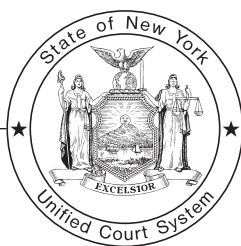




# STATE *of* OUR JUDICIARY

Acting Chief Judge Anthony Cannataro

NEW YORK STATE UNIFIED COURT SYSTEM • FEBRUARY 28, 2023



# STATE *of* OUR JUDICIARY

FEBRUARY 28, 2023

**Anthony Cannataro**

Acting Chief Judge of the State of New York

Acting Chief Judge of the Court of Appeals

**Tamiko Amaker**

Acting Chief Administrative Judge of the State of New York

## ASSOCIATE JUDGES OF THE COURT OF APPEALS

**Jenny Rivera**

**Michael J. Garcia**

**Rowan D. Wilson**

**Madeline Singas**

**Shirley Troutman**

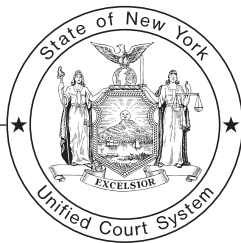
## PRESIDING JUSTICES OF THE APPELLATE DIVISION

**Rolando T. Acosta** First Department

**Hector D. LaSalle** Second Department

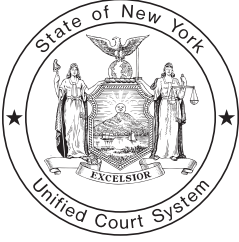
**Elizabeth A. Garry** Third Department

**Gerald J. Whalen** Fourth Department



## TABLE *of* CONTENTS

|   |    |
|---|----|
| <b>INTRODUCTION</b> .....                             | 1  |
| <b>COURT OPERATIONS</b> .....                         | 2  |
| Criminal Courts.....                                  | 2  |
| Civil Matters.....                                    | 4  |
| Alternative Dispute Resolution.....                   | 4  |
| The Appellate Division.....                           | 5  |
| <b>CHALLENGES FACING THE COURTS</b> .....             | 6  |
| Our Workforce.....                                    | 6  |
| Assigned Counsel and Universal Access to Counsel..... | 6  |
| Court Simplification.....                             | 8  |
| <b>NOTABLE PROGRESS AND THE PATH FORWARD</b> .....    | 9  |
| Technology.....                                       | 9  |
| Family Court.....                                     | 11 |
| Mental Health in Our Courts.....                      | 12 |
| Equal Justice.....                                    | 14 |
| <b>CONCLUSION</b> .....                               | 16 |



# STATE *of* OUR JUDICIARY 2023

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## Introduction

On behalf of the entire Court of Appeals — Senior Associate Judge Jenny Rivera and Associate Judges Michael Garcia, Rowan Wilson, Madeline Singas, and Shirley Troutman — welcome to the 2023 State of Our Judiciary.

As Acting Chief Judge, I am honored to bring the leaders of our court system together today in our magnificent courtroom here in Court of Appeals Hall. Due to the COVID-19 pandemic, our last two State of Our Judiciaries have been virtual presentations. This year, we are fortunate to have the opportunity to host a small gathering of our court family — those who drive, lead, and carry out our unfaltering mission to deliver equal, impartial, and timely justice to all.

Complemented by our livestream, we are pleased to update the public, our partners in the justice system, and our fellow coequal branches of government on the progress we have made over the last year. This annual occasion also provides a chance for us to shine a light on the hurdles our justice system faces moving forward, offer insight into the measures we are taking to address these challenges, and identify the areas in which we plan to work with our partners in government and the broader legal community to most effectively fulfill our constitutional duties to New Yorkers.

There can be no question that 2022 was a year marked by transition. We emerged from two very challenging years in which our court system — like our community at large — was compelled to modify its operations during an unprecedented global health crisis in order to ensure the safety of our judiciary, workforce, and court users. And, in 2022, we have transitioned to a court system that is restoring its calendars to pre-pandemic numbers; making every effort to cut down on pending case backlogs that accumulated during the pandemic; and modernizing its procedures to capitalize on technological advances that enhance efficiency and increase access to justice.

Although we have experienced uncertainty over the last six months regarding the ongoing transition in court leadership, our courts are open and operational. Our judicial and nonjudicial personnel continue to deliver high-quality justice services daily to all who



enter New York’s courthouses. And our experienced administrative and supervising judges are hard at work ensuring that we are meeting appropriate benchmarks. As we move further into 2023, we will continue to expand our operations, tackle our caseloads, and improve every facet of our justice services.

