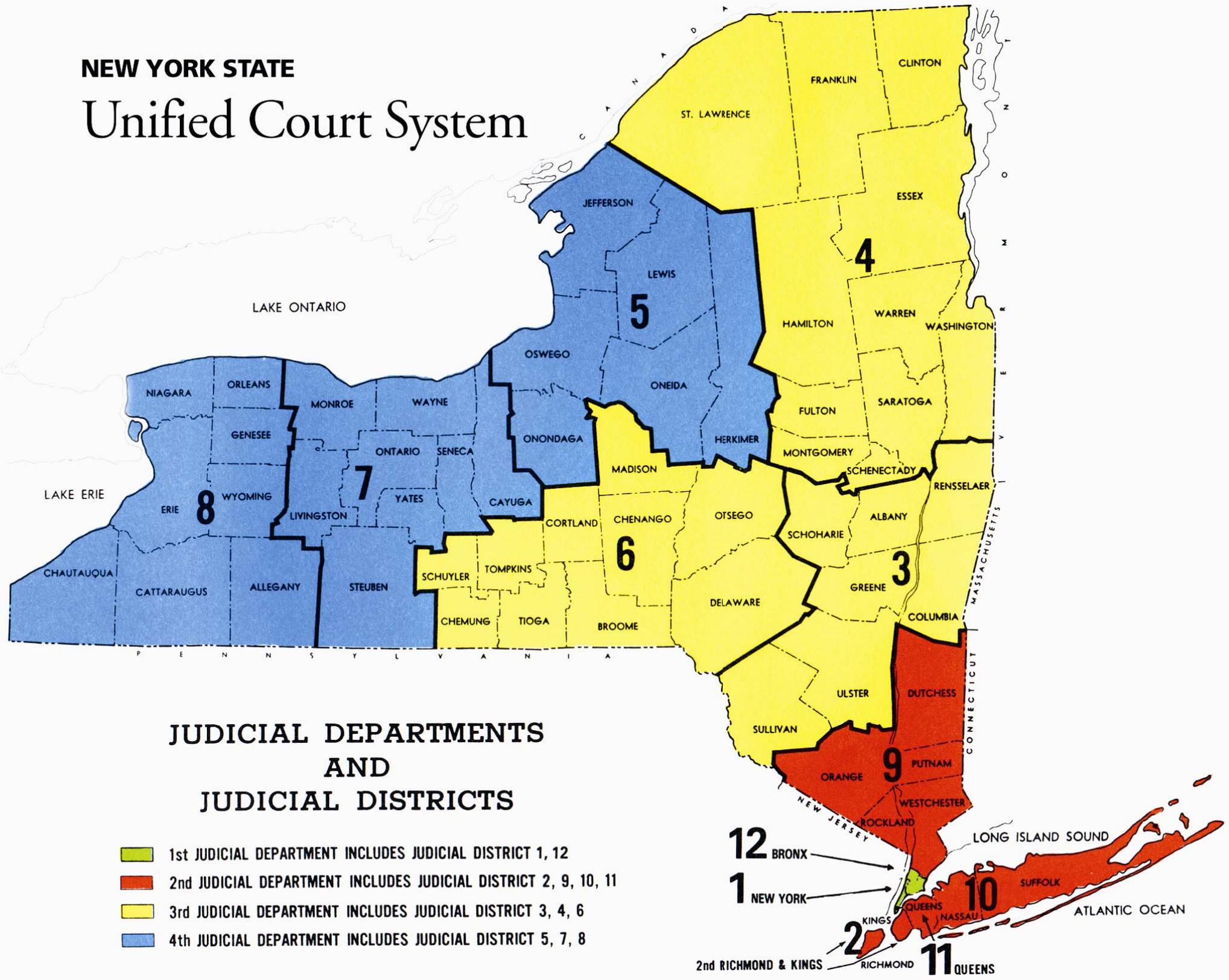




# NEW YORK STATE

## Unified Court System



### JUDICIAL DEPARTMENTS AND JUDICIAL DISTRICTS

- 1st JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 1, 12
- 2nd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 2, 9, 10, 11
- 3rd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 3, 4, 6
- 4th JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 5, 7, 8

