprisonment is not required. As such, these offenses may be satisfied with a sentence of straight probation, a conditional discharge, or with only a fine. Where, however, the court chooses to impose imprisonment for one of these offenses rather than, for example, probation or a conditional discharge, the sentence of imprisonment *must* be an *indeterminate* sentence. If, as is currently the case, a defendant convicted of one of these offenses may be sentenced to an indeterminate sentence of imprisonment or to probation or a fine, he or she should also be eligible for a sentence that falls “in between” these two extremes (*i.e.*, a definite jail sentence or a “split” sentence). This measure would amend Penal Law section 70.00(4) to correct this discrepancy by adding this group of non-violent, non-drug class C felonies to the list of felony offenses that are eligible for an “alternative” definite sentence of imprisonment under that section.

**(E) Authorizing Payment of DNA Databank Fees and Sex-Offender Registration Fees by Credit Card** (CPL 420.05)

As part of a comprehensive budget bill enacted in 2003, the Legislature amended the CPL and Penal Law §60.35 to establish two new \$50 fees: the DNA databank fee and the sex-offender registration fee. These fees are required to be imposed at sentence, along with a mandatory surcharge and crime victim assistance fee, upon defendants convicted of certain enumerated crimes. Although the CPL and Judiciary Law were amended in 2003 to greatly expand the ability to use credit cards to pay fines, mandatory surcharges, and crime victim assistance fees, these two new fines were not included. This measure would amend CPL section 420.05 to add the DNA databank fee and sex-offender registration fee to those that now may be paid by credit card.

## Family Court Advisory and Rules Committee

Two of the Committee's legislative proposals in the area of child welfare were enacted during the 2003 legislative session:

- **Clarification of procedures regarding non-respondent parents in child abuse and neglect proceedings** This measure amends Family Court Act §1035(b) to conform the notice on child abuse summonses to that required by the *Adoption and Safe Families Act* with respect to legal requirements for filing termination of parental rights proceedings in cases where children remain in foster care for 15 months in a 22-month period. It also amends FCA §§ 1035(d) and (e) to clarify that non-respondent parents in child abuse and neglect proceedings would be required to be notified of their standing to appear, to participate, and to request custody of the children and, at the same time, that if their children are placed in foster care for a period of 15 months in a 22-month period, they may be the subjects of proceedings to terminate their parental rights, whether or not they were respondents in the child neglect or abuse case. The notice must also indicate that, upon good cause, the Family Court may order the child protective agency to investigate whether non-respondent parents should either be added to petitions as respondents or given custody of

the children. (L.2003, c.526; eff. Dec. 16, 2003).

- **Permanency hearings regarding children freed for adoption** This measure conforms FCA §1055-a(3) to recently enacted legislation (L.2003, c.663) regarding permanency hearings for children freed for adoption in order to make it clear that such hearings must be completed within 60 days of the Family Court's announcement of its ruling terminating parental rights or approving a surrender, as applicable, and every six months thereafter. (L.2003, c.588; eff. Sept. 22, 2003)

The following are among the Committee's proposed measures with the highest priority for the 2004 legislative session:

**(A) Expediting Appeals in Child Welfare Cases** Prompt achievement of permanent homes for children in foster care requires expeditious resolution of cases at both trial and appellate levels. Delays in termination of parental rights appeals have frequently been identified as barriers to prompt adoption. For children who are returned home to their parents, such delays can have a similarly damaging effect. This measure would mitigate various sources of delay on appeal – by clarification of the automatic applicability of preferences and simplification of the process for assignment of counsel and the granting of poor person relief on appeal where counsel has been assigned in Family Court. It would also codify the intensive case management and scheduling order process currently in use in some parts of New York State and impose more rigorous enforcement of existing statutory time frames for the preparation of transcripts.

**(B) Clarification of Time Frames for Preliminary Proceedings in Child Abuse and Neglect Cases** The federal and state *Adoption and Safe Families Act* [Public Law 105-89; Laws of 1999, c. 7] imposes stringent time frames for preliminary determinations regarding all children removed from their homes and placed into foster care, whether removals are on consent or not. However, in child abuse and neglect cases in which children are removed from their homes with the consent of the parent or parents, there frequently have been delays. This measure would require that petitions in such cases be filed within three days



Members of the  
Family Court  
Advisory and  
Rules Committee

Teodora Ernansons

of the removal and an initial determination of whether to continue foster care be made within three days of filing.

**(C) Continuing Representation of Juveniles in Post-Dispositional Juvenile Delinquency and PINS Proceedings** New York State statutes as well as federal regulations implementing the federal *Adoption and Safe Families Act* [Public Law 105-89; Laws of 1999, ch. 7] make clear that the *ASFA* permanency planning mandates apply to all children in foster care, including those in care as a result of juvenile delinquency and PINS petitions. Most recently, the reauthorization of the federal *Juvenile Justice and Delinquency Prevention Act* [Public Law 107-273] requires states to certify their compliance with the *Adoption and Safe Families Act* as a prerequisite, not only for federal foster care assistance pursuant to Title IV-E of the *Social Security Act* [42 U.S.C.], but also for eligibility for federal juvenile justice funding. Representation of juveniles in such cases, after disposition in case conferences and subsequent review, is critically important to ensuring that effective permanency planning takes place. This measure, similar to section 1016 of the Family Court Act, would require that the appointment of a law guardian for a child in placement in a juvenile delinquency or PINS proceeding continue for the duration of the placement.

**(D) Service of Juvenile Delinquency Petitions Upon Non-Custodial Parents** In juvenile delinquency proceedings, as in other proceedings in Family Court, a child's non-custodial parent may be a critical player in achieving an appropriate decision. This measure would require that a summons and a copy of the petition in a juvenile delinquency proceeding be served upon non-custodial as well as custodial parents and other persons legally responsible.

**(E) Modification of Orders of Child Support** This measure would remedy the disparity that presently exists between child support orders that fall under the "cost of living adjustment" (COLA) provisions in the child support statute, pursuant to the federal *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* [Public Law 104-193], and those that do not. Cases covered by the COLA provisions – those in which custodial parents are on public assistance, which are adjusted every three years automatically, and cases in which custodial parents request child support services in accordance with Title IV-D of the federal *Social Security Act*, which are adjusted upon request – are subject to modification every two years. In accordance with the Court of Appeals decision in *Tompkins County Support Collection Unit on behalf of Linda S. Chamberlin v. Boyd M. Chamberlin*, 99 N.Y.2d 328 (2003), a challenge

to a COLA brings up the entire child support order for review, not simply the COLA itself. Cases not covered by the COLA provisions are limited to the traditional prerequisites for modification — a change in circumstances or newly discovered evidence. This proposal would authorize applications to modify child support orders to be made every three years unless the parties have opted out or unless the child support order at issue is an agreement or stipulation incorporated without merger into a judgment of divorce.

## Surrogate's Court Advisory Committee

During the 2003 legislative session, the following measures proposed by the Surrogate's Court Advisory Committee were enacted:

- **Section 502 of the Surrogate's Court Procedure Act (SCPA)** was amended, for proceedings pending on or commenced after September 30, 2003, to extend the right to a jury trial to a party in a proceeding to determine the validity of a revocable lifetime trust (L.2003, c.631).

- **Section 709 of the SCPA** was amended to recognize a nominated co-fiduciary's standing to file objections to the grant of letters to a co-fiduciary. (L.2003, c.612).