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## Court Operations

In the years preceding the COVID-19 pandemic, our criminal and civil courts made remarkable strides in clearing backlogs, reducing the number of cases pending, and minimizing delays. Unfortunately, the sudden onset of the pandemic in 2020 caused setbacks to that progress by necessitating significant alterations of our in-person operations to protect public health and minimize transmission of the virus. In 2021, we forged ahead — with hybrid operations firmly in place — and worked toward restoring our in-person operations to pre-pandemic levels. With the resumption of full trial capacity late last summer, our ascent from pandemic-related backlogs picked up steam in 2022 and our courts resolved more than 2.1 million cases across the state, delivering justice to millions of New Yorkers.

### **CRIMINAL COURTS**

New York criminal courts conducted over 430,000 arraignments and over 2,100 trials in 2022 — representing a 68% increase in trials from the prior year — with more than half involving felony matters. Overall, dispositions in local criminal courts surpassed 745,000 cases, a 57% increase from 2020. With a concerted diligent effort by our judges and court personnel, we have also made significant progress in resolving older criminal cases. Courts outside of New York City significantly reduced pending misdemeanor caseloads by over 5,500 cases from the prior year. Meanwhile, in 2022, New York City criminal courts achieved a notable reduction of over 600 misdemeanor cases pending for more than one year — with upwards of 2,700 cases resolved since the height of the pandemic. With respect to our felony dockets, almost 1,500 fewer cases across the state were over standards and goals at the end of 2022 than were pending at the end of 2021.

Our commitment to reducing backlogs is reflected in initiatives like the ROC group in our Seventh Judicial District, led by Justice William K. Taylor. A collaborative effort to focus attention and resources on “Resolving Older Cases,” the ROC Group — comprised of judges, clerks, attorneys, and staff — closely tracks case trends, makes data-based adjustments to the allocation of resources, and carefully distributes trial-ready criminal cases

to facilitate a steady and deliberate reduction in older pending cases. New Yorkers can rest assured that their criminal courts are taking proactive and creative approaches to managing resources, with a view toward tackling caseloads and rebounding from pandemic backlogs.

We know that the timely disposition of criminal matters involving firearms is of grave importance to New Yorkers, who want their families to feel safe from the dangers of gun violence in their schools, in their homes, and on their streets. As part of coordinated efforts to mitigate gun violence in New York City, our dedicated gun parts have been prioritizing and expediting gun possession cases — bringing more than 2,600 cases to disposition since late April 2022. Indeed, despite the addition of more than 1,700 new gun cases to our calendars, the inventory of gun cases pending in New York City has dropped by approximately 33%. Similarly, in just over two months of the ongoing city-wide Robbery Initiative, the Criminal Term of New York County Supreme Court decreased its pending first-degree robbery cases by 10%.

Deputy Chief Administrative Judge Deborah A. Kaplan has been instrumental in spearheading our efforts to resolve the oldest pending cases, and measures such as intensive case conferencing and the shortening of adjournment periods provide the foundation for our successes in the gun and robbery initiatives. Moving forward, judges will be receiving training in how to replicate these strategies in other court parts as we undertake a coordinated push to resolve the oldest criminal cases in which defendants are incarcerated.

Make no mistake, our criminal courts have more work to do on minimizing delays and adjudicating cases that have lingered for too long. When individual liberties and freedoms are at stake, the need for careful but prompt justice is paramount. But as we continue to determinedly reduce our caseloads, it also bears noting that there are real people behind each data point demonstrating the progress already made in resolving pending cases — defendants, victims, and families who feel heard, who have received some measure of closure, and who can begin to plan for the future.

The last several years have not been easy for any New Yorker. I am proud of the work done by our judges and court professionals in 2022, and of their unwavering commitment to eliminating bottlenecks so that our communities can receive justice.

## **CIVIL MATTERS**

On the civil side, our disposition of pending matters has increased by 34% since 2020 and by 6% since 2021, with over 877,000 dispositions throughout the state. Almost 8,700 trials were commenced in local civil courts during 2022 — a 44% increase from the prior

year. Under the leadership of Deputy Chief Administrative Judge Norman St. George, our Supreme Courts outside New York City, in particular, have achieved marked reductions in the volume of older pending cases.

Statewide case resolution trends in Family Court are also promising, with almost 439,000 matters resolved in 2022 and dispositions increasing by 13% since 2021 despite an almost 20% rise in new filings. Our Family Courts in the Fifth Judicial District, overseen by Administrative Judge James P. Murphy, reduced pending caseloads by 600 older cases last year and over 1,000 since 2021.

