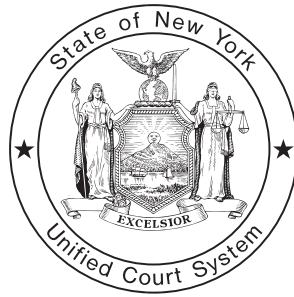


THE STATE OF OUR JUDICIARY 2021

CHIEF JUDGE JANET DIFIORE

NEW YORK STATE UNIFIED COURT SYSTEM • MARCH 2, 2021





*The State of Our
Judiciary 2021*

JANET DIFIORE

CHIEF JUDGE OF THE COURT OF APPEALS
CHIEF JUDGE OF THE STATE OF NEW YORK

NEW YORK STATE UNIFIED COURT SYSTEM
TUESDAY, MARCH 2

JANET DiFIORE

Chief Judge of the State of New York
Chief Judge of the Court of Appeals

LAWRENCE K. MARKS

Chief Administrative Judge of the State of New York

ASSOCIATE JUDGES OF THE COURT OF APPEALS

JENNY RIVERA

LESLIE E. STEIN

EUGENE M. FAHEY

MICHAEL J. GARCIA

ROWAN WILSON

PAUL G. FEINMAN

PRESIDING JUSTICES OF THE APPELLATE DIVISION

ROLANDO T. ACOSTA

First Department

WILLIAM F. MASTRO*

Second Department

ELIZABETH A. GARRY

Third Department

GERALD J. WHALEN

Fourth Department

*Acting Presiding Justice

TABLE OF CONTENTS

INTRODUCTION	1
CRISIS AND OPPORTUNITY	2
COURT OPERATIONS	4
Family Court.....	5
Criminal Matters.....	6
Opioid Treatment Courts.....	6
Civil Matters.....	7
ALTERNATIVE DISPUTE RESOLUTION (ADR)	7
ADVANCING JUSTICE	8
The Justice Task Force.....	8
Indigent Legal Services and Parental Legal Representation.....	9
Education and Training.....	10
Judicial Privacy Legislation.....	10
EQUAL JUSTICE	11
ACCESS TO JUSTICE	13
JUDICIARY BUDGET	14
COURT SIMPLIFICATION	16
CONFRONTING THE CHALLENGES AHEAD	17
CONCLUSION	18

The State of Our Judiciary 2021

INTRODUCTION

Welcome to the State of Our Judiciary 2021. It was almost exactly one year ago today that I delivered the 2020 State of Our Judiciary Address at Court of Appeals Hall in Albany. The majestic courtroom was filled with judicial colleagues, lawyers who practice in our courts, elected officials, partners in government and ordinary citizens interested in our system of justice. The new year was dawning with great promise and potential for the New York State courts as I proudly described the progress we had made to improve our performance under the banner of the Excellence Initiative, and the many plans and initiatives that were in store for the coming year.

I spoke about the significant reduction in case backlogs across the state, new processes to improve case management and court services, and initiatives to provide better outcomes for litigants and lawyers, including our all-out effort to integrate presumptive early ADR into our statewide civil and family case management systems. And I spoke about our historic proposal to amend the State Constitution to simplify and streamline the structure of our trial courts in order to increase access to justice for people of modest means and enable us to manage our resources in ways that respond to the changing needs of the litigants in our courts.

That was the State of Our Judiciary in late February 2020 – strong and promising. Barely two weeks later, New York City and New York State became the national epicenter of the COVID-19 pandemic and all of our plans and expectations changed in a matter of days. The public health crisis struck with lightning speed and every aspect of our personal and professional lives was turned upside down. We suffered the loss of loved ones, friends and colleagues, the economy was savaged and court operations and services were dramatically altered.

While it was obvious that we had to make far-reaching changes in our operating model, closing the courts was never an option for us. Knowing that New Yorkers rely on their courts for so many vital services, we never stopped hearing emergency and essential matters or delivering justice at any point in the pandemic. Our judges, court managers, court officers, court clerks and so many others performed magnificently and demonstrated tremendous dedication and resilience. Many volunteered to preside over and staff the newly-created essential and emergency parts as we worked as fast as humanly possible to stand up a virtual court system that would ensure the broadest, safest access to justice. Thanks to the hard work and commitment of all these individuals, the New York State courts were able to put the public first and honor our mission of ensuring access to justice and upholding the rule of law.

CRISIS AND OPPORTUNITY

Working on a blank slate, our judges and staff distinguished themselves as leaders in the nation, responding to a fluid, fast-moving and unpredictable situation. Our leadership team of Administrative Judges, led by Chief Administrative Judge Lawrence Marks, quickly coalesced and implemented smart, responsible operational changes based on the available public health guidance to balance court access with public safety. They understood and accepted the reality that we would be called upon to pivot, scrap our carefully crafted plans, and start all over again on a moment's notice, which we did on a number of occasions.