- **Section 10-10.1 of the Estates, Powers and Trusts Law (EPTL)** was amended to allow the grantor of a trust, by express provision in the trust instrument, to provide that a trustee may make discretionary distributions, of income or principal, to herself or himself as a beneficiary (L.2003, c.633).

- **Section 1726 of the SCPA** was amended to facilitate the appointment of standby guardians (L.2003, c.632).

- **Section 2-1.11 of the EPTL and section 5-1502(G) of the General Obligations Law (GOL)** were amended to clarify the circumstances under which an attorney-in-fact may renounce a property interest of a disabled or non-disabled person and specify the instances in which prior court approval is required (L.2003, c.589).

The following measures are among the Committee's more significant legislative measures proposed in calendar year 2003 for the 2004 legislative session:

### (A) Notice of Proceedings to Determine Validity of Claims (SCPA §1809)

This measure would amend section 1809 of the SCPA to reduce unduly burdensome notice requirements in proceedings to determine the validity and enforceability of claims. By



Members of the Surrogate's Court Advisory Committee

limiting the necessary parties to the claimant and the fiduciary, unless the court directs otherwise, the expense of serving process on all beneficiaries could be eliminated to the benefit of the estate. In doing so, this proposal would conform the notice provisions set forth in SCPA 1809 with the notice provisions of SCPA 2101(3), which are applicable to the corollary proceedings for adjudicating administration expenses set forth in SCPA 2102(4).

**(B) Harmonizing Inconsistent Class Distributions (EPTL 3-3.3)**

This measure would amend section 3-3.3 of the EPTL to eliminate a conflict between sections 3-3.3 and 2-1.2 with respect to the distribution of testamentary class gifts to the testator's issue, brothers, or sisters; the measure would also harmonize the results of such gifts with the results that would occur in intestacy under section 4-1.1. As a result, these "default" statutes would reflect in a consistent manner the current legislative determination that most decedents would prefer that relatives of the same generation share equally.

**(C) Termination of Uneconomical Trusts**

This measure would add a new section 7-1.19 to the EPTL to permit, on application to the Surrogate's Court, the early termination of uneconomical trusts, other than wholly charitable or supplemental needs trusts. Under this measure, the court, upon a finding that (a) continuation of the trust is economically impractical, (b) its early termination is not prohibited by the express terms of the disposing instrument, and (c) such termination would not defeat the specified trust purposes and would be in the best interests of its beneficiaries, could order the trust terminated and its assets distributed to and among the current and future beneficiaries of the trust. This measure would codify cases allowing early termination of uneconomical trusts and confirm that Surrogates have the authority and discretion to terminate a trust when its continuance would be uneconomical and defeat its creator's purpose to benefit the designated trust beneficiaries.

## Local Courts Advisory Committee

During the 2003 Legislative Session, three measures recommended by the Committee were enacted into law. These were:

- **Section 420.05 of the Criminal Procedure Law (Payment of fines by credit card) and Section 212 (2)(j) of the Judiciary Law (Functions of the chief administrator of the courts).** These statutes were amended to authorize criminal courts to accept credit cards as payment for mandatory surcharges and crime victim assistance fees (L. 2003, c. 537).

- **Section 1801 of the New York City Civil Court Act, the Uniform District Court Act, and the Uniform City Court Act (Small claims defined).** These Acts were amended to increase the jurisdictional ceilings for small claims and commercial claims brought thereunder from \$3,000 to \$5,000 (L. 2003, c. 601).

- **Section 743 of the Real Property and Proceedings Law (Answer)** was amended to permit the recording of a respondent's oral answer in summary proceedings on the record (L. 2003, c. 644).

The following are the Committee's more significant measures proposed for the 2004 legislative session:

**(A) Simplified Turnover Proceedings (NYCCCA §1812.1, CPLR §5221)**

This measure would create a new section, NYCCCA §1812.1, and amend CPLR §5221 (When enforcement proceeding commenced) to address the specific problem that typically arises when a small claims judgment debtor has assets in a joint bank account with a non-debtor. Due to the significant due process concerns that arise with respect to the rights of the non-judgment debtor, banks typically refuse to release assets from a joint account upon an execution. A common bank practice, in order to insure that the bank will not be liable for improper release of the assets, is for the bank to force a special proceeding to determine the rights to the assets. Currently, this special proceeding must take place in the regular part of the New York City Civil Court, as authorized

by CPLR §5221, thereby requiring the commencement of a second proceeding and the payment of another filing fee. This proposal would create a special proceeding, the simplified turnover proceeding, that would be heard within the small claims part of the Civil Court without an additional filing fee. In order to protect the due process interests of all the parties involved, the proposal establishes a fairly narrow category of cases in which the simplified turnover proceeding could be used.

**(B) Venue of Enforcement Proceedings (CPLR §5221)**

This measure would amend CPLR 5221 (When enforcement proceeding commenced) to limit the venue of an enforcement proceeding that is based on an underlying consumer credit

where a creditor can bring suit arising out of a consumer credit transaction and precluding placing the venue of such suits in the county where the creditor resides. However, CPLR 5221, the law governing the venue of a proceeding to enforce a judgment, was not changed.

This measure would resolve the apparent conflict between the venue provisions of the NYCCCA and the CPLR, which at present protect the consumer's venue interests with respect to the prosecution of the action that results in a judgment, and the judgment-enforcement proceedings of the CPLR, which permit the creditor to seek enforcement in any county in New York City and which are therefore inconsistent with the policy behind the venue rule in consumer transaction suits.

John Bartz



*Members of the  
Local Courts  
Advisory Committee*

transaction to the county within New York City where the judgment was obtained. In 1973, as part of the Governor's Consumer Protection Program, CPLR 503 and the NYCCCA §301(a) were amended to provide that suits arising out of consumer credit transactions must be brought in either the county where the buyer resides, or the county where the purchase was made. The main purpose of those amendments was to protect consumers by limiting the venue

**(C) Issuance of a Summons in the NYC Civil Court, District Courts, and City Courts (NYCCCA §§400, 409, 411; UDCA §§400, 409, 411; UCCA §§400, 409, 411)**

This measure would amend §§ 400 (Method of commencing action or special proceeding) and 409 (Summons; filing with proof of service), and repeal §411 (Summons or notice of petition; filing *nunc pro tunc*), of the Uniform Court Acts to require the filing of a summons

and purchase of an index number before serving a summons issued by the Civil Court or the District and City Courts.

Under the current procedure set forth in §401(a) of the Uniform Court Acts, an attorney is able to serve a summons on a defendant prior to the purchase of an index number. However, if a defendant files an answer with the court before the summons is filed, there is a risk that the two will not be matched, leading to the possibility of a default judgment against a defendant who actually had properly filed.

By requiring that an index number be purchased before the service of papers, the proposed measure would protect defendants from untoward use of the suit commencement system, as well as conserve clerks' time and generate revenue.

#### **(D) Single Judge Trials in Certain Misdemeanor Cases (CPL §340.40(2))**

This measure would amend section 340.40(2) of the Criminal Procedure Law (Modes of trial) to provide that a defendant charged by an information with a misdemeanor must be accorded a jury trial, except that in the New York City Criminal Court, the District Courts of Nassau and Suffolk Counties, and in the City Courts of Buffalo, Rochester, Syracuse, and Yonkers, where the authorized term of imprisonment for the charged misdemeanor is not more than six months, a defendant must be accorded a single judge trial. Currently, only the New York City Criminal Court is authorized under section CPL 340.40(2) to hold a single judge trial where the authorized term of imprisonment is not more than six months.