With the expiration of pandemic foreclosure protections in early 2022, many feared a surge in foreclosure filings. But, while there have certainly been new foreclosure filings, several of our counties are experiencing the lowest number of active pending foreclosures in over a decade. Due in no small part to the tireless service of our judges and nonjudicial personnel, foreclosure filings have not outpaced case dispositions.

## **ALTERNATIVE DISPUTE RESOLUTION**

We continue to encourage New Yorkers to take advantage of alternative dispute resolution early in the litigation process. These forums often lessen conflict, decrease costs, produce satisfactory outcomes, and increase efficiencies in our dockets. Over 12,000 cases were referred to mediation in 2022, and 58% of mediated cases reached a full or partial settlement. In addition, more than 8,000 cases were resolved through arbitration, and at least one-third of the cases using early settlement conferencing achieved resolution.

Through the efforts of our Statewide ADR Coordinator, Lisa Courtney — as well as our regional ADR coordinators Bridget O’Connell, Joel Kullas, and Jean Norton — much work has been done to grow our ADR infrastructure. Supreme Court, Bronx County, for example, created and staffed new ADR programs for tort and matrimonial cases. Richmond County Supreme Court likewise established an ADR program and undertook significant efforts to educate court users on the value and availability of ADR. Projects such as these will allow us to see accelerated and sustainable expansion going forward.

## **THE APPELLATE DIVISION**

Of course, the extraordinary work of our justice system extends beyond our trial courts. With the invaluable guidance of Presiding Justice Gerald J. Whalen, the Appellate Division, Fourth Department, reduced its backlog of cases caused by the onset of the COVID-19 pandemic by 100%, entering the September 2022 term with no cases carried over from previous terms. Likewise, for the third year in a row, under the superb leadership of Presiding

Justice Rolando T. Acosta, the Appellate Division, First Department, entered its September term with zero appeals pending from 2021. The First Department also reduced the average timeframe between argument and decision publication to the Court's shortest turnaround time in approximately a decade. The Third Department, excellently administered by Presiding Justice Elizabeth A. Garry, continued its proud custom of entering the new term with no hold-over appeals and, on average, reduced by almost one full month the time between perfection of an appeal and the Court's decision. With the inimitable Presiding Justice Hector D. LaSalle at the helm, the Second Department — our busiest appellate court — has made impressive progress by reducing its criminal appeal caseload by almost 50% between 2019 and 2022 and its civil caseload by 10% from 2021 to last year.

At every single level, New York's courts have demonstrated a remarkable dedication to overcoming challenges and delays attributable to the pandemic. With that said, we acknowledge that backlogs persist and that there is more progress to be made. The Unified Court System's leadership team, our judges, and our nonjudicial personnel are conscientiously endeavoring to maximize efficiencies and shift resources to reduce stress on overburdened courts and keep our dockets moving swiftly.

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## Challenges Facing the Courts

### **OUR WORKFORCE**

The state of our workforce is a key factor in our ability to cut down on backlogs while still meeting the demands of new filings. Over the last year, we have experienced an unprecedented rate of attrition due to resignations and retirements — many of which were spurred by the pandemic — and an increasingly competitive job market. Attrition, combined with a temporary hiring freeze during the pandemic, has left us struggling to adequately staff our courtrooms with court officers, court reporters, and interpreters, and to ensure that our IT Departments are able to meet the technological needs of our judges and back-office personnel. Needless to say, staffing shortages slow down our dockets and burden our already-strained workforce.

We can all agree that our people on the ground — from our judges to our court officers, administrative professionals, court attorneys, and building staff — are the driving force behind the court system's ability to deliver high-quality justice services to the public. For that reason, we are working to increase our nonjudicial position fill levels by 800, and our recent budget requests seek to facilitate a return to pre-pandemic staffing levels,



accommodate three new academy classes of court officers, and allow for the creation of 270 additional nonjudicial positions to support newly created judgeships — something we have not done in over 14 years. Justice delayed is justice denied, and it is imperative that we have sufficient staff support for our courts to deliver justice expeditiously.

## **ASSIGNED COUNSEL AND UNIVERSAL ACCESS TO COUNSEL**

Our courts also operate more smoothly when our partners in justice are adequately staffed. For 19 years, private attorneys appointed by our courts to represent indigent defendants in criminal matters, and children and parents in our family courts, have faced stagnant compensation rates. The services these Article 18-B attorneys provide to their clients protect the vital rights of indigent defendants and safeguard the important interests of New York families. We have consistently recognized that compensation rates have propelled a significant decline in the number of attorneys willing to participate in 18-B assigned counsel programs — which, in turn, exacerbates the heavy workload of the remaining assigned counsel attorneys left trying to fill the gap. Today, prospects for an increase in 18-B compensation rates look better than they have in past years. We thank Governor Kathy Hochul for addressing the matter in her budget proposal, and we remain ready and willing to assist our governmental partners in resolving this issue.