- On March 11th, we responded to the first confirmed cases in our state by restricting courthouse entry by high-risk individuals.
- Within days of that first order, we suspended jury operations and high-volume civil parts and directed that court business be handled by video and telephonic conference to the extent possible in order to reduce courthouse traffic and prevent the spread of the virus.
- On March 16th, we temporarily postponed all non-essential court functions not requiring prompt attention and consolidated emergency and essential matters into a limited number of courthouses.
- By the following week, we established virtual court parts in the high-volume New York City Criminal and Family Courts to hear essential and emergency matters, including criminal arraignments and petitions for temporary orders of protection.
- By April 6th, all essential and emergency matters across the state were being heard virtually.
- By April 13th, non-essential matters were added back to our calendars, enabling judges and staff in all 62 counties to get back to work on their pending caseloads by conducting virtual conferences with attorneys to resolve outstanding issues, move cases closer to final resolution and facilitate settlements where appropriate.
- During the months of April and May, the Court of Appeals and all four Departments of the Appellate Division transitioned quickly to a virtual model and began hearing oral arguments, remotely and in-person, pursuant to proper safety protocols and with proceedings live-streamed on the courts' public websites. All four Departments did an excellent job of leveraging virtual technology to carry out their important primary and auxiliary operations.

The transformation of our massive, complex, in-person operating model into a functioning virtual model capable of providing court access in the broadest possible range of cases was a remarkable achievement – one that I will never forget. It was accomplished in record time through

the sound planning and execution of our leadership team; the support and cooperation of the bar and our many justice partners; and the incredible commitment, dedication and ingenuity of our judges and professional staff, especially the Judiciary's Division of Technology professionals.

Of course, technology cannot entirely supplant the human element or the face-to-face interaction that is indispensable to the delivery of justice. That is why we began planning and preparing for the safe resumption of in-person operations even before our transformation to a virtual court model was complete. Again following all available public health guidance, we retrofitted our courthouses and implemented extensive safety measures to protect the health of everyone entering and working in our buildings, including: COVID screening and temperature checks, social distancing protocols, installation of acrylic barriers, strict cleaning and sanitizing standards and disciplined use of PPE.

Our commitment and consistency in following the best safety practices and public health guidance paid off, enabling us to partially resume in-person proceedings, including empaneling grand juries and restarting a limited number of in-person civil and criminal jury trials across the state. Unfortunately, when the virus made its resurgence in mid-November, we were compelled to pause our jury trial efforts once again.

At the present time, we are conducting the vast majority of court business virtually, but with the second wave of the virus subsiding we are in the process of summoning jurors back to our courthouses and making plans to resume a limited number of in-person civil and criminal jury trials statewide. And while we have been empaneling at least one sitting grand jury in every county of the state, we are incrementally expanding that number based on the demonstrated need for additional panels. We are confident in our ability to safely resume in-person operations based on the experience we have gained and the lessons we have learned over the last year.

Looking back on our transformation to a virtual court model, it is clear that our e-filing system played a key role in providing lawyers and litigants with safe, reliable access to our in-person and virtual courts. The rapid expansion of e-filing during the pandemic, including to the New York City Surrogate's Courts last June and our high-volume New York City Housing Court by early October, brought immediate improvements and long-term benefits for the litigants and lawyers in those courts. In order to further capitalize on those demonstrated benefits, and acting on the recommendation of the Commission to Reimagine the Future of New York's Courts, we have submitted a legislative proposal to provide the Chief Administrative Judge with broader authority to implement new e-filing programs. As we prepare for a likely surge in post-pandemic court filings, we are hopeful that the Legislature will agree that this is the right time to give the officials who are most familiar with the needs of our courts, particularly the lower criminal and civil courts that serve millions of low-income New Yorkers, the broadest possible authority and discretion to expand the efficiency and convenience of e-filing.

Our rapid conversion to virtual operations was further aided by our Courtroom Modernization Initiative, an ambitious five-year plan announced during the 2019 State of Our Judiciary to equip all of our state-funded courtrooms and hearing rooms across the state with high-speed Wi-Fi, high-quality audio systems and enhanced videoconferencing capacity.

History has taught us that there is opportunity in every crisis. That is why, last June, I created the Commission to Reimagine the Future of New York's Courts, a group of leading judges, lawyers, academics and technology experts that is studying court operations during the pandemic and issuing reports and recommendations to improve the efficiency and quality of justice services during the ongoing health crisis and beyond. We are grateful to the Commission's Chair, Hank Greenberg, and all of the Commission members who have given so generously of their time, talent and expertise to help foster and support an excellent court system -- now and in the future.

For all of the tragedy and disruption caused by the pandemic, our experiences over this last year have indeed served as the impetus for positive innovation. Our virtual court model may have started as a stopgap solution to safely meet the demand for our services, but it has shown itself to be a transformative opportunity for the future delivery of justice. And we will continue working with our technology experts, our judges and staff, the bar, all of our stakeholders and the Commission to Reimagine the Future to take full advantage of the opportunity presented by our new virtual platform to achieve lasting improvements in court access and services.

COURT OPERATIONS

Where are we at the present time? We are remotely conferencing well over 20,000 cases per week: narrowing disputed issues, settling cases, referring matters to virtual ADR, hearing motions and conducting close to a thousand virtual bench trials and evidentiary and fact-finding hearings each week.