In practice, therefore, under this proposal, trials in these courts of B misdemeanors, where the authorized term of imprisonment is three months or less, would be nonjury trials only. In addition, where a criminal defendant is charged in any of these courts with a misdemeanor punishable by a term of imprisonment of more than six months (i.e., A misdemeanors), and the court, upon application of the People, declares on the record that if the defendant is convicted after trial, he or she would not be sentenced to a term of imprisonment of more than six months, the trial of the information would be a single judge trial. The proposal would further require that the court's declaration be made

“not later than 45 days after defendant's arraignment.” The measure would also make corresponding amendments to Penal Law section 70.15 (Sentences of imprisonment for misdemeanors and violations) to preclude the imposition of a sentence of imprisonment of more than six months following a single judge trial under CPL section 340.40(2).

## **Measures Enacted into Law in 2003**

**Chapter 62** (Senate bill 1406-B/Assembly bill 2106-B). As part of legislation enacted to implement the State Budget, amends the County Law and the Judiciary Law to increase the compensation paid 18-B counsel, assigned counsel under section 35 of the Judiciary Law and law guardians in Family Court; and establishes a Legal Services Assistance Fund, in part to be funded by a portion of the revenue derived from an increase in the criminal history search fee, to provide assistance to local governments and not-for-profit providers relating to the provision of criminal or civil legal services. Eff. 5/15/03 [with the compensation increase effective on 1/1/04].

**Chapter 261** (Senate bill 5314/Assembly bill 8671). Amends various Consolidated and Unconsolidated Laws to extend — until September 1, 2005 — the life of pilot programs in the use of filing by electronic means, and in the use of certain quasi-judicial officers to entertain *ex parte* applications for orders of protection after regular business hours in the Family Court. Eff. 7/29/03.

**Chapter 526** (Senate bill 3566). Amends section 1035 of the Family Court Act relative to the contents of the notice given respondent and non-respondent parents in child abuse and neglect proceedings. Eff. 12/16/03.

**Chapter 537** (Senate bill 5414). Amends section 420.05 of the Criminal Procedure Law and section 212 of the Judiciary Law to clarify that criminal courts may accept credit cards and other like devices as payment for fines, crime victim assistance fees and mandatory surcharges. Eff. 9/17/03.

**Chapter 588** (Assembly bill 7231). Amends section 1055-a(3)(c) of the Family Court Act in relation to the timing of permanency hearings regarding children freed for adoption. Eff. 9/22/03.

**Chapter 589** (Assembly bill 7494). Amends section 2-1.11(c) of the Estates, Powers and Trusts Law to provide that, subject to court approval, renunciation of property interests created under a will for the benefit of infants, incompetents, conservatees and deceased persons may be made: (1) on behalf of a person under disability by his or her guardian; (2) on behalf of a person who has had a guardian appointed under Article 81 of the Mental Hygiene Law; or (3) by his or her attorney-in-fact pursuant to a duly-executed power of attorney. Eff. 9/1/03.

**Chapter 601** (Senate bill 1570-A). Amends the NYC Civil Court Act, the Uniform District Court Act and the Uniform City Court Act to increase, from \$3,000 to \$5,000, the small claims' and commercial claims' jurisdictional ceilings in the courts regulated by those Acts. Eff. 1/1/04.

**Chapter 612** (Senate bill 4905). Amends section 709 of the Surrogate's Court Procedure Act to provide that a nominated co-fiduciary has standing to file objections to the grant of letters to another co-fiduciary. Eff. 9/30/03.

**Chapter 631** (Assembly bill 7882). Amends section 502(1) of the Surrogate's Court Procedure Act to extend a jury trial right to proceedings to contest the validity of a revocable lifetime trust where such proceedings are commenced after the death of the creator and the proceedings raise a controverted question of fact. Eff. 9/30/03 [and applicable to proceedings to contest the validity of a revocable lifetime trust pending on, or commenced on or after such date].

**Chapter 632** (Assembly bill 8088). Amend the Surrogate's Court Procedure Act, in relation to the appointment of standby guardians. Eff. 1/1/04.

**Chapter 633** (Assembly bill 8090). Amends section 10-10.1 of the Estates, Powers and Trusts Law to permit the grantor of a trust, by express

provision in the trust instrument, to provide that a trustee may make discretionary distributions of income or principal to herself or himself as a beneficiary. Eff. 9/30/03.

**Chapter 644** (Senate bill 5588). Amends the Real Property Actions and Proceedings Law to permit the clerk or presiding judge of a court to record a respondent's oral answer in a summary proceeding on a record other than the petition. Eff. 12/6/03.

**Chapter 686** (Senate bill 5725). Amends numerous Consolidated and Unconsolidated Laws to supplement and modify chapter 62, *supra*, to: (1) amend CPLR 8022(b) to clarify application of its provision establishing a fee on motion/cross-motion in appellate practice; (2) amend section 1911(m) of the NYC Civil Court Act expressly to exclude from application in the Civil Court the CPLR fees for motions/cross-motions and stipulation of settlement or voluntary discontinuance; and (3) increase the court user fees payable in the 61 City Courts outside New York City. Eff. 10/21/03.

## Measures Newly Introduced in the 2003 Legislative Session and Not Enacted Into Law

**Senate 4957/Assembly 7885.** This measure would amend section 2001 of the CPLR to establish that the provisions of the CPLR relating to mistakes, omissions, defects and irregularities of a non-prejudicial nature shall apply to the filing of papers, including the filing of papers initiating an action or claim, provided such filing is timely.

**Senate 2875/Assembly 8382.** This measure would amend section 410.91 of the Criminal Procedure Law to clarify eligibility for parole supervision by second felony offenders coming out of the Willard Drug Treatment Program.

**Senate 2876/Assembly 8381.** This measure would amend sections 450.60, 460.10 and 460.50 of the Criminal Procedure Law and add a new section 450.25 to the

Criminal Procedure Law to authorize an appeal by permission to an intermediate appellate court by a non-party to a criminal case of an order denying the non-party's motion to quash a subpoena *duces tecum*.

**Senate 2877.** This measure would amend section 450.20 of the Criminal Procedure Law and add a new section 450.51 thereto, to authorize an appeal as of right by the people from an order dismissing an accusatory instrument pursuant to section 140.45 of the Criminal Procedure Law.

**Senate 2878/Assembly 8665.** This measure would amend section 5222 of the CPLR, relating to restraining notices served in aid of enforcement of a money judgment, and section 5232 of the CPLR, addressing levies on personal property to enforce a money judgment, to require notification to all persons having an interest in an account in a bank or brokerage house before the account can be garnished or levied upon.

**Senate 2879.** This measure would amend subdivision one of section 390.30 of the Criminal Procedure Law to add a defendant's "child support order status" and "child support order compliance" to the list of matters required to be investigated by the probation agency that prepares a defendant's pre-sentence report.

**Senate 2880/Assembly 8080.** This measure would amend section 310.30 of the Criminal Procedure Law to permit a trial judge, without consent of the parties, to provide a deliberating jury, upon its request therefor, with written instructions regarding the elements of the crime or crimes charged, or of any defense or affirmative defense submitted in relation thereto.