Competent legal representation also facilitates fair and timely resolution of housing matters. Delays in cases involving the basic necessity of shelter have detrimental impacts on families facing uncertainty, landlords who may be facing the threat of foreclosure, and public confidence in our judicial system. More than five years ago, New York City enacted a local law to increase access to legal representation for low-income New Yorkers facing eviction. However, the program is subject to the constraints of available funding and the capability of legal services organizations to keep up with demand. This past year, over 104,000 residential eviction proceedings were filed in New York City Housing Courts. But participating legal organizations declined to represent thousands of tenants, in large part due to a shortage of attorneys for caseloads that we know often leave them feeling overworked, underpaid, and emotionally drained. Nonetheless, while only about 30% of respondents appearing in holdover and non-payment cases resolved by our New York City Housing Courts in 2019 were represented by counsel, for such cases resolved in 2022, 51% of appearing respondents had legal representation.

Despite challenges faced by the City’s universal access program, the law simply does not permit our housing courts to grind to a halt. Justice Carolyn Walker-Diallo, Administrative Judge of the Civil Court of the City of New York, and Judge Jack Stoller, our Citywide Supervising Judge for the Housing Part, continue to work closely with New York City’s Office of Civil Justice, the mayor, institutional service providers, the Bar, and law schools

to address this issue. We are committed to supporting creative strategies to augment the availability of legal representation in housing proceedings to enable the speedy resolution of disputes and minimize resort to eviction.

In the meantime, our housing courts will continue to assist tenants and landlords in a fair and timely manner. Many courts around the state have undertaken supportive measures of their own to facilitate increased access to self-help resources and legal representation in housing disputes. In the Tenth Judicial District, administered by Judge Andrew A. Crecca, the Suffolk County District Court operates “Diversion Rooms” in several of its busiest landlord-tenant courts. These one-stop locations help litigants to connect with attorneys, rental assistance, and housing programs, and we have reports that these convenient and accessible Diversion Rooms have allowed the court to connect litigants to services in approximately 70% of summary proceedings.

Just this past summer, the Eighth Judicial District — overseen by Administrative Judge Kevin M. Carter — celebrated the opening of the Erie County Landlord Tenant HUB Court, a virtual court that consolidates the County’s town and village eviction disputes into one forum that operates through a presumptive ADR model. The HUB court facilitates landlord-tenant legal representation through a variety of local service providers, and recent reports indicate that the HUB court has substantially reduced eviction rates. Proactive programs like this go a long way toward helping tenants remain in their homes and assisting parties in forming plans to avoid future disputes.

Recognizing the harsh reality that many low-income New Yorkers rely on civil legal services organizations for assistance securing essentials of life such as housing, healthcare, and educational services, in 2022, our Judiciary Civil Legal Services Program distributed over \$95 million to grantees providing direct legal assistance and access to justice services. Having reached our goal of securing \$100 million in legal services funding in recent years, our 2024 budget request includes a 3% cost of living adjustment. Looking to the future, our budget requests and expansions of civil legal service will be informed by the results of a funding study currently being undertaken by our Permanent Commission on Access to Justice, chaired by Helaine M. Barnett. This study, which we anticipate will be completed within the next year, aims to provide a realistic estimate of the funding necessary to supply meaningful assistance to low-income New Yorkers facing legal challenges relating to the fundamental essentials of life. We look forward to that report and to working with our partners in government to further narrow the access to justice gap.

## **COURT SIMPLIFICATION**

There can be no question that the convoluted structure of our trial courts hampers our ability to appropriately manage resources, optimize productivity, and best meet the needs of our court users. It also hinders the public in their efforts to access swift and meaningful justice. Far too often, the most vulnerable populations bear the consequences of New York's antiquated court structure as litigants with pressing legal matters are forced to waste limited time and financial resources in frustrating attempts to navigate our fragmented operating model. In the coming years, we hope to continue discussing and exploring the possibilities of court reorganization with our partners in government.

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## **Notable Progress and the Path Forward**

The court system cannot overcome the challenges presented by attrition, attorney shortages, and the byzantine organization of our trial courts alone. Nevertheless, over the last year we have taken consequential steps toward modernizing our courtrooms and protocols, improving the culture and operation of our Family Courts, and executing measures that promote inclusivity and eliminate risk of bias. Moving forward, we will continue to make every effort to review our operations, identify room for improvement, and implement innovative procedures that enhance our delivery of justice services.