Since early April, we have remotely conducted more than 740,000 case conferences; settled or otherwise disposed of over 230,000 matters; and issued over 80,000 decisions on motions and undecided matters. And we have conducted over 10,000 virtual bench trials and evidentiary and fact-finding hearings since the beginning of November.

In addition, every individual arrested and held in custody since the beginning of the pandemic has been expeditiously arraigned by a judge. In the New York City Criminal Court, 65,000 virtual arraignment proceedings were conducted over the past 10 months, and another 93,000 arraignments were conducted in the City and District Courts outside New York City over that same time period. Our Family Courts have also been incredibly busy. Over the past 10 months,

there were almost a million virtual appearances by litigants, lawyers and stakeholders statewide. And in the New York City Civil Court, nearly 90,000 matters were disposed of, and just over 1,700 virtual trials were conducted.

While the pandemic temporarily slowed the momentum of our Excellence Initiative, it is clear that our judges, staff and leadership have remained committed to the goals of operational and decisional excellence. A case in point is the “Virtual Bench Trial Protocols and Procedures” issued last month to guide judges and lawyers in conducting effective and efficient virtual bench trials and hearings. We are grateful to Nassau County Administrative Judge Norman St. George for leading this initiative and synthesizing all of our local best practices into a simple and practical statewide guide that will be of great benefit to the bench and bar going forward.

In addition, we have implemented important rule changes with the dual purpose of streamlining general civil practice for the long term and limiting unnecessary personal appearances in the short term. Effective February 1, 2021, the Uniform Civil Rules for the Supreme Court and the County Court were amended to capitalize on recent advances made to improve litigation in the Commercial Division of the Supreme Court. The new amendments are the result of the exhaustive work of our Advisory Committee on Civil Practice, public comment and in-depth review by two working groups of leading judges and practitioners whose experience and sound judgment informed the Administrative Board’s final decision to adopt the new rules. We acknowledge and appreciate the care and attention devoted to this initiative in support of our Excellence Initiative, and a special thank you goes out to Alan D. Scheinkman, the former Presiding Justice of the Appellate Division, Second Department, for leading the effort to finalize the new rules.

Notwithstanding our very best efforts, it is not surprising that the public health crisis has taken a toll on our dockets and caused backlogs in some of our courts. We have been proactive in our response. Where the current court structure has allowed us the flexibility to make appropriate adjustments, we have taken creative steps to reconfigure our processes in order to provide access to the courts, move cases to resolution and avoid the build-up of backlogs.

FAMILY COURT

In the New York City Family Court, where the work has been extremely stressful and non-stop, judges and staff have performed with skill and commitment. Eleven virtual intake parts were created citywide to handle tens of thousands of emergency and essential matters, ensuring immediate access to justice services in matters involving temporary orders of protection, high-stakes emergency removals of abused and neglected children and juvenile delinquency petitions.

In January, we established a volunteer protocol for judges from other courts to hear newly-filed custody and visitation matters in the New York City Family Court. The goal is to reduce the backlog of these cases and enable Family Court Judges to get through their remaining dockets

more expeditiously. Stepping up to assist our judicial colleagues has always been a hallmark of the professionalism shown by our judges, and never more so than this past year. Over 40 acting and elected Supreme Court Justices volunteered to preside over these important, time-sensitive Family Court matters. Kudos to each of the judges and their staff.

Jeanette Ruiz, our Administrative Judge of the New York City Family Court, and Anne-Marie Jolly, our Deputy Administrative Judge, their devoted judges and professional staff, our stakeholders and institutional litigants all showed who they are during the pandemic -- professionals wholly dedicated to serving the needs of children and families. It has been an inspiration and a privilege to work alongside them.

CRIMINAL MATTERS

On the criminal side, we have targeted the growing number of unindicted felony complaints awaiting grand jury presentation in New York City, a number that doubled over the last year. We created new Unindicted Felony Parts in January, and the experienced judges sitting in these parts have done a terrific job of remotely conferencing 4,000 cases and disposing of approximately a third of the cases heard. I want to thank the District Attorneys in New York City, the defense bar, the judges assigned to these parts and Supervising Judge George Grasso for demonstrating that it is possible to work together to responsibly drive down our backlogs and provide timely justice to all parties.

The New York City Criminal Court recently introduced “NYBench,” a web-based program that connects judges with the court’s Universal Case Management System, ensuring instantaneous electronic access to RAP sheets, orders of protection and outstanding warrants as well as defendants’ files in other cases pending across the city and state. NYBench will greatly improve the efficiency of case conferencing, plea negotiations and bail review in our criminal courts, and strengthen the quality of judicial dispositions, as judges will now have a real-time 360 degree picture of each defendant appearing before them. Thanks to NYBench, the days of paper jackets and paper filings in the New York City Criminal Court are numbered. The future is digital, paperless and fast approaching. I want to thank Tamiko Amaker, Administrative Judge of the New York City Criminal Court, and Chief Clerk Justin Barry, not only for the excellent job they have done to lead the Criminal Court throughout the pandemic, but for understanding the need to prioritize the development and implementation of NYBench in order to ensure effective and efficient adjudication in the current virtual environment.