**Senate 2914.** This measure would amend section 176.05 of the Penal Law to clarify the applicability of the definition of "fraudulent insurance act" by specifying that such act includes a fraudulent commercial, personal, or health care insurance act.

**Senate 2881.** This measure would amend subdivision (a) of section 215.51 of the Penal Law to include within the definition of the class

E felony offense of Criminal Contempt in the First Degree the "contumacious and unlawful" refusal to be sworn as a witness at a criminal trial or other criminal proceeding in a Superior Court, and the "contumacious and unlawful" refusal of a sworn witness at such a trial or proceeding to answer a legal and proper question.

**Senate 2882/Assembly 8082.** This measure would amend section 60.35 of the Criminal Procedure Law to expand the means by which a party in a criminal proceeding may impeach its own witness to include a prior audiotaped, videotaped or other electronically recorded contradictory statement of the witness, as well as a prior contradictory statement written by the witness.

**Senate 5240/Assembly 8091.** This measure would amend sections 413-a, 516-a and 565 of the Family Court Act, section 240-c of the Domestic Relations Law, sections 111-h, 111-k and 111-n of the Social Services Law, section 4135-b of the Public Health Law and sections 5241 and 5252 of the CPLR to clarify the duty of local support collection units to submit affidavits with proposed cost of living adjustment orders; and to require minor parents to acknowledge paternity orders in the presence of a Family Court judge.

**Senate 5241/Assembly 7496.** This measure would amend sections 75-g, 75-i and 75-j of the Domestic Relations Law to clarify provisions regulating service of process, communications between courts, and out-of-state depositions in proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act.

**Senate 5256.** This measure would amend sections 1055 and 1055-a of the Family Court Act and section 392 of the Social Services Law to authorize periodic review of proceedings in placing children in foster care and children freed for adoption proceedings.

**Senate 3571.** This measure would amend sections 383-c and 384 of the Social Services Law to permit an authorized agency to accept a surrender conditioned upon adoption by an individual without need for a full investigation, provided that the individual already has been

fully investigated and certified or approved as a foster parent or as a qualified adoptive parent.

**Senate 4984.** This measure would amend section 384-b(3)(h) of the Social Services Law to provide that the clinical and spousal privileges that are abrogated automatically in termination of parental rights proceedings alleging mental illness and mental retardation likewise be abrogated in proceedings alleging permanent neglect, severe and repeated child abuse and abandonment.

**Senate 5405/Assembly 8089.** This measure would amend sections 115 and 641 of the Family Court Act, sections 383-c, 384 and 384-b of the Social Services Law and section 113 of the Domestic Relations Law: (1) to insure “one family, one judge” in adoption, surrender and termination of parental rights proceedings; (2) to insure that the same judge presides from the outset of a child protective proceeding to the realization of a permanent home for the child; and (3) to reduce fragmentation during the judicial process for these matters.

**Senate 3567.** This measure would amend section 633 of the Family Court Act to suspend judgments in permanent neglect cases; limit extension of a suspended judgment to no more than a period of one year; provide that orders of suspended judgment include a warning in conspicuous print that failure to comply may lead to commitment of guardianship and custody of the child; and clarify procedures applicable when an application is made to extend a suspended judgment order or to adjudicate a respondent parent in violation of such an order.

**Senate 3569.** This measure would amend sections 1039-b and 1052(b) of the Family Court Act to provide that representatives of authorized agencies and law guardians, as well as social services officials, would have standing to initiate motions for orders to dispense with the requirement of reasonable efforts for the reunification of children with their families.

**Senate 4980-A/Assembly 7511-A.** This measure would amend section 439 of the Family Court Act and section 2302 of the CPLR to clarify and extend the role of support

magistrates in child support and paternity proceedings in Family Court.

**Senate 3568.** This measure would amend section 1055 of the Family Court Act to clarify and specify the factors to be determined in permanency hearings in child abuse and neglect proceedings and considered in the implementation of permanency plans.

**Senate 5377/Assembly 8669.** This measure would amend sections 400 and 409 of the Uniform Court Acts to provide that, in the New York City Civil Court, the District Courts on Long Island and the 61 City Courts, the statute of limitations is tolled as of the filing of the summons with the court — this to conform practice in the lower courts to that followed in Supreme and County Court.

**Senate 4166.** This measure would amend section 240 of the Domestic Relations Law and section 413 of the Family Court Act to authorize courts to direct that a non-custodial parent pay an amount to establish a security account designated for the benefit of a child.

**Senate 5255/Assembly 145-B.** This measure would amend sections 262 and 1055 of the Family Court Act and sections 358-a, 384-b and 392 of the Social Services Law: (1) to provide for assigned counsel at the request of indigent respondents in Family Court post-hearing conferences; (2) to provide, to the extent practicable, that the court will assign the same counsel who previously represented the respondent parent or parents in proceedings involving the child; and (3) to assure parents of assistance for critical case conferences.

**Senate 3572/Assembly 8380.** This measure would amend section 240 of the Domestic Relations Law and section 413 of the Family Court Act to authorize the court to order a non-custodial parent to pay child support in an amount that such court finds just and appropriate based upon certain considerations when such court finds that the basic child support obligation is unjust and inappropriate. It would also clarify that, in cases where imposition of the basic child support obligation would reduce the non-custodial parent’s income to an amount below the self-

support reserve but not the poverty level, the court would be authorized, although not required, to order child care, educational and health care payments in addition to payment of the greater of \$50 per month or the difference between the non-custodial parent's income and the self-support reserve.

**Senate 5173.** This measure would amend section 3-3.3 of the Estates, Powers and Trusts Law to eliminate the conflict between sections 3-3.3 and 2-1.2 with respect to testamentary class gifts to the testator's issue, brothers, or sisters, and to harmonize the treatment of such gifts with that which would occur in intestacy under section 4-1.1.

**Senate 2976.** This measure would add a new section 4-1.7 to the Estates, Powers and Trusts Law to disqualify a person, who holds property as a tenant by the entirety with a spouse, from receiving any share in such property or monies derived therefrom, if convicted of murder in the first or second degree, or manslaughter in the first or second degree, of their spouse.

**Senate 2883/Assembly 7497.** This measure would amend section 5221 of the CPLR to limit the venue of a proceeding to enforce a judgment when that proceeding is based on an underlying consumer credit transaction.

**Senate 2884/Assembly 8384.** This measure would amend section 1.20 of the Criminal Procedure Law to permit the electronic filing of papers in local criminal courts in certain instances; and to clarify procedural measures related to the Department of Motor Vehicles' electronic traffic ticketing program.

**Senate 5285.** This measure would amend section 73 of the Domestic Relations Law to insure the legal legitimacy of children born to a married couple by means of assisted reproduction, including *in vitro* fertilization and gamete intrafallopian transfer which may involve donated gametes (sperm, eggs) or embryos (fertilized eggs); it would also include children born by any method of assisted reproduction now in use or developed in the future.

**Assembly 7495-A.** 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 provide that where an adoption by an unrelated person occurs, and the child maintains a relationship with its natural family after the entry of the adoption order as a result of the child continuing to reside with the natural parent, that child would not lose any inheritance rights or testamentary disposition from its natural family as provided under the Estates, Powers and Trusts Law.