## **TECHNOLOGY**

We have made substantial strides in streamlining our case management systems, particularly in our criminal courts. This gives trial courts more tools to aggressively manage their dockets and facilitates quicker and more standardized reporting of case information. A heightened ability to track case data, eliminate abandoned cases from our dockets, and accurately pinpoint case trends is crucial to detecting emerging problems so that we can appropriately distribute our resources across the state. The Appellate Division, Third Department, also undertook a major overhaul of its case management system in 2022 — replacing an outmoded database with a more efficient system that has improved service to attorneys and litigants.

Overall, the court system's data management is more productive than it has ever been, and we will continue to track our numbers to learn where and how we can refine our operations. We thank our Division of Technology, directed by Christine Sisario, and our

Office of Court Research, directed by Karen Kane, for their outstanding job distilling and packaging our trial court data in understandable and helpful ways for internal use and public consumption.

The march to modernize and update our courthouses endures. We are embracing virtual appearances and proceedings where appropriate — particularly in civil courts where we have more flexibility. Virtual options lessen costs and expenses for the parties; reduce litigant time away from home, work, and family; and ease the burdens on attorneys practicing in multiple courts and geographic locations — especially in rural areas experiencing attorney shortages. In our Commercial Divisions in particular, virtual proceedings have been well received, with over 9,400 virtual appearances this past year in Manhattan alone. Cognizant that open access to court proceedings is often a public right, in early December, the court system debuted a web portal to provide members of the public and press the ability to observe virtual court proceedings in Supreme Court throughout the state. Our courts are also exploring the potential benefits and flexibility that virtual jury selection proceedings can offer. Supreme Court, New York County, completed the state's first fully virtual jury selection, and Suffolk County Supreme Court recently launched a pilot program for virtual juror-selection.

Technology and the web are becoming more integral to the practice of law and the delivery of justice with each passing day. As the digital world advances, the Bar has a professional and ethical obligation to remain apprised of the latest cybersecurity and privacy measures. Last year, we updated our continuing legal education requirements to ensure attorneys stay abreast of cybersecurity concerns and are mindful of the need to protect client information and confidential data in our modern world.

Moving into 2023, the court system continues to learn from the obstacles faced in the initial days of the pandemic when in-person operations were restricted, and virtual capacities limited. Our Pandemic Practices Working Group, chaired by Justice Craig J. Doran, recently released its final report containing recommendations to build on our virtual capabilities, overhaul our website, and expand our digital filing programs. We thank Justice Doran, our working group members, and Henry Greenberg — Chair of the Commission to Reimagine the Future of NY Courts — for the incredible efforts that have culminated in this report. Acting Chief Administrative Judge Amaker is creating a multidisciplinary team of experts from all aspects of our operations — including our technology, finance, and administrative departments — to undertake an internal review of the Pandemic Practices report and devise a roadmap for implementation of the report's invaluable recommendations.

## **FAMILY COURT**

More than two years down the road, we remain fully cognizant of Secretary Jeh Johnson’s conclusions that, far too often, the pace, culture, and physical facilities of our “needs of life” courts do not suitably reflect the gravity of the matters handled therein. Sadly, this is often a symptom of the fact that these courts are over-burdened and under-resourced, and that our staff and judges in these courts are facing emotionally-trying matters on a daily basis. Since Secretary Johnson’s report, we have worked hard to adjust the tenor of our Family Courts. We have addressed concerns regarding overcrowding and scheduling, our trial judges have made individual changes in their own courtrooms to promote respectful interactions between staff and litigants, and our supervising judges are closely monitoring events on the ground.

We have also continued to address the problems highlighted in the Equal Justice Report by increasing and mandating anti-bias training for judges and court personnel. In our Family Courts in particular, we have mandated that mediators undergo domestic violence training similar to the biennial training required of our judges. Through a public awareness campaign and the posting of notices in our courthouses, we have encouraged and educated litigants on how to report concerns of bias or unfair treatment. Responses indicate that court users are now more aware of their rights, responsibilities, and avenues for recourse.

New York families are experiencing increased financial and emotional stress due to the human and economic toll of the pandemic, together with the rising cost of living. We have therefore taken measures to expand court access for New York families by contributing additional resources to our “Do-It-Yourself” filing terminals and broadening e-filing to encompass additional case types and counties. E-filing is live in Family Courts in New York and Richmond Counties and expected to expand to Bronx, Queens, and Kings Counties soon.