OPIOID TREATMENT COURTS

The enormity of COVID-19 has affected every aspect of our lives, including our mental health and emotional well-being. Sadly, it comes as no surprise that the pandemic has contributed to a record number of opioid-related deaths. As a result, the work in our problem-solving courts has taken on a heightened sense of urgency, and our judges and staff have rolled up their sleeves and found creative ways to continue providing life-saving treatment services to those struggling

with addiction. We have established three new Opioid Treatment Courts in Queens, Oneida and Montgomery Counties, increasing to 23 the number of opioid treatment courts now in operation statewide. I want to thank Justice Sherry Klein Heitler, our former Chief of Policy and Planning, her terrific staff, and all of our problem-solving court judges, coordinators, case managers and stakeholders for their ingenuity and dedication in meeting the specialized needs of the litigants in these unique courts. There has never been a greater need for their services in our communities all across the state.

CIVIL MATTERS

Returning to the theme of finding opportunity in crisis, when the filing of new cases in our courts was temporarily suspended last Spring, we asked our judges and staff to prioritize the large backlog of undecided civil motions pending in Supreme Court in order to put us in a position to process cases more efficiently upon our return to full operations. In total, our judges decided almost 20,000 motions in just a few months. The backlog of motions in the courts outside New York City was eliminated in very short order, and in New York City it was slashed to almost zero by early Fall. Today, I am pleased to report that the number of fully submitted, undecided motions is at the lowest level we have seen in decades. I want to thank George Silver, Deputy Chief Administrative Judge for the New York City Courts, and Vito Caruso, Deputy Chief Administrative Judge for the Courts Outside New York City, for spearheading this initiative and putting in place processes to maintain that level of efficiency going forward.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

On the civil side of our house, the continued expansion of ADR has been one of the bright spots in our work to keep the courts functioning well. Throughout the pandemic, judges and staff have relied on virtual ADR to great effect to resolve cases and move their dockets forward.

- In 2020, over 20,000 civil and family disputes were referred to virtual mediation in our Community Dispute Resolution Centers (CDRCs), with the parties reaching agreement in 73% of these matters, a rate consistent with in-person models.
- In Family Court we are now using presumptive mediation in custody and visitation cases with great success. Monroe, Broome and Erie Counties have led the work with a 75% settlement rate in cases referred to mediation since the beginning of last year.
- In January, the New York City Family Court launched a new virtual Child Permanency Mediation Program, an important initiative inasmuch as research shows that mediated settlements in permanency cases generally produce better outcomes for families and children.

- Under the strong leadership of Anthony Cannataro, Administrative Judge of the New York City Civil Court, presumptive mediation was implemented in the New York City Small Claims Courts last Fall, with CDRC, law school and volunteer neutrals facilitating settlements in 52% of mediated cases.
- Last month, the Manhattan Small Claims Court began piloting a nationally innovative Online Dispute Resolution Program that provides unrepresented parties with a user-friendly digital forum, featuring an automated negotiation process, to guide them in reaching fair settlements.
- In Monroe County, in the Seventh Judicial District, a mediation program for civil and commercial cases in Supreme Court has successfully settled nearly 80% of the cases referred, a terrific track record.

This is but a brief sampling of our extensive ADR activity. There are many other effective programs underway across the state, such as the Blockbuster Settlement Parts that are resolving a high percentage of tort cases in Supreme Court. We are grateful to our court leadership and professional ADR staff for moving quickly and decisively to facilitate the virtual ADR services that have successfully served tens of thousands of litigants and lawyers. Our Statewide ADR Office, with the guidance of our ADR Advisory Committee chaired by former City Bar President John Kiernan, has done exceptional work to support virtual ADR services throughout the pandemic.

One of the key lessons we have learned over the past year is that virtual and in-person ADR will play a significant role in our ability to efficiently process our dockets during and after the pandemic. We remain fully committed to implementing our model of presumptive early ADR in order to transform the old culture of “litigate first” to the new culture of “mediate first” in all appropriate cases.

ADVANCING JUSTICE

Notwithstanding the many operational challenges presented by the pandemic, we have continued our broad-ranging efforts to improve the administration of justice.

THE JUSTICE TASK FORCE

In late 2019, I asked the New York State Justice Task Force, which is dedicated to addressing the systemic causes of wrongful convictions and the fairness of our criminal justice system, to examine the bases for apparent racial disparities at key stages of the criminal justice process, from arrest to sentencing. After analyzing available statewide statistics, the Task Force focused on the disproportionately high rate at which felony charges against Black and Hispanic defendants are

dismissed, and whether unjust charges are being filed at inception in those cases. The Task Force heard presentations from a host of agencies on this issue and quickly concluded that data regarding the underlying reasons for dismissal of felony charges was not being accurately or consistently captured, preventing a reliable assessment of the factors driving the high dismissal rate.