**Assembly 7518.** This measure would amend section 524 of the Judiciary Law to extend the post-service incompetency period for jurors who serve on a grand or petit jury in any court of the Unified Court System or in any Federal court from four years to six years; and authorize a Commissioner of Jurors to reduce such period of incompetency for persons whose service consists of less than three days to a period of not less than two years.

**Assembly 8087/Assembly 4603.** This measure would amend section 39 of the Judiciary Law to cure a flaw in a 1995 statute by which the State fully divested itself of responsibility for the non-jury related costs in the operation of the County Clerks' offices in New York City.

**Senate 5192.** This measure would add a new section 4549 to the CPLR to adopt a learned treatise rule.

**Senate 4964/Assembly 8602.** This measure would amend section 18 of the Public Health Law to provide for the accessibility of medical records by a distributee of a deceased subject for whom no personal representative has been appointed, and by the attorney of a qualified person or the subject's estate, when such attorney holds a power of attorney explicitly authorizing a written request for patient information.

**Senate 5193/Assembly 8575.** This measure would amend section 3215 of the CPLR, governing default judgments, to clarify the options available to a plaintiff when, in a case involving multiple defendants, one party defaults and one or more answers.

**Senate 5194.** This measure would amend section 3101 of the CPLR to provide that, in a commercial action involving \$250,000 or more, the court may order the deposition of an expert witness prior to trial.

**Senate 5195-A/Assembly 2907-A.** This measure would amend rule 3211 of the CPLR, in relation to requiring leave to replead, to permit the party seeking dismissal of a claim or defense to elect whether to attack the pleading on the law or to seek immediately a substantive victory on a claim that the pleader has no viable cause of action.

**Senate 5196.** This measure would amend sections 7804 and 307 of the CPLR, in relation to pleadings in special proceedings pursuant to Article 78 of the CPLR, to permit a respondent to demand that the petitioner serve papers on which it will rely before the respondent answers or moves; and to clarify that service upon the Attorney General is required in all instances in order to commence a proceeding against a State officer, sued officially, or a state agency.

**Senate 4934.** This measure would add a new section 4502-a to the CPLR and amend section 1046 of the Family Court Act to create an evidentiary privilege for parent-child communications in civil, criminal and family court cases, except those involving child abuse and neglect.

**Senate 5197.** This measure would amend sections 1603 and 3018(b) of the CPLR in relation to requiring that reliance on Article 16 be pleaded as an affirmative defense.

**Senate 5198.** This measure would modernize rules 3216 and 3404 of the CPLR, which permit a court to remove inactive or abandoned cases from its inventory: (1) to allow courts to address the unreasonable neglect to proceed by a party in an action for which no note of issue has been filed; (2) to permit a 90 day demand to be served by regular mail; (3) to allow the court or the demanding party to request the service and filing of either a note of issue or a written request for a conference; and (4) to allow the court to strike the pleadings in whole or in part, dismiss the

action in whole or in part, render a judgment by default, or direct an inquest.

**Senate 4982.** This measure would amend several consolidated and unconsolidated laws to establish the method by which interest rates may be calculated on judgments against certain governmental entities, and provide that the tax overpayment rate, as set by the Commissioner of Taxation and Finance and capped at nine percent, shall be the applicable rate.

**Senate 5042/Assembly 1119.** This measure would amend section 16-116 of the Election Law to require that a proceeding brought pursuant to Article 16 be commenced by service of the initial papers upon the respondents.

**Senate 5005.** This measure would amend sections 1207, 1208 and 5003-a of the CPLR and section 2220 of the Surrogate's Court Procedure Act to permit interest to accrue where there is a delay in a proposed settlement of claims by an infant, incompetent, or in a wrongful death action caused by the need for court approval.

**Senate 5006/Assembly 7493.** This measure would add a new section 1405 to the CPLR to permit a plaintiff in a tort case to recover directly against a third-party defendant found liable to the defendant/third-party plaintiff, where the latter is insolvent.

**Senate 5199/Assembly 8083.** This measure would amend section 2308(a) of the CPLR to increase the maximum penalty for failure to obey a judicial subpoena to \$150.

**Senate 5007.** This measure would amend sections 3101 and 3117 of the CPLR to permit a party to take the testimony without court order of their own treating physician, dentist or podiatrist for the purpose of preserving medical testimony for use at trial.

**Senate 5008.** This measure would amend section 5519(a) of the CPLR to provide that the automatic stay granted municipal corporations and municipalities when appealing from a judgment or order be limited to stay only enforcement of the order that was the subject of appeal.

**Senate 4898.** This measure would amend section 3101(i) of the CPLR relating to the timing of disclosure of surveillance evidence.

**Senate 5283.** This measure would amend rule 4111 and section 1206 of the CPLR, repeal Articles 50-A and 50-B and rules 4111(a) and (f) thereof, repeal section 2220(5) of the Surrogate's Court Procedure Act and amend sections 5502, 5503, 5505 and 5511 of the Insurance Law in relation to structured verdicts.

**Senate 5406.** This measure would add a new rule 4510-a to the CPLR, and a new section 39-c to the Judiciary Law and amend section 17 of the Public Officers Law to provide that communications made in connection with any court-annexed mediation or neutral evaluation shall be confidential; and to grant civil immunity to neutral parties in alternative dispute resolutions.

**Senate 4955.** This measure would amend section 3101 of the CPLR to provide a minimal deadline for expert disclosure (*i.e.*, 60 days before trial) — a time frame that could be expanded to give earlier expert disclosure in certain commercial cases or as the need arises in other cases, if directed by the court.

**Senate 2829/Assembly 7881.** This measure would repeal section 15-108 and add a new section 15-108 to the General Obligations Law to provide, in tort cases where one defendant has settled, that remaining defendants must elect, prior to trial, whether to reduce liability by the amount of the settlement or by the amount of the equitable share of damages delegated to the settlor in the verdict.

**Senate 5200.** This measure would repeal section 4519 of the CPLR, *i.e.*, the "Deadman's Statute," in relation to personal transactions and communications.

**Senate 5612.** This measure would amend rule 2106 of the CPLR and add a new section 210.46 to the Penal Law to provide that an affirmation of truth of a statement by any person, when subscribed and affirmed, may be used as an affidavit in a civil action; and provide that a false written statement in a civil action shall be a class E felony.

**Senate 4878.** This measure would amend section 2214(d) of the CPLR to require a party seeking an order to show cause to clearly specify why the proceeding is by order to show cause, and not by another, less urgent, method.

**Senate 5257.** This measure would amend subdivision 6 of section 60.35 of the Penal Law to clarify its provisions exempting defendants who have paid restitution or made reparations from having to pay a mandatory surcharge and a crime victim assistance fee.

**Senate 5223.** This measure would add a new section 180.25 to the Criminal Procedure Law to permit a superior court to remove a felony action from a local criminal court in order to expedite a defendant's plea to the felony charge.

**Senate 5224/Assembly 8387.** This measure would amend section 530.20 of the Criminal Procedure Law to authorize a local criminal court to set bail for a defendant charged with certain class E felonies, without need for consultation with the District Attorney.

**Senate 4956.** This measure would amend sections 1811 and 1811-A of the New York City Civil Court Act, the Uniform District Court Act and the Uniform City Court Act and amend section 1811 of the Uniform Justice Court Act in relation to notice of small claims judgments and time for satisfying such judgments; and to provide that a notice of judgment sent to a judgment creditor must specify that a failure to satisfy a judgment may subject the debtor to certain action.