**STATE OF NEW YORK**

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

**For the Calendar Year  
January 1, 2004 - December 31, 2004**

**COURT OF APPEALS**

Judith S. Kaye, CHIEF JUDGE

George Bundy Smith

Victoria A. Graffeo

Carmen Beauchamp Ciparick

Susan Phillips Read

Albert M. Rosenblatt

Robert S. Smith

**CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Jonathan Lippman

**ADMINISTRATIVE BOARD OF THE COURTS**

Judith S. Kaye, CHAIR

John T. Buckley

Anthony V. Cardona

A. Gail Prudenti

Eugene F. Pigott, Jr.

# UNIFIED COURT SYSTEM 2004

## **JONATHAN LIPPMAN**

Chief Administrative Judge

## **ANN T. PFAU**

First Deputy Chief Administrative Judge

## **JAN H. PLUMADORE**

Deputy Chief Administrative Judge  
Courts Outside New York City

## **JOAN B. CAREY**

Deputy Chief Administrative Judge  
New York City Courts

## **JUANITA BING NEWTON**

Deputy Chief Administrative Judge  
for Justice Initiatives

## **JUDY HARRIS KLUGER**

Deputy Chief Administrative Judge  
for Court Operations and Planning

## **ADMINISTRATIVE JUDGES**

### **JACQUELINE W. SILBERMANN**

Statewide Administrative Judge  
for Matrimonial Matters

### **JOSEPH LAURIA**

Administrative Judge  
New York City Family Court

### **FERN FISHER**

Administrative Judge  
New York City Civil Court

### **JUANITA BING NEWTON**

Administrative Judge  
New York City Criminal Court

### **JACQUELINE W. SILBERMANN**

Administrative Judge  
First Judicial District  
Supreme Court, Civil Branch

### **MICKI SCHERER**

Administrative Judge  
First Judicial District  
Supreme Court, Criminal Branch

### **NEIL J. FIRETOG**

Administrative Judge  
Second Judicial District  
Supreme Court

### **LESLIE G. LEACH**

Administrative Judge  
Eleventh Judicial District  
Supreme Court

### **GERALD ESPOSITO**

Administrative Judge  
Twelfth Judicial District  
Supreme Court, Civil Term

### **JOHN COLLINS**

Administrative Judge  
Twelfth Judicial District  
Supreme Court, Criminal Term

### **RICHARD E. SISE**

Presiding Judge  
Court of Claims

### **GEORGE B. CERESIA, JR.**

Administrative Judge  
Third Judicial District

### **VITO C. CARUSO**

Administrative Judge  
Fourth Judicial District

### **JAMES TORMEY**

Administrative Judge  
Fifth Judicial District

### **JUDITH O'SHEA**

Administrative Judge  
Sixth Judicial District

### **THOMAS VAN STRYDONCK**

Administrative Judge  
Seventh Judicial District

### **SHARON S. TOWNSEND**

Administrative Judge  
Eighth Judicial District

### **FRANCIS A. NICOLAI**

Administrative Judge  
Ninth Judicial District

### **EDWARD G. McCABE**

Administrative Judge  
Tenth Judicial District  
Nassau County

### **H. PATRICK LEIS, III**

Administrative Judge  
Tenth Judicial District  
Suffolk County

•••

### **MICHAEL COLODNER**

Counsel

## PREFACE

I am pleased to present the 27<sup>th</sup> annual report of the Chief Administrator of the New York State Unified Court System. This report, which is submitted to the Governor and the Legislature in accordance with Section 212 of the Judiciary Law, reflects the activities of the Unified Court System (UCS) of the State of New York in 2004.

Included in the report are significant statistical data, an outline of our court structure, highlights of the court system's initiatives—both administrative and programmatic—and a summary of our legislative agenda. Family Court data issued pursuant to Section 213 and 385 of the Family Court Act are provided in a separate volume.

