

MESSAGE FROM CHIEF JUDGE JANET DIFIORE

November 30, 2020

Thank you for giving us a few minutes of your time for an update on the latest COVID developments affecting our courts and the justice system.

I hope that you and your families enjoyed a very happy and healthy Thanksgiving. As you know, the next couple of weeks following the holiday weekend will be critical ones for us, and we are keeping a close watch on the COVID positivity rates, and the status of the orange and yellow COVID zones in which a number of our courthouses are located around the state.

As you likely know by now, we have developed contingency plans for reduced in-person staffing levels and scaled-back operations in all of our courthouses, and those contingency plans are ready to go into effect in any COVID red zones or courthouses experiencing a high positivity rate among our judges and staff.

As we've said all along, additional challenges, and even setbacks, were to be expected, especially as we head into the cold weather months, but the good news is that we're ready and prepared to meet these challenges. We've learned many valuable lessons while navigating the pandemic since March, so we're poised to pivot quickly and make all appropriate adjustments in response to changing public health conditions and guidance, and we've created a robust and still-expanding virtual court system that will allow us to meet the demand for our justice services until the time comes when we can safely resume grand jury operations, trials by jury and other in-person appearances.

And if anyone had any doubt as to the critical importance of restoring functioning grand juries or petit juries, I would highlight the circumstances of the criminal jury trial concluded last week in Queens County. The defendant in that case was arrested in July 2018, more than two years ago. He has been held in custody since then, charged with two counts of burglary in the second degree, and criminal trespass as a misdemeanor. The case was scheduled to go to trial in March, but the arrival of the pandemic and the statewide stay-at-home order halted jury selection and led to a mistrial.

Fast forward 8 months later and the trial finally went forward as part of our citywide jury trial pilot earlier this month. And despite the criticism and skepticism of many practitioners, the two-week trial was completed safely and successfully. The jury acquitted the defendant of all felony charges but convicted him of the misdemeanor charge. As a result, the defendant was freed by the judge -- after having spent more than two years in jail for committing a crime that carries a maximum sentence of one year.

Unfortunately, the case I just described is not unique. There are other defendants who are being held in jail while they await the opportunity to have their guilt or innocence determined by a jury of their peers. The right to a trial by jury is one of the most fundamental rights enshrined in our constitution, and it is one that we -- and I mean every single player in our criminal justice system -- have a solemn responsibility to uphold, notwithstanding the challenges of the pandemic.

I want to take the opportunity today to publicly recognize and thank the attorneys in this case, starting with the defense attorney, Michael Anastasiou, for his persistence in zealously pursuing his ethical

duties and ensuring that his client finally got his day in court, despite all the challenges and the pressure and criticism I understand he received from many of his own colleagues.

And, of course, the Queens County District Attorney's Office, led by Melinda Katz, and the Assistant District Attorney who tried the case, Gregory Lasak, deserve our thanks and recognition for their complete cooperation and support in moving forward with this trial.

And finally, we thank Administrative Judge Joseph Zayas, Judge Ira Margulis and the court's professional staff for their efforts in implementing a broad range of safety measures and protocols, including plexiglass partitions in the courtroom and social distancing of jurors; and for making innovative use at trial of smart phone and video technology to ensure safe attorney-client communications and enable jurors to observe the facial expressions of witnesses called to testify.

Stories like this are why we have every reason to feel positive and optimistic about the future. There are so many people who never stop doing their level best to see that justice is done, and I see that every

day within our court family and in the many ways that our judges and staff are constantly going above and beyond the call of duty to make a meaningful difference in the lives of our many litigants, including families and children who need our services.

And turning now to yet another excellent case in point: today, as you know, is the last day of November, which is “National Adoption Month.” This year, during the month of November, 137 children around the state found their “forever families” in our Family Courts. In the past, many of these courts have sponsored beautiful and inspiring in-person adoption day ceremonies during the month of November, events that I, too, had the privilege of presiding over during my time sitting as a Family Court Judge. This year I’m proud to report that we have continued that wonderful tradition, virtually, with judges all across the state presiding over adoption finalizations involving dozens of new families.

Virtual Adoption Days were held in the 5th, the 8th and the 9th Judicial Districts, and in the 10th District’s Suffolk County. These programs, under ordinary circumstances, are incredible feats of coordination featuring special guests, gift bags for the children and

color guard ceremonies, all intended to raise awareness about the number of children in foster care who need and deserve permanent, loving families. And none of this could have been accomplished without the hard work and dedication of the many judges, court attorneys, court clerks, officers and stakeholder staff for whom Adoption Day is a special and true labor of love.

And this year, the 5th Judicial District hosted a very special ceremony commemorating its 20th annual Adoption Day. Not only did 10 children join new families, but two of the true driving forces behind the District's wonderful Adoption Day tradition were recognized for their efforts over the years: our late Administrative Judge and dear colleague, Jim Tormey, who sadly passed away last year, and our Family Court Supervising Judge Martha Walsh Hood, who is retiring after a distinguished 20-year career on the bench in Onondaga County. We remember Judge Tormey with great fondness, appreciation and respect, and we thank Judge Hood for the extraordinary way in which she has served the children and families in her court in Onondaga County. Thank you, Judge Hood.

Last week, in recognizing the good work of the New York State Committee on Women in the Courts, we gave thanks to the many committed individuals who serve on court organizations dedicated to improving the administration of justice and strengthening the fairness and effectiveness of our justice system. This week, I am proud to highlight the work of our New York State Permanent Judicial Commission on Justice for Children, chaired by the former Presiding Justice of the Appellate Division, Third Department, Karen Peters. For the last three decades, the Commission's members, including judges, lawyers, advocates, physicians, legislators and state and local officials have been working to improve the lives and life chances of the children who come before the New York State Courts.

Earlier this month, the Commission issued its most recent report, "Pursuing Pathways to Justice for Children," summarizing its impressive ongoing cross-agency collaborations, policy reforms and education and training to improve the delivery of justice to children and families in New York State. Outlined in the report are the specific steps the Commission has undertaken in the face of the public health crisis to ensure that we continue meeting our urgent responsibilities around court-involved children, including obtaining generous grant funding to

support remote training for both attorneys representing children and parents as well as child welfare staff on using technology platforms to ensure effective communication and full and fair participation in court hearings. Also highlighted in the report is the Commission's work with our Office for Justice Initiatives to produce a series of free programs for parents, youth and attorneys on how to navigate the new virtual landscape in our Family Courts.

I am most grateful to Judge Peters, the members of the Commission and Executive Director, Kristen Conklin, for the unwavering commitment they have pursued to improve the lives of the children who seek justice services from our courts.

So, today, I once again thank you for all that you are doing in the face of unprecedented challenges to our work, and I encourage you to stay focused and strong in pressing on with our important responsibilities. I also thank you for, and remind you to remain disciplined, in doing all that you can and should be doing to keep yourselves and those around you safe.