**Senate 5225/Assembly 8383.** This measure would amend section 120.20 of the Criminal Procedure Law to preclude a local criminal court from issuing a warrant of arrest based on any simplified information when the defendant has not been arraigned and has not come under the control of the court with respect to the charges in the simplified information.

**Senate 5226/Assembly 8386.** This measure would amend section 440.10 of the Criminal Procedure Law to authorize a court to entertain an application to vacate a plea of guilty and sentence imposed when a corporate defendant fails to appear.

**Senate 5258.** This measure would amend sections 100.20 and 100.25 of the Criminal Procedure Law to provide defendants charged with misdemeanors by simplified information with the same right to supporting depositions of complainants as defendants charged with misdemeanors by “long-form” complaints.

**Senate 4929/Assembly 7117.** This measure would amend section 65-c of the Alcoholic Beverage Control Law to authorize entry of a default judgment in unlawful possession of alcoholic beverages cases for persons under the age of twenty-one who fail to pay fines, or complete programs or community service.

**Senate 5259.** This measure would amend section 340.40 of the Criminal Procedure Law and section 70.15 of the Penal Law to require that a defendant in certain courts — *i.e.*, District Courts of Nassau and Suffolk Counties and in the City Courts of Buffalo, Rochester, Syracuse and Yonkers — be accorded a single judge trial where the authorized term of imprisonment is not more than six months; and also would provide that, where an authorized term of imprisonment in a case is more than six months, the court may declare that it will not sentence the defendant to more than six months, and thereafter conduct the trial without a jury.

**Senate 5227/Assembly 8078.** This measure would amend sections 10.20, 10.30, 195.30, 195.40 and 200.15 of the Criminal Procedure Law to authorize the filing of a superior court information in the New York City Criminal Court, District Courts and City Courts and permit those courts to accept a plea.

**Senate 2948/Assembly 7883.** This measure would amend sections 203, 209 and 405 of the Uniform District Court Act and the Uniform City Court Act, sections 306 and 309 of the Multiple Dwelling Law and section 303 of the Multiple Residence Law to provide District Courts and City Courts with additional equity jurisdiction to enhance their ability to handle landlord and tenant disputes outside New York City.

**Senate 5260/Assembly 8385.** This measure would amend section 690.35(3) of the Criminal Procedure Law to require that an

application for a search warrant disclose all prior denials of the same or a similar application, as well as any failure to issue a search warrant based on the same or a similar application, by a different judge, if known to the applicant.

**Senate 5261.** This measure would amend section 30.10 of the Criminal Procedure Law in relation to periods of limitation in prosecutions for bail jumping and failure to respond to an appearance ticket.

**Senate 5262/Assembly 8775.** This measure would amend section 610.20 of the Criminal Procedure Law to permit a court considering a defense application for a subpoena *duces tecum* to a government agency, for good cause shown, to dispense with the requirement that the prosecutor and the subpoenaed agency be notified of the application and the prosecutor served with the subpoena.

**Senate 5263.** This measure would amend section 250.10 of the Criminal Procedure Law to require that the notice filed by a defendant thereunder specify the type of psychiatric or affirmative defense upon which the defendant intends to rely at trial, as well as the nature of the alleged psychiatric malady that forms the basis of such defense or affirmative defense and its relationship to the proffered defense, and be served not more than 60 days after entry of the plea of not guilty.

**Senate 5228/Assembly 8389.** 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 5407.** 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 5265/Assembly 8774.** 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 violent conduct.

**Senate 5266/Assembly 8081.** 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 summations.

**Senate 5267/Assembly 8079.** This measure would amend sections 280.20, 310.60, 330.50 and 470.55 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 5268.** This measure would amend section 180.80 of the Criminal Procedure Law to provide the court with discretion to release a defendant from custody upon failure of timely grand jury action; and also provide that whenever a defendant in custody files notice requesting the right to testify before the grand jury, the court, in its discretion, may extend by up to 48 hours the time period within which the grand jury must indict such defendant.

**Senate 5269.** This measure would amend section 30.30 of the Criminal Procedure Law to exclude certain serious crimes from the statutory mandate that a defendant in custody pending trial be released if the prosecution is not ready for trial within 90 days of the commitment of the defendant to such custody; and also extend the 90-day period to 120 days when the defendant is charged with an offense that, upon conviction, would result in being sentenced as a second violent felony offender.

**Senate 5201/Assembly 8751.** 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 5229/Assembly 8745.** 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 a local criminal court, in a case in which the defendant is held for action of the grand jury or in which the local criminal court is divested of jurisdiction by the filing of an indictment in the superior court, shall remain effective in most cases until the superior court issues its own bench warrant.

**Senate 5231/Assembly 8741.** This measure would amend section 240.20(1)(f) of the Criminal Procedure Law to provide that any property seized pursuant to the execution of a search warrant relating to the criminal action or proceeding, and the inventory or return of such property, shall be discoverable by the defendant; and also add a new paragraph (l) to section 240.20(1) providing 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 shall be discoverable by the defendant, except to the extent such material or information is protected from disclosure by a court order.

**Assembly 8744.** This measure would amend Article 240 and other sections of the Criminal Procedure Law to effect broad reform of discovery in criminal proceedings.

**Senate 5233/Assembly 8742.** This measure would amend sections 30.20, 30.30 and 255.20 of the Criminal Procedure Law to grant 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.

**Senate 5270/Assembly 8743.** This measure would amend section 30.30 of the Criminal Procedure Law in relation to speedy trial provisions.

**Senate 5271.** This measure would amend section 730.30(2) of the Criminal Procedure Law to provide that, when 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 5272/Assembly 8750.** This measure would amend sections 30.30 and 160.50 of the Criminal Procedure Law and add section 180.85 thereto, to provide for the dismissal of a felony complaint, on the motion of either party, on the ground that the defendant has been denied the right to a speedy trial.

**Senate 4958.** This measure would amend section 240.20 of the Criminal Procedure Law and section 87(2) of the Public Officers Law to provide that law enforcement records, as they relate to a particular legal matter, should not be available through FOIL but may be properly subject to discovery.

**Senate 5273/Assembly 8749.** This measure would establish a Temporary State Commission on Revision of the Penal Law and Criminal Procedure Law.

**Senate 3737.** This measure would amend sections 756, 756-a, 1055 and 1055-a of the Family Court Act, section 392 of the Social Services Law and section 112 of the Education Law to require the agency responsible for a child to engage in constructive planning for the child's release from foster care; and also to provide that where an extension of placement is being sought, a report would be required 30 days prior to the conclusion of the placement period, and that a release plan would be required to delineate the steps that the agency has taken or will be taking to insure that the juvenile is enrolled in school promptly after release.

**Assembly 7513.** This measure would amend sections 446, 551, 656 and 846-a of the Family Court Act and sections 240 and 252 of the Domestic Relations Law to clarify that violation procedures and consequences contained under Article 8 of the Family Court Act apply to all orders of protection and temporary orders of protection issued in family offense, child support, paternity, child support, paternity, child custody, visitation, divorce and other matrimonial proceedings.

**Senate 3565.** This measure would amend section 631 and add a new section 635 to the Family Court Act and amend section 384-b of the Social Services Law to provide for dispositions committing the guardianship and custody of a child to a foster parent, relative or other suitable person.