During 2004, our problem-solving courts continued to expand and become institutionalized within our existing court structure. There are now over 100 Drug Courts across the state, with more to come, and 18 Integrated Domestic Violence Courts now serve over half of the state, with another nine to open in 2005. Our Mental Health Courts, Community Courts and Sex Offense Courts also continue to be studied and expanded. And we are studying how to take the successes of these courts to the traditional courtroom structure. Our Judicial Institute, in its first full year of operation, hosted over 200 programs, including the first North American convocation on environmental law (in conjunction with the United Nations), drawing a distinguished international audience of judges and lawyers. A new resource for judicial candidates and the public – the Judicial Campaign Ethics Center – opened in 2004. And we commissioned various panels of judges, attorneys and others to examine and make recommendations to improve matrimonial litigation, the state's indigent defense system and the unique nature of solo and small firm practice. As our new website continues to be updated and expanded, you can now find almost anything about New York State courts online – including this report.

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

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



Faye Ellman

A handwritten signature in black ink, reading "Jonathan Lippman". The signature is written in a cursive, flowing style.

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

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

# Contents

Administrative Judges and Counsel .....	ii
Preface .....	iii
List of Figures/List of Tables .....	vi
Map of Judicial Departments and Districts .....	Frontispiece
Chapter 1 Court Structure and Statistics .....	1
Appellate Courts .....	1
Court of Appeals .....	1
Appellate Divisions .....	5
Appellate Terms .....	6
Trial Courts (Caseload Overview) .....	7
Trial Courts of Superior Jurisdiction .....	9
Supreme Court (including the Commercial Division) .....	9
County Court .....	12
Court of Claims .....	12
Surrogate's Court .....	12
Family Court .....	14
Trial Courts of Limited Jurisdiction in New York City .....	15
NYC Civil Court .....	15
NYC Criminal Court .....	16
Trial Courts of Limited Jurisdiction Outside New York City .....	17
City and District Courts .....	17
Town and Village Courts .....	19
Problem-Solving Courts (Drug Treatment Courts, Domestic Violence Courts, Integrated Domestic Violence Courts, Mental Health Courts, Community Courts) .....	20
Community Dispute Resolution Centers Program .....	22
Chapter 2 Administration Highlights .....	23
Overview .....	23
Office of the Deputy Chief Administrative Judge for Justice Initiatives .....	23
Office of the Deputy Chief Administrative Judge for Court Operations and Planning (Integrated Domestic Violence Courts, Drug Courts & OCDTP, Bronx Criminal Division, Domestic Violence Courts, Mental Health Courts, Sex Offense Courts, Public Access to Court Records) .....	25
Office of the Statewide Administrative Judge for Matrimonial Matters .....	27
Offices of the Chief of Operations and the Administrative Director of OCA .....	28
Division of Financial Management .....	28
Division of Court Operations (Office of Court Interpreting Services, Office of Alternative Dispute Resolution Programs) .....	28
Division of Technology .....	29
Division of Human Resources .....	31
Division of Administrative Services (Secure Pass Identification Cards, Fiduciary Appointment Reporting Process, Continuing Legal Education) .....	32
Court Facilities .....	33
Office of Public Affairs .....	33
Department of Public Safety .....	33
Office of Court Research .....	34

## Contents (cont'd)

Chapter 3	Program Highlights .....	35
Part I:	Center for Court Innovation .....	35
	Office of Court Drug Treatment Programs .....	36
	New York State Judicial Institute .....	37
	Office of Guardian & Fiduciary Services .....	38
	Parent Education Advisory Board .....	38
	Advisory Committee on Judicial Ethics .....	39
	Judicial Campaign Ethics Center .....	39
	Franklin H. Williams Judicial Commission on Minorities .....	39
	New York State Judicial Committee on Women in the Courts .....	40
	Permanent Judicial Commission on Justice for Children .....	40
	Lawyer Assistance Trust .....	41
	Ethics Commission for the Unified Court System .....	41
Part II:	Commission to Promote Public Confidence in Judicial Elections .....	42
	Commission on the Jury .....	42
	Commission on Fiduciary Appointments .....	43
	Commission on Public Access to Court Records .....	43
	Matrimonial Commission .....	43
	Commission to Examine Solo and Small Firm Practice .....	44
	Commission on the Future of Indigent Defense .....	44
Chapter 4	Legislation and Rules .....	45
	Counsel's Office .....	45
	Work of the Advisory Committees .....	45
	Judiciary Measures Enacted into Law in 2004 .....	47
	Judiciary Measures Vetoed in the 2004 Legislative Session .....	49
	Rules of the Chief Judge .....	49
	Rules of the Chief Administrative Judge .....	49
Appendices		
	Appendix A: Intake, Dispositions and Trials <i>De Novo</i> in Mandatory Arbitration Programs .....	51
	Appendix B: Small Claims Assessment Review Program: Filings and Dispositions .....	52
	Appendix C: Community Dispute Resolution Centers' Workload .....	53
	Appendix D: Attorney Registration by Location (and Fees Collected) .....	54
	Appendix E: Retainers & Closing Statements; Adoption Affidavits; Criminal History Search Unit .....	55
	Appendix F: Measures Newly Introduced in the 2004 Legislative Session or Carried Over	
	From the 2003 Session and Not Enacted Into Law .....	56