Our virtual community court access networks continue to grow, as exemplified by the recent launch of a new site in Red Hook. These networks provide safe and private community-based access to court resources, forms and filings, and assist users seeking to connect with legal services organizations. Hubs located in libraries, places of worship, and other community-based organizations play an important role in making justice more readily available to users who lack technological resources or have trouble reaching the courthouse, whether due to disability, difficulty accessing affordable transportation, or childcare complications. A partnership between Suffolk County Family Court and the Brentwood Public Library, for example, facilitates live remote access to Family Court clerks from library computers. And, as of this year, the Fifth Judicial District proudly operates



11 virtual access locations across its 6 counties, allowing litigants to appear virtually in many courts via computer at a safe and private location. In addition to providing easier access to the courts, these programs enhance efficiencies on our end, which in turn reduces delays for litigants seeking to resolve the often imperative and urgent legal matters affecting their families.

New York City Family Courts, administered by Judge Anne-Marie Jolly, have seen very positive trends — particularly in support matters — due to virtual appearance options for pro se and represented parties. Our Family Courts report greater party participation, fewer orders entered on default, and fewer dismissals of support petitions for the failure of petitioners to appear. Virtual proceedings have also generated greater engagement and attendance by adolescent children in permanency hearings. Youth have expressed that they are more comfortable appearing virtually and that such appearances minimize their need to be absent from school. Significantly, when the individuals impacted by our Family Court proceedings are more actively involved, our judges, referees, and magistrates can fashion more tailored and meaningful orders.

Our recent focus on filling vacant referee and support magistrate positions, along with the legislature's creation of several new judicial positions, provides much needed support to our Family Courts. And, in 2022, New York City Family Court reduced its case backlog in all counties. But we still must direct our resources to further reducing the volume of pending cases, and to ensuring that all families who enter our courthouses receive the respectful and punctual justice they deserve. Judge Jolly is reviewing the recommendations contained in the Franklin H. Williams Judicial Commission's recent report on New York City Family Courts. Although many of the issues identified in the report have already been addressed — such as overcrowding and pay parity for court attorneys — we will continue to refine our operations for the benefit of New York families.

## **MENTAL HEALTH IN OUR COURTS**

We are also forming a committee to review and implement recommendations recently published by the National Judicial Task Force to Examine State Courts' Response to Mental Illness, co-chaired by former Chief Administrative Judge Lawrence K. Marks. After engaging in extensive research, the National Task Force has developed tools, trainings, and best practices for state courts to promote systemic and community-level change in our responses to mental and behavioral health issues in justice-involved individuals.

The New York State Department of Health estimates that, every year, more than 1 in 5 New Yorkers experience symptoms of a mental disorder and at least 1 in 10 New Yorkers experience mental health challenges that impact their daily functioning. Far too often,

individuals with unaddressed or undertreated mental and behavioral health problems end up in our courtrooms. The Task Force’s report emphasizes that collaborations between our justice system, public health and treatment providers, families, and community organizations are integral to providing access to early intervention and treatment measures that can prevent escalation before individuals enter the criminal justice system.

Once these individuals appear before our courts, we have an obligation to provide effective and appropriate competency procedures and diversion options to reduce the likelihood of incarceration and increase the rate of recovery. We have over 300 problem-solving courts and specialized parts throughout New York, many of which are already working toward these goals. Our problem-solving courts — overseen by Judge Toko Serita — include 42 Mental Health Courts across the state, and we have more mental health initiatives in development. The Ninth Judicial District, administered by Judge Anne E. Minihan, recently launched a misdemeanor wellness mental health court in Westchester County to complement its existing felony mental health court. And, in the Fourth Judicial District, supervised by Administrative Judge Felix J. Catena, Essex County recently opened a Superior Part for Mental Health Treatment. Mental health courts offer eligible individuals living with serious mental illness an alternative to prosecution. They take a holistic approach by providing a range of services — including mental health treatment, substance abuse treatment, housing assistance, and educational and employment training — in an effort to address the root causes of criminal activity and break the cycle of recidivism.

Guided by the National Task Force’s report, we will focus on strengthening our community partnerships and reviewing our existing procedures and protocols to ensure that, in every way possible, our courts are taking an empathetic, humane, and effective approach to mental and behavioral health. I am pleased to announce that Judge Matthew D’Emic, a pioneer in mental health courts, has graciously agreed to chair a blue-ribbon panel that will bring together experts, governmental partners, and community leaders to put the recommendations of the National Task Force into practice. This is a weighty responsibility, but no one is better suited to the task than Judge D’Emic, who has presided over our Brooklyn Mental Health Court since its inception more than 20 years ago and who unquestionably has the knowledge and vision to effectuate lasting reform.