Concurrently, the Office of Court Administration (OCA) began implementing legislation enacted last year requiring the publication of monthly statistical reports on the race, ethnicity, sex, age, disposition, sentence and other data concerning individuals charged with criminal offenses in our courts. Upon reviewing this data, the Justice Task Force again concluded that the standards and protocols used by different agencies to report case dispositions was in need of improvement. The Task Force formed a Working Group to partner with OCA to address statewide data collection and reporting practices, and this initiative is moving forward on a fast-track, with recommendations expected by June. Our work to improve the comprehensibility and reliability of case outcome data will allow the Task Force to drill down on why felony charges are being dismissed against so many defendants of color, and it will obviously aid our collective ability to identify other points at which racial disparities may exist in the criminal justice system, enabling policymakers to pursue responsible, effective, data-driven reforms to combat systemic inequities.

I want to thank my Court of Appeals colleague, Associate Judge Paul Feinman, who Chairs the Justice Task Force, and the Co-Chairs, Carmen Beauchamp Ciparick, retired Senior Associate Judge of the Court of Appeals, and Deborah Kaplan, Administrative Judge of the New York County Supreme Court, Civil Term, as well as all of the Justice Task Force members and outstanding support staff for leading the way on this and other ongoing initiatives to ensure fair procedures and outcomes in our criminal justice system.

INDIGENT LEGAL SERVICES AND PARENTAL LEGAL REPRESENTATION

A fair criminal justice system requires a properly-funded, high-quality public defense system. The State Office of Indigent Legal Services (ILS) was created in 2011 to assist county governments and indigent legal service providers in exercising their responsibility to provide effective assistance of counsel to individuals who are legally entitled to an attorney but cannot afford one. With the support of Governor Cuomo and the Legislature, the policy guidance of the ILS Board of which I serve as Chair, and the day-to-day leadership of Director William Leahy and his excellent staff we have dramatically upgraded New York's legally mandated criminal defense representation system over the last decade.

Similar improvements are overdue for legally mandated representation of parents in child welfare cases. In 2019, the Commission on Parental Legal Representation, chaired by Karen Peters, former Presiding Justice of the Appellate Division, Third Department, documented the deficiencies in our system of parental representation and identified the need for reduced caseloads and enhanced

support for attorneys representing indigent parents in child welfare matters. ILS is working to improve parental representation on multiple fronts through achievable high-impact reforms, including expansion of our Upstate Model Family Representation Office. Notwithstanding the fiscal crisis, we must be persistent and creative in finding solutions and resources to ensure the quality of legal representation in critically important child welfare matters that involve the integrity of families and the well-being of children.

Relatedly, and despite the budget crisis, we must also find ways to honor our commitment to the hundreds of assigned counsel who have not received an increase in their statutory rates of compensation since 2004. These private attorneys appointed by our courts to represent indigent defendants in criminal matters and children and parents in family court are dropping out of our assigned counsel panels at a growing rate, putting at risk the quality of legal representation and the efficiency of operations in these vital courts.

Finally, I want to thank Bill Leahy, who is retiring in June, for his exceptional leadership of ILS over the last decade. Bill was instrumental in the creation, from the ground up, of a high-quality mandated criminal defense representation system in New York State. A job well done.

EDUCATION AND TRAINING

Throughout the pandemic we maintained a strong commitment to high-quality professional education and training. Judge Juanita Bing Newton and her dedicated staff at the New York State Judicial Institute did a terrific job of relying on virtual technology to present an updated curriculum for our judges and staff tailored to the unique challenges facing the courts, including many emerging and pandemic-related legal and operational issues. Judge Bing Newton retired from her position as Dean of the Judicial Institute last year after an extraordinary career as a respected trial judge and judicial administrator. We thank her for her many decades of leadership and service to our courts.

Our Office of Justice Court Support, led by Director Nancy Sunukjian, also did a great job of going virtual on short notice to provide required training and technical support to New York's 1,300 Town and Village Justice Courts, including administering an intensive, week-long training program to dozens of newly elected and appointed Town and Village Justices.

JUDICIAL PRIVACY LEGISLATION

Every year, thousands of violent threats are made against judges and court officials in New York and in the state and federal courts nationwide. Only a very small number of these threats are ever acted on, but even one is far too many, as we tragically learned last summer when a disgruntled attorney shot the husband and son of a federal judge in her New Jersey home, killing the judge's son. Even before this horrible incident, many states, recognizing that judges are particular targets of litigants and individuals with grievances against the justice system and the government, had begun

considering legislation to strengthen the security of judges by protecting their private information from public view, including addresses, information about family members and financial data. Illinois, California and Texas are among the states that have already passed such legislation, and many other states and the federal government are seeking to follow suit. Last summer, we began working with our partners in the federal judiciary to prepare legislation – the “New York State Judicial Security Act” – that will protect the private information of judges and others who work in our courts. We strongly believe that enactment of this measure by the New York State Legislature will greatly reduce the risk of violence, threats and harassment directed at our judges and their family members.

Last summer, our Department of Public Safety, led by Chief Michael Magliano, also conducted an in-depth assessment of our judicial threat management process, with the goal of strengthening our policies and protocols for gathering and maintaining intelligence about potential threats, and providing protective services when necessary. The safety and security of our judges, and of everyone who works in and visits our courthouses, will always be a paramount concern for us.