## Figures

Figure 1a: New York State Judicial System, Criminal Appeals Structure .....	3
Figure 1b: New York State Judicial System, Civil Appeals Structure .....	3
Figure 2: Trial Court Filings by Case-Type .....	8
Figure 3: Supreme Civil New Case Filings by Case-Type .....	11
Figure 4: Supreme Civil: Dispositions by Type of Disposition .....	11
Figure 5: Felony Dispositions by Type of Disposition .....	11
Figure 6: New York City Civil Court: Filings by Case-Type .....	15
Figure 7: New York City Criminal Court: Filings by Case-Type .....	16
Figure 8: City and District Courts: Filings by Case-Type .....	17
Figure 9: Integrated Domestic Violence Courts: Filings by Court of Origin .....	20
Figure 10: Integrated Domestic Violence Courts: Filings by Case-Type .....	20
Figure 11: Unified Court System Administrative Structure .....	24

## Contents (cont'd)

### Tables

Table 1: New York State Judicial System, Authorized Number of Judges .....	2
Table 2: Caseload Activity in the Court of Appeals .....	4
Table 3: Caseload Activity in the Appellate Divisions .....	5
Table 4: Caseload Activity in the Appellate Terms .....	6
Table 5: Filings in the Trial Courts – Five-Year Comparison .....	7
Table 6: Filings and Dispositions in the Trial Courts .....	8
Table 7: Supreme Court Civil: Filings and Dispositions .....	10
Table 8: Surrogate’s Court: Filings and Dispositions .....	12
Table 9: Supreme Criminal and County Courts: Felony Filings and Dispositions .....	13
Table 10: Family Court: Filings and Dispositions by Type of Petition .....	14
Table 11: New York City Civil Court: Filings and Dispositions by Case-Type .....	15
Table 12: New York City Criminal Court: Filings and Dispositions .....	16
Table 13: City and District Courts: Filings by Case-Type .....	18
Table 14: Town and Village Court Activity .....	19
Table 15: Integrated Domestic Violence Courts: Caseload Activity .....	21

# Court Structure and Statistics

The powers and structure of the New York State Judiciary are embodied in Article VI of the State Constitution, which provides for a unified court system, specifies the organization and the jurisdiction of the courts, establishes the methods of selection and removal of judges and provides for administrative supervision of the courts. The responsibility and authority for supervising the courts is vested in the Chief Judge of the State, who is the Chief Judge of the Court of Appeals.

There are 1,203 judges and approximately 15,000 nonjudicial personnel throughout the court system. In addition, there are approximately 2,300 town and village justices who are elected and paid by their localities. Table 1 reflects the number of judges authorized to sit in each of the different courts.

This chapter identifies the different courts, defines their jurisdiction and reflects their caseload activity for the year 2004. It also describes the specialized or problem-solving courts established over the past decade, which are designed to help break the cycle of recidivism that is often seen in certain types of conduct; these courts—drug treatment courts, mental health courts and others—offer monitored treatment and provide links to myriad social services. By addressing the underlying causes of problems such as addiction and child neglect, these courts seek to improve the outcome for victims, defendants and the community. Other specialized courts address the unique aspects of cases involving domestic violence, seeking to ensure victim safety and defendant accountability.