## **EQUAL JUSTICE**

We have not lost sight of our mission to deliver equal justice to every person and entity that comes before our courts. Under the guidance of our Office for Justice Initiatives, led by Deputy Chief Administrative Judge Edwina G. Richardson-Mendelson, we continue to work toward a more equitable, diverse, and inclusive court system.

Consistent with recommendations from Secretary Johnson’s Equal Justice Report, we have created and distributed mandatory bias training for judges, nonjudicial staff, court officers, and uniformed personnel. The responses of our employees and judiciary have been strong. But we understand that we must remain vigilant and proactive to ensure that implicit bias does not infect our work. We have similarly adopted anti-bias training requirements for mediators, arbitrators, and neutral evaluators involved in court-sponsored alternative dispute resolution programs, which will increase awareness and equip these professionals with tools to combat bias and promote inclusivity. Our court officers’ manual, which is currently being updated, will also include anti-bias materials.

Through scores of programs, town halls, educational sessions, meetings with justice partners, and collaborations with our human resources departments, we have continued to raise awareness among our workforce; implement programs and trainings to strengthen the humanity and dignity in interactions between court personnel and litigants; and guard against the blight of racism and bias both in, and outside, of our courtrooms. Responses to the juror orientation video rolled out last year to educate jurors on the dangers of bias have been overwhelmingly positive. And our courts have engaged directly with their communities to learn and improve, as reflected particularly well by the Seventh Judicial District’s “Judicial Observation Project,” a unique initiative in which specially trained community “observers” monitor courtrooms to help judges better identify and guard against unconscious bias.

The Unified Court System has devoted significant time and energy to community outreach. During Jury Week, Jessica Simard — our Statewide Jury Coordinator — sponsored a weeklong social media campaign to highlight the importance of jury service. Our Office for Justice Initiatives, local Equal Justice Committees, judges, court officers, and staff have participated in career fairs, school visits, student tours, and civic engagement programs throughout the state. In the Third Judicial District, overseen by Administrative Judge Gerald W. Connolly, members of the local equal justice committee have visited 11 schools, held 4 Court tours, and attended several career fairs at institutions of higher education. The Third Judicial District also secured funding for a Careers in the Courts recruitment video, produced with the assistance of Albany-based YouthFX — a company that strives to empower young people from diverse communities by teaching them the skills of digital film making and media production.

Together with the Franklin H. Williams Judicial Commission, our courts have also invested in career development for existing employees. During the immersive two-day Professional Development Academy, the Sixth, Ninth and Twelfth Judicial Districts provided helpful training to nonjudicial employees in order to promote internal career mobility. Initiatives such as these ensure that underrepresented populations are provided career advancement support and strengthen ties between our courts and their local communities.

Finally, we are pleased to observe that, in 2022, we welcomed more judges of color to the bench and witnessed several historic moments. Governor Hochul appointed Justice Mark A. Montour to the Appellate Division, Fourth Department. Justice Montour is an enrolled member of the St. Regis Mohawk Indian Nation and the first Native American Justice to sit on our Appellate Division bench. A talented and experienced jurist, Justice Montour brings an important perspective to the Court. Governor Hochul also elevated the first Asian American woman to the Appellate Division bench — Justice Lillian Wan, in the Second Department. Justice Wan has extensive experience as a practicing attorney and has been a member of the judiciary for the last 20 years. Also noteworthy, Judge Zainab Chaudry, our first Muslim gubernatorial appointee, proudly joined the Court of Claims last year. Judge Chaudry's stellar reputation precedes her, and we welcome her to the bench.

Downstate in our Second Department, our appellate courts celebrated two historic benches. In May, the Appellate Term of the 2nd, 11th, and 13th Judicial Districts, held oral arguments for the first time before a panel of judges who are all women of color — Justices Michelle Weston, Wavny Toussaint, and Cheree A. Buggs. Just a few months later, in the Second Department, Justices Valerie Brathwaite Nelson, Cheryl E. Chambers, Paul Wooten, and William G. Ford comprised the first all African American appellate panel in that Court's history.

The Unified Court System continues to support measures that enhance judicial diversity with respect to nationality, ethnicity, race, gender identity or expression, and other aspects of background and identity. A bench that reflects the demographics of our citizenry not only strengthens public confidence in our justice system but also improves the quality of our justice services.

In that vein, we have heard the legal community's concerns about the potential impact that Question 26 of our bar admissions application has on the diversity of our legal profession. Our Administrative Board is working in concert to consider and coordinate modifications of Question 26, which pertains to arrest and conviction disclosures, in order to more fairly promote equity and inclusion in the Bar. We expect to solidify our next step in that process soon.