EQUAL JUSTICE

While 2020 will be remembered as the year of the COVID-19 pandemic, it also stands out as a turning point nationally in matters of racial justice. When the killing of George Floyd last May was followed a few days later by a racist Facebook posting by one of our employees, I turned to former Secretary of Homeland Security Jeh Johnson, a nationally respected lawyer and public servant, and asked him to examine our system and lead an independent, no-holds-barred review of the courts to help us identify and eliminate from our institution any and all forms of racism, bias and disparate treatment.

Secretary Johnson and his team conducted an intensive four-month study, interviewed hundreds of individuals and issued a comprehensive report with a set of practical recommendations that we have fully embraced and are now in the process of implementing in an open and transparent manner. And while we are encouraged by his finding that our judges and court professionals are striving to get it right when it comes to equal justice, we have accepted our shortcomings and our responsibility to do better in a number of areas, including the ways in which we serve minority litigants in our high-volume courts; how we investigate and prosecute complaints of racial bias and discrimination within our ranks; and the need to strengthen our commitment and support of meaningful inclusion and diversity at every level of our court system.

As Chief Judge of the Court of Appeals and the State of New York, and on behalf of our entire court system, I have made a solemn, unshakeable commitment to achieve a policy of zero tolerance for racial bias and discrimination. Our approach to bias, discrimination and harassment is, and will be, for as long as I have the privilege of serving as Chief Judge, zero tolerance.

I have asked Deputy Chief Administrative Judge Edwina Mendelson to lead our efforts to implement the Equal Justice recommendations, and that work is well underway. Already we have made changes to strengthen our employee disciplinary process and ensure consistency of discipline in matters involving bias and discrimination, and we have issued a detailed “Anti-Discrimination and Anti-Harassment Policy” prohibiting conduct and communications, including social media communications, that demean, disparage or harass others on the basis of race, sex, gender identity and other personal attributes. Other measures will be announced shortly, including comprehensive mandatory training for all judges and court staff on issues of implicit bias and cultural sensitivity.

As we move forward, we will continue to rely on the close assistance and participation of many individuals and entities within our court family, including our Office of Diversity and Inclusion, and the Franklin H. Williams Judicial Commission, celebrating its 30th Anniversary this year. We are grateful to the Commission’s Co-Chairs, Troy K. Webber, Associate Justice of the Appellate Division, Second Department, and Shirley Troutman, Associate Justice of the Appellate Division, Fourth Department, and all of the Commission’s members and staff for sponsoring two Town Hall Meetings to engage our judges and professional staff in an honest and meaningful dialogue about systemic racism and the recommendations in Secretary Johnson’s report.

Finally, we have engaged Alphonso David, a nationally recognized civil rights advocate, to serve as an Independent Monitor to evaluate our progress and make sure we follow through on our commitments.

Providing equal justice under the law is at the very heart of our mission as a court system. It is our very reason for being, and it is incumbent upon each one of us -- judges, court professionals and public servants -- to ensure that every person who appears before us, and every colleague we work with, is treated with fairness, dignity and respect. There can be no higher priority for us, and we will lead by example at every level, and from every position we hold. And that commitment starts at the top.

ACCESS TO JUSTICE

Fairness and access must be carefully fostered in all aspects of our work. During this year's 11th annual Public Hearing on Civil Legal Services we learned, not surprisingly, that despite the best efforts of legal service providers and pro bono lawyers the pandemic has increased and intensified the legal problems facing low-income New Yorkers in eviction, domestic violence, unemployment, consumer debt and other areas that have had a disproportionate impact on litigants and communities of color.

While we heard many positive reports about how remote technology is connecting low-income litigants with the courts and legal service providers, we also heard about the stark “digital divide” facing so many New Yorkers who are unable to take advantage of the new virtual infrastructure because of a lack of adequate data plans, smartphone minutes, high-speed Wi-Fi or basic computer equipment.

We are working to bridge the digital divide through innovative initiatives like the Faith-Based Remote Access Centers located in houses of worship in Westchester County in the Ninth Judicial District, a smart and special collaboration between Administrative Judge Kathie Davidson and local faith leaders to establish safe and convenient locations where unrepresented litigants can receive remote legal services, file court papers and participate in virtual court proceedings. And we are expanding this court access solution to our Community Court locations across New York City in partnership with the Center for Court Innovation.

Our Office of Justice Initiatives, led by Deputy Chief Administrative Judge Edwina Mendelson, is working on multiple fronts with many different justice partners to bridge the digital divide and ensure meaningful access to our courts, including a partnership with Legal Information for Families Today in which pro bono attorneys provide remote legal assistance to the growing number of unrepresented New Yorkers filing child support petitions in the wake of the pandemic, and a “Do-It-Yourself” document assembly program that has streamlined and demystified the small estates administration process for individuals who lost family members to COVID-19.