**Senate 3564/Assembly 7232.** This measure would amend sections 353.3, 355.5, 756 and 756-a of the Family Court Act in relation to placement of juvenile delinquents and persons in need of supervision, including providing that the parent or other person responsible for a respondent be notified of any planning conference, the right to attend such conference and the right to representation, and requiring notice that parental rights may be terminated if the respondent remains in placement for 15 out of the last 22 months.

**Senate 5254/Assembly 7120-A.** This measure would amend sections 739, 754, 776, 779 and 779-a and add a new section 743 to the Family Court Act and amend section 243 of the Executive Law to expand the persons in need of supervision program to include use of alternatives to detention and intensive supervised probation; and also to provide for judicial intervention where the terms of conditions of alternative care or probation have not been observed.

**Senate 5245/Assembly 7063.** This measure would amend sections 351.1 and 353.6 of the Family Court Act to direct that victim impact statements in investigative reports prepared for juvenile delinquency dispositional hearings include the amount, if any, of unreimbursed medical expenses.

**Senate 3736/Assembly 7118.** This measure would amend sections 320.5 and 353.2 of the Family Court Act and section 243 of the Executive Law to provide for consideration of alternatives to detention and conditions of probation in juvenile delinquency cases.

**Senate 5246/Assembly 7490.** This measure would amend sections 315.3 and 360.2 of the Family Court Act to clarify applicable procedure in cases of alleged violations of orders adjourning in

contemplation of dismissal and orders of conditional discharge; and authorize a court to restore certain matters to its calendar upon application in the form of a certified petition.

**Senate 5291-A/Assembly 7492-A.** This measure would amend sections 1029 and 1056 of the Family Court Act and section 221-a of the Executive Law to provide that, prior to issuing a temporary order of protection, a court shall inquire as to the existence of any other orders of protection involving the parties.

**Senate 5247.** This measure would add a new section 657 to the Family Court and a new section 242 to the Domestic Relations Law to set forth the powers of the courts and the procedures to be followed upon violations of custody and visitation orders and related orders of protection.

**Senate 5295.** This measure would amend sections 112 and 240 of the Domestic Relations Law, section 837 of the Executive Law, sections 653, 662, 1017 and 1055 of the Family Court Act, sections 376, 377, 378-a and 421 of the Social Services Law and section 1707 of the Surrogate's Court Procedure Act in relation to criminal record, child abuse and maltreatment screening of prospective foster parents, adoptive parents, persons with whom children are placed and persons seeking custody or visitation with children.

**Senate 5248/Assembly 7254-A.** This measure would amend sections 1017 and 1055 of the Family Court Act and sections 383-c, 384, 384-a and 392 of the Social Services Law to facilitate permanency planning for children in foster care, including a requirement that child protective agencies, in abuse and neglect cases involving children removed from their homes, conduct immediate investigations to locate suitable non-respondent parents, not simply relatives, with whom children may reside.

**Assembly 7880.** This measure would amend sections 237 and 238 of the Domestic Relations Law to require the court in matrimonial cases 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 to enable such party to continue in the action.

**Senate 5274/Assembly 8740.** This measure would amend section 5519 of the CPLR to exclude judgments, orders or decrees issued in a matrimonial action with provisions for maintenance or child support from a stay of enforcement without a court order.

**Senate 4954.** This measure would amend section 236 of the Domestic Relations Law to provide a uniform rule concerning the validity of oral stipulations settling matrimonial cases in open court.

**Assembly 7491.** This measure would amend sections 232 and 245 of the Domestic Relations Law to require warning notices in matrimonial actions stating that failure to pay spousal/child support may result in commitment to jail. It would also provide that failure to pay any money required by judgment or order issued by the court may result in immediate arrest, and that, after an appearance in court, a finding that the respondent willfully failed to obey the order may result in commitment to jail for a term not to exceed six months, for contempt of court.

**Senate 5250.** This measure would amend section 240 of the Domestic Relations Law, add a new section 657 to the Family Court Act and amend section 817 of such Act to authorize Supreme Court justices and Family Court judges, in the course of child custody proceedings, to direct that a child protective services investigation be conducted and, if any allegations are indicated by such investigation, to order the child protective agency to file a child protective petition with regard to such allegations.

**Senate 5307.** This measure would amend sections 153, 453, 454, 841 and 846-a of the Family Court Act and section 243 of the Executive Law in relation to electronic monitoring as a condition of probation and pre-dispositional bail and release in child support and family offense proceedings.

**Senate 5292/Assembly 4881.** This measure would amend section 221-a of the Executive Law to establish as a class A misdemeanor the knowing and willful release of any data or information contained in the statewide registry or orders of protection, to

persons or agencies not authorized by law or regulations and subject any offender to a \$5,000 civil penalty.

**Senate 5408-A/Assembly 7176.** This measure would amend section 803(1)(d) of the Correction Law to specify that an otherwise eligible inmate serving an indeterminate sentence with a minimum period of “one year or more” may earn a merit time allowance under that section.

**Senate 4933.** This measure would repeal Article 19 of the Judiciary Law in its entirety and add new sections 750-756 to such Law, and amend sections 476-a, 485 and 519 of the Judiciary Law, section 7801 of the CPLR, sections 722 and 722-a of the County Law, section 245 of the Domestic Relations Law, section 210 of the Civil Service Law and sections 606 and 607 of the Surrogate’s Court Procedure Act in relation to contempt of court.

**Senate 4922.** This measure would amend section 47.03 of the Mental Hygiene Law in relation to the authority of the Mental Hygiene Legal Service.

**Senate 5069.** This measure would amend provisions of Article VI of the Constitution to mandate establishment of a city-wide Housing Court for New York City.

**Senate 3997/Assembly 8092.** This measure would amend sections 54-j and 94 of the State Finance Law to make a technical change in relation to the manner in which State assistance moneys due county and city governments under the Court Facilities Act of 1987 are paid from the Court Facilities Incentive Aid Fund.

**Assembly 8085.** This measure would amend section 39 of the Judiciary Law and sections 94-a and 94-b of the State Finance Law to allow moneys due the New York City County Clerks’ Operations Offset Fund and the Judiciary Data Processing Offset Fund to be regularly deposited throughout the course of the year.

**Senate 4981.** This measure would amend section 35 of the Judiciary Law and sections 243 and 245 of the Family Court Act in relation

to compensation of law guardians in custody and visitation proceedings, including provision for financially-able parties to pay fees, expenses and disbursements of law guardians appointed in custody and visitation proceedings.

**Senate 3738/Assembly 8772.** This measure would amend section 530.70 of the Criminal Procedure Law to permit all State-paid uniformed court officers to execute bench warrants.

**Senate 3955/Assembly 8776.** This measure would amend section 310.30 of the Criminal Procedure Law to permit a trial judge, without consent of the parties, to provide a deliberating jury with one or more written copies of all or a portion of its charge in response to the jury’s request for further instruction or information.

**Senate 3739.** This measure would amend sections 3221 and 5001 of the CPLR to authorize payment of pre-verdict interest in personal injury actions.

**Senate 3498/Assembly 8736.** This measure would amend section 360.20 of the Criminal Procedure Law, in relation to jury selection in local criminal courts, to provide that the judge may allow more than 6 potential jurors to be in the jury box during *voir dire*.