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## Conclusion

I conclude our 2023 State of Our Judiciary by addressing the unprecedented events surrounding the Chief Judge selection process and the unexpected duration of my interim service.

First, I want to thank every single member of our court system family for continuing to fulfill their duties with the utmost professionalism and care despite the recent uncertainties. I am honored and humbled to have had the opportunity to serve in the role of Acting Chief Judge, for however long that service may ultimately be. Despite my years of service as an administrative judge before joining the Court of Appeals, I can sincerely state that I have learned more about our court system than I would have thought possible a year ago, and I am constantly amazed by the incredible talent, experience, and empathy brought to the table each day by our administrative and supervising judges, our court administration professionals, and all members of our court staff.

I extend a special and heartfelt thank you to Acting Chief Administrative Judge Tamiko Amaker. Judge Amaker is one of the most dedicated and hardworking judges with whom I have had the honor of serving. Over the last several months, Judge Amaker has done a fantastic job overseeing the day-to-day administration of our entire court system, and she has been an invaluable source of operational knowledge, legal expertise, and sage advice. I am so grateful to have Judge Amaker on board.

I also thank Presiding Justice Rolando T. Acosta for his many years of service. Presiding Justice Acosta recently announced that he will soon be retiring following more than 25 years on New York's bench. After starting his judicial career in Civil Court and subsequently being elected to Supreme Court, Presiding Justice Acosta has steered the First Department for almost six years. During that time, Presiding Justice Acosta made significant headway in modernizing the Court's operations and ensuring that appellate justice is both efficient and accessible. He has left a lasting imprint on both the administration and the precedent of the First Department. We congratulate him on a well-deserved retirement.

It is also fitting to recognize Presiding Justice Hector D. LaSalle today. Presiding Justice LaSalle has dedicated his career to serving the public and our courts. We are lucky to have him as a jurist and as the administrative head of the Second Department.

On a final note, I want to remind everyone that this is not the first time the New York judiciary has weathered criticism and vigorous public debate about its proper role in our democracy. More than 25 years ago, the ever-prescient Chief Judge Judith S. Kaye observed that, in modern times, "the ability [of some] to 'spin' masses of information and manipulate



public opinion is staggering.”<sup>1</sup> Chief Judge Kaye recognized that our commitment to judicial independence nevertheless requires that judges “impartially apply the law, which may at times be countermajoritarian; ... may at times not be to their liking; [and] ... may at times not even make ‘common sense’ to them personally.”<sup>2</sup> Judicial ethics preclude members of the bench from deciding the matters that come before them based on personal political or religious views. While our rulings may not always be popular at a given point in time, as Justice Ruth Bader Ginsburg cautioned during her confirmation hearing in response to questioning from then-Senator Joe Biden, society must always be mindful of the proper role of the judiciary because democracy can be destroyed if judges dare to rule as “Platonic guardians.”<sup>3</sup>

Since its founding, New York’s judiciary and court system has supported the essential pillars of our democracy by delivering fair and impartial justice without regard to political persuasion or the headwinds of public opinion. That is not to say that the law does not advance, or that it does not progress with society or modern values. Surely, it does. But, we must be cognizant of our motivations and our role in the tricameral system, stick to reasoned determinations, and resist any temptation or call for outcome-oriented decision-making. We must follow and enforce the law as we understand it, zealously protect the principles embedded in the State and Federal Constitutions, and — to borrow Presiding Justice Acosta’s words — “dispense justice without fear or favor.”<sup>4</sup> This, our judiciary has done since its founding and, this, I am confident we will continue to do.

Thank you, and I look forward to working with you in 2023.

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1. Chief Judge Judith S. Kaye, *Safeguarding a Crown Jewel: Judicial Independence and Lawyer Criticism of Courts*, 25 Hofstra L. Rev. 703, 705 (Spring 1997)
  2. *Id.* at 711
  3. Hearings Before the Committee on the Judiciary, United States Senate 103rd Con, 1st Sess, On the Nomination of Ruth Bader Ginsburg to Be Associate Justice of the Supreme Court of the United States (July 20, 1993), available at <https://www.congress.gov/supreme-court/GPO-CHRG-GINSBURG.pdf>
  4. Presiding Justice Rolando T. Acosta, *How to Modernize an Appellate Court in Five Years*, NYLJ (February 10, 2023), available at <https://www.law.com/newyorklawjournal/2023/02/10/how-to-modernize-an-appellate-court-in-five-years/>

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