Our Administrative Judges have also been working to expand access to justice in their communities. Last September, the Monroe County Special COVID Intervention Part (SCIP) opened in the City of Rochester, with the goal of providing a fair and efficient procedure for parties in eviction proceedings, including on-site access to legal counsel, emergency rent assistance and ADR options. We are grateful to Craig Doran, Administrative Judge of the Seventh Judicial District, for leading a coalition of community organizations, legal service providers, government agencies and court attorney volunteers that has come together in impressive fashion to help address COVID-related eviction cases.

In the Third and Fourth Judicial Districts, we have created virtual kiosks near courthouse entrances so that self-represented litigants can safely participate in virtual proceedings and receive live video assistance from court personnel. These kiosks are fostering access to justice in rural areas of Northern New York where internet service is often unavailable.

For more than a decade now, we have been fortunate to have the Permanent Commission on Access to Justice, chaired by Helaine Barnett, guiding our efforts to ensure meaningful access to justice for all New Yorkers, and in this year of reduced funding for civil legal services the Commission's extraordinary work could not be more essential. Especially exciting is the Commission's latest initiative enlisting the support of the business community in our newly-created Business Council for Access to Justice, consisting of General Counsel and leaders of prominent business organizations who have made a commitment to devote their unique experience and expertise to assist us in closing the justice gap. The Business Council is co-chaired by Kimberley D. Harris, Executive Vice President & General Counsel of NBCUniversal, and Eric F. Grossman, Chief Legal Officer of Morgan Stanley, and we look forward to working with them and the Council's members in new and creative ways.

We also owe a great debt of gratitude to the thousands of lawyers and law firms whose generous pro bono service has eased the pain of the pandemic for countless New Yorkers. The State Bar Association's COVID-19 Pro Bono Recovery Task Force, chaired by former Chief Judge Jonathan Lippman, has recruited over 1,000 pro bono lawyers to assist New Yorkers with a host of pandemic-related legal problems. This noble and inspiring effort was highlighted by the outpouring of hundreds of lawyers who worked with our Surrogate's Courts to provide free legal assistance in probate matters to individuals and families who lost loved ones to COVID-19. On behalf of all New Yorkers, I want to thank the many lawyers across the state who have nobly answered the call to service and responded to their professional obligation to assist financially disadvantaged individuals in their time of need.

JUDICIARY BUDGET

As a consequence of the pandemic, New York State is facing an unprecedented budget crisis, and the Judiciary has not been spared. Nor have we sought to avoid our responsibility of sharing in the sacrifices being made by the rest of state government. We have already absorbed an unprecedented reduction in planned spending for the current fiscal year of nearly \$300 million or 10% of our current operating budget.

In order to achieve cost savings of that magnitude, we have had to make some very difficult decisions, including instituting a strict employee hiring freeze; deferring certain payments into the future; eliminating all non-essential discretionary spending; suspending our JHO program; and,

for this year, denying all but three of the applications of Supreme Court Justices who requested certification to remain on the bench for additional two-year terms beyond age 70. The sum of these actions has allowed us to survive the \$291 million reduction in our current year's spending and move forward without laying off any members of our court staff.

Looking ahead to the coming Fiscal Year that begins on April 1, 2021, we have submitted a budget that seeks to maintain this current Fiscal Year's appropriation level, but that continues the 10% reduction in the current spending plan. We are urging our partners in government to approve our request without further reduction. We are at a precarious crossroads for the stability of our system, a place where any additional reductions in our budget will lead directly to layoffs, a circumstance that will harm court operations and reduce court services at the worst possible time – when our staffing levels are already deeply depleted, our backlogs are growing and a large surge in court filings is expected.

To be crystal clear about our staffing levels: even without layoffs, we expect by June to have 1,000 fewer employees than we had last March. This is a result of the strict hiring freeze we were compelled by circumstance to implement, which prevents us from backfilling vacated positions created by ordinary job attrition. In fact, if the freeze continues for much longer, we can expect our nonjudicial staffing levels to drop to numbers last seen in the 1990s. This is a daunting prospect for all of us.

And make no mistake, the impact of layoffs, aside from the human toll exacted on staff members losing their jobs in the midst of a historic pandemic and high unemployment levels, would be felt most acutely in our high-volume criminal, family and housing courts -- the very courts that serve the predominantly low-income New Yorkers and minority communities that have already suffered deeply and disproportionately from COVID-19.

We lived through this scenario a decade ago when the state experienced its last budget crisis. And New Yorkers suffered not only the short-term impact of immediate reductions in court services and operating hours but the long-term impact of case backlogs that delayed justice for millions of low-income families, small businesses and others for many years after. We cannot afford to go down this road again.

With all that said, we believe that the spending plan we have advanced in this year's budget request, while certainly austere, will enable us to meet the courts' basic needs. Furthermore, we are hopeful that the state's fiscal condition will improve, and that an infusion of funding from the federal government will redound to the benefit of the courts, enabling us to maintain the staffing levels necessary to provide quality justice services to all New Yorkers who rely on our services.

But, of course, we cannot and do not operate on hope. Until conditions actually improve in a concrete way, we must plan and prepare for continued challenging times. Fortunately, we can do so with confidence, knowing that our judges and court professionals have demonstrated, beyond any doubt, that they have what it takes to meet whatever challenges the future may hold in store for us.