**Senate 4941.** This measure would add a new subdivision 1-b to section 270.15 of the Criminal Procedure Law to permit a criminal court to issue an order precluding disclosure of jurors’ and prospective jurors’ names and addresses where the court determines that there is a likelihood that one or more jurors or prospective jurors will be subject to bribery, tampering, injury, harassment or intimidation.

**Senate 5492.** This measure would amend section 111 of the Domestic Relations Law to establish new criteria for determining under what circumstances the consent of a biological father is required when his non-marital child under the age of six months is placed for adoption.

**Senate 3570/Assembly 4284.** This measure would codify the decision of the United States District Court in *Williams v.*

*Lambert*, 902 F.Supp. 460 (S.D.N.Y., 1995) by repealing section 516 of the Family Court Act.

**Senate 3499/Assembly 8086.** 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 3792.** 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.

**Senate 3500.** 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 3501/Assembly 8903.** 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 3502.** This measure would amend the Criminal Procedure Law to permit the People to appeal from a preclusion order, if the prosecutor first files a statement asserting that the prosecution cannot proceed without the precluded evidence.

**Senate 3503.** This measure would amend sections 200.95, 210.43, 210.45, 255.20 and 710.60 of the Criminal Procedure Law to permit use of oral pre-trial motions in criminal cases if the defendant and the prosecutor consent and the court agrees.

**Senate 4879.** This measure would add a new section 400.50 to the Criminal Procedure Law and amend sections 450.30, 470.15 and 470.20 of such law to permit an appeal as of right to an intermediate appellate court from a judgment of conviction or sentence in a class A-1 drug felony case upon the ground that the sentence imposed was "unjust;" and to

authorize the appellate court, under specified circumstances, to impose a lesser indeterminate sentence with a minimum period of not less than five years.

**Senate 5275/Assembly 8901.** This measure would add a new Article 470 to the Criminal Procedure Law to provide a statutory framework for deferral of prosecution of felony-level drug offenses.

**Senate 3504/Assembly 8929.** This measure would amend section 220.10(5) of the Criminal Procedure Law in relation to the plea bargaining of offenses by defendants suffering from a terminal disease or condition.

**Senate 3505/Assembly 8900.** This measure would amend section 440.10(1) of the Criminal Procedure Law to authorize a prosecutor to move to vacate a judgment on specified grounds.

**Senate 4880/Assembly 8899.** This measure would amend section 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 5276.** 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 therefrom because of a clerical error.

**Senate 5277.** This measure would amend section 310.10 of the Criminal Procedure Law by deleting the requirement that a sequestered jury in a criminal action be "continuously" kept together during deliberations.

**Senate 5234/Assembly 8902.** 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 the People's repeated and unjustifiable failure to proceed

with the action after both sides have answered ready and the court has fixed a date for a hearing or trial.

**Senate 5253/Assembly 8773.** This measure would amend section 812 of the Family Court Act and section 530.11 of the Criminal Procedure Law to 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 5045-A/Assembly 6031-A.** This measure would amend sections 6514 and 6515 and add two new sections 6516 and 6517 to the CPLR to provide for the cancellation of notices of pendency, security by the plaintiff and the effect of cancellation of notices of pendency.

**Senate 5159/Assembly 8130-A.** This measure would amend sections 21, 22 and 23 of the Executive Law in relation to disaster planning for the Judiciary by expressly directing the Executive Branch's Disaster Preparedness Commission to consult with the Chief Administrative Judge whenever its planning addresses issues having to do with administration of the State's civil and criminal justice systems.

**Senate 5235-A/Assembly 5301-B.** This measure would amend rules 3211, 3212 and 2215 of the CPLR in relation to the timing of summary judgment motions.

**Senate 5166.** This measure would add a new section 7-1.19 to the Estates, Powers and Trusts Law to provide a procedure for the termination of uneconomical trusts where such trusts are too expensive to administer.

## Measures Vetoed in the 2003 Legislative Session

**Senate 3600/Assembly 7498.** This measure would have amended section 439 of the Family Court Act to expedite the confirmation hearings required by Family Court rules, where the hearing officer initially determines willful violation of support orders [Veto No. 155].

**Senate 5249/Assembly 7119.** This measure would have amended sections 1055 and 1055-a of the Family Court Act and sections 358-a and 392 of the Social Services Law to direct that reports of any change in child protective or voluntary foster care placement be made within 30 days of such change, and require that such reports include information regarding the reasons for such change [Veto No. 158].

## Rules of the Chief Judge

The following rules were amended or added by the Chief Judge during 2003:

Section 25.15(a) of the Rules of the Chief Judge, governing equal employment opportunity in the courts, was amended, effective August 26, 2003, to add "military status" to the categories subject to anti-discrimination requirements.

Part 36 of the Rules of the Chief Judge, governing appointments by the courts, was amended, effective April 2, 2003, to clarify the application of its provisions.

Part 39 of the Rules of the Chief Judge, governing the smoking policy for the courts, was repealed, and a new Part 39 enacted, both effective July 24, 2003, prohibiting smoking throughout the facilities of the Unified Court System.

Part 50 of the Rules of the Chief Judge, governing conduct by court employees, was added, effective January 9, 2003, to promulgate a Code of Ethics for court employees and transfer to a single part court rules regulating conduct by court employees.

## Rules of the Chief Administrative Judge

The following rules were amended or added by the Chief Administrative Judge:

Part 104 of the Rules of the Chief Administrator, governing retention and disposition of court records, was amended, effective October 8, 2003 and November 6, 2003, to address electronic means of record storage.

Section 118.1(g) of the Rules of the Chief Administrator, governing attorney registration, was amended, effective July 14, 2003, to raise the registration fee to \$350 in conformance with new statutory fee requirements.

Section 130.1-4 and 130.2-4 of the Rules of the Chief Administrator, governing sanctions, was amended, effective August 11, 2003, to substitute references to “support magistrates” for Family Court Hearing Examiners.

Section 200.25 of the Uniform Rules for Courts Exercising Criminal Jurisdiction was added, effective March 7, 2003, to authorize the filing of guilty pleas by mail in the New York City Criminal Court.

Sections 202.5-a and 202.5-b of the Uniform Civil Rules for the Supreme and County Courts, and sections 206.5, 206.5-a and 206.5-aa of the Uniform Rules for the Court of Claims, governing electronic filing, were amended,

effective January 2, 2003, to streamline the provisions for electronic filing.

Section 202.28 of the Uniform Civil Rules for the Supreme and County Courts, governing discontinuance of civil actions, was amended, effective August 7, 2003, to change the procedure for filing stipulations of discontinuance.

Sections 205.3, 205.32 through 205.37, and 205.43 of the Uniform Rules for the Family Court, governing Family Court Hearing Examiners, were amended, effective August 11, 2003, to substitute references to “support magistrates” for Hearing Examiners.

Section 205.53(b)(7) of the Uniform Rules for the Family Court, and section 207.55(b)(7) of the Uniform Rules for the Surrogate’s Court, governing papers required in an adoption proceeding, were amended, effective October 8, 2003, to expedite the processing of the attorney’s affidavit of financial disclosure.

Sections 208.42(f)(2) and 208.43(d)(10)(iii) of the Uniform Rules for the New York City Civil Court, governing the Housing Part, were amended, effective September 1, 2003, to clarify the venue for cases affecting housing in Red Hook.

Section 208.42(i)(1) of the Uniform Rules for the New York City Civil Court, governing the Housing Part, was amended, effective June 4, 2003, to revise the form used in holdover proceedings.