COURT SIMPLIFICATION

Managing the largest, busiest and most complex court system in the country is a challenge in ordinary times, but managing this system, as currently configured, through a global pandemic has underscored for all of us the urgent, undeniable need to simplify and streamline our trial court structure – a structure that is outdated, inefficient and harmful to the interests of people of modest means and communities of color.

Secretary Johnson’s Equal Justice Report identified many areas of concern for us. Among the most damning was his finding that the conditions in our “under-resourced” and “over-burdened” high-volume housing, family, and criminal courts have a dehumanizing effect on the predominantly low-income and minority litigants who appear there, creating the terrible perception -- and I fear, in many cases, the reality -- that there is a second-class system of justice for people of color in this state.

Our constitutional proposal to simplify the structure of our complicated patchwork of 11 different trial courts will go a long way toward addressing the undeniable disparities in our present system, and put us on a par with our more enlightened sister states, by creating two streamlined statewide superior and municipal courts that will provide us with the flexibility to allocate our resources more efficiently in order to provide first-class services to every individual who enters our courts.

In the year 2021, with our dockets building and expected to explode in courts like the New York City Housing Court, it is simply unacceptable, and wholly disrespectful to the people we serve, to continue to offer bogus justifications to preserve a court model that has not been updated since 1962, and which prevents us from applying our resources quickly and flexibly in response to the demonstrated needs of our litigants. The present court structure has the appearance, if not the effect, of serving the interests of a very few over the interests of the many. It is far from the best that we can offer the people of this great state, and the time has come to update and modernize our system in order to do right by all New Yorkers.

Our proposed amendment to Article VI of the New York State Constitution has garnered the support of an unprecedented coalition of over 100 judicial associations, bar associations, legal services organizations and good government and business groups. It has received the support of Governor Cuomo and many members of the Legislature. And while the pandemic temporarily

interrupted our progress toward achieving first legislative passage of our proposal in 2020, we remain absolutely committed to obtaining first and second legislative passage in time for the voters to approve it at the ballot in November 2023.

As Secretary Johnson aptly noted in his Equal Justice report, the problems in our high-volume courts are so extensive and systemic in nature that the Judiciary alone does not have the power to make the necessary changes. Rather, “[t]his is a matter for all three branches of New York State government,” requiring “greater legislative and executive support for the judicial branch, at both the state and local level.”

I have every confidence that the smart policy and lawmakers in this state are motivated and primed to put the interests of the people first. The right plan has been proposed. Let’s all work together to get this done.

CONFRONTING THE CHALLENGES AHEAD

We know that we have many challenges to meet as we move forward into the new post-pandemic normal, and we know that it is not going to be easy. But we have shown that we know how to do the work required of us. We know how to move cases through our system with speed and purpose; we know how to use real-time caseload data to tackle our backlogs; we know how to manage our dockets aggressively to eliminate unproductive appearances and wasteful adjournments; we know how to reassign judges and reallocate our resources to increase our trial capacity; we know and understand the power of presumptive early ADR to reduce our caseloads on the front end; and now we know how to use the power of virtual technology effectively to further improve court efficiency and access in the future.

Our judges and staff have gained new expertise and skills, and we are eager and excited to apply the lessons we have learned to move our courts forward and resume the great progress we were making under our Excellence Initiative -- when our courts were functioning better; case processing was improving all across the state; backlogs and delays were diminishing; and litigants, lawyers and court users were at the forefront of our efforts to deliver high-quality justice services and operational and decisional excellence.

CONCLUSION

I could not bring the 2021 State of Our Judiciary to a close without expressing my deep gratitude to so many individuals for their extraordinary service over this most challenging of years, starting with:

- My colleagues on the Court of Appeals: Jenny Rivera, Leslie E. Stein, Eugene M. Fahey, Michael J. Garcia, Rowan Wilson and Paul G. Feinman;
- The dedicated Presiding Justices of the Appellate Division: Rolando T. Acosta, Acting Presiding Justice William F. Mastro, Elizabeth A. Garry and Gerald J. Whalen;
- Our terrific leadership team, led by our incomparable Chief Administrative Judge, Lawrence K. Marks, and our Deputy Chief Administrative Judges: Edwina G. Mendelson, George J. Silver and Vito C. Caruso;
- And all of the hard working Administrative Judges and Supervising Judges who are leading our efforts at the local level.

No words can adequately describe my appreciation for the unwavering dedication of our judges and professional staff. I have been humbled, inspired, and completely awed by their strength and resilience in meeting the needs of our litigants, and by their commitment -- their absolute shining commitment -- to our mission of delivering justice and upholding the rule of law.

So, I close by expressing my gratitude to them, and by acknowledging the magnificent contributions of our partners in the bar, the dedicated lawyers who never stopped serving the needs of their clients or supporting our court system through each and every challenge we faced.

While this has been a difficult and tragic year on many levels, we can look back with pride on all that we have accomplished to meet the justice needs of the public, and we can look forward to the future with confidence and optimism, knowing that the state of our judiciary is strong and vibrant.

Thank you for your support, and thank you for your service.

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