## APPELLATE COURTS

The appellate courts are the Court of Appeals and the Appellate Divisions and Appellate Terms of the Supreme Court. In addition, the County Courts act as appellate courts in the Third and Fourth Judicial Departments. The appellate structure of the New York courts is shown in Figures 1a and 1b.

### Court of Appeals

The Court of Appeals is the highest-level court, located in Albany, the capital. The court consists of the Chief Judge and six Associate Judges, each appointed by the Governor, with the advice and consent of the Senate, for 14-year terms, from among persons found to be well-qualified by the State Commission on Judicial Nomination.

The Court of Appeals hears both civil and criminal appeals. Its jurisdiction is, with certain exceptions, limited to the review of questions of law. Depending on the issue, some matters may be appealed as of right and some only by leave or permission from the court or the Appellate Division. The court presides over appeals from determinations by the State Commission on Judicial Conduct, which is responsible for reviewing allegations of misconduct brought against judges. The court is also responsible for establishing rules governing the admission of attorneys to the bar.

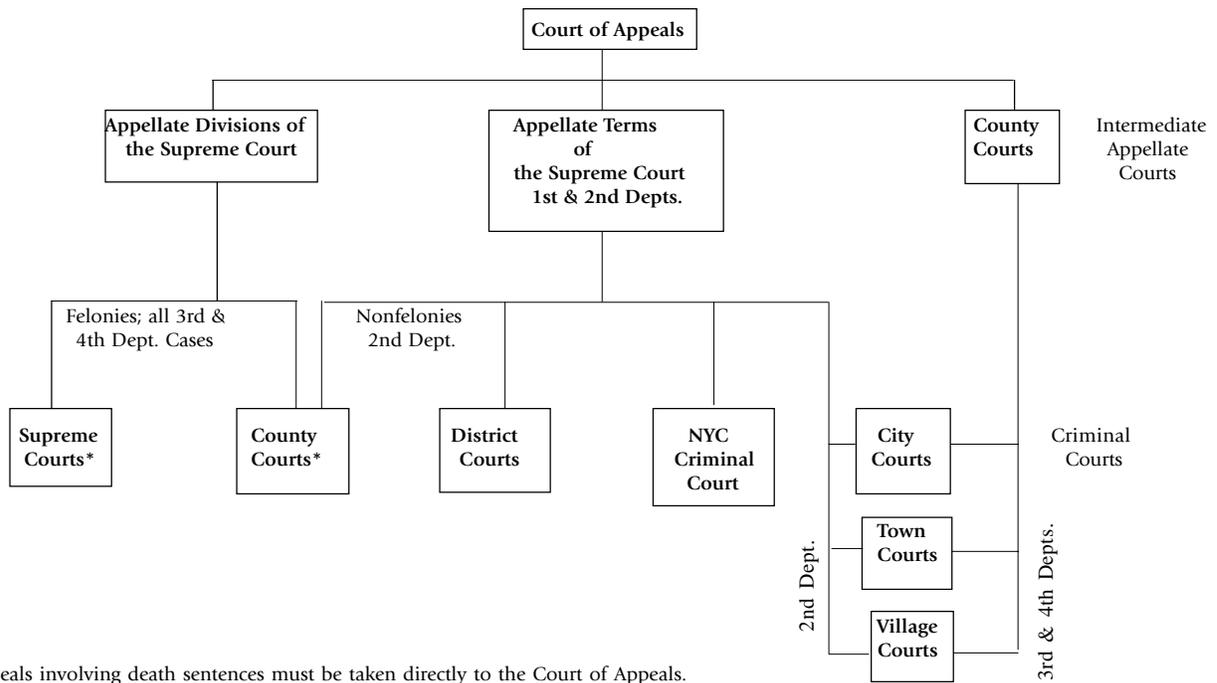
The Court of Appeals maintains a current docket. During 2004, the average length of time from the filing of a notice of appeal, or order granting leave to appeal, to the release to the public of a decision was 284 days. The caseload activity of the court is reported in Table 2.

**Table 1**  
**NEW YORK STATE JUDICIAL SYSTEM: Authorized Number of Judges**  
*December 31, 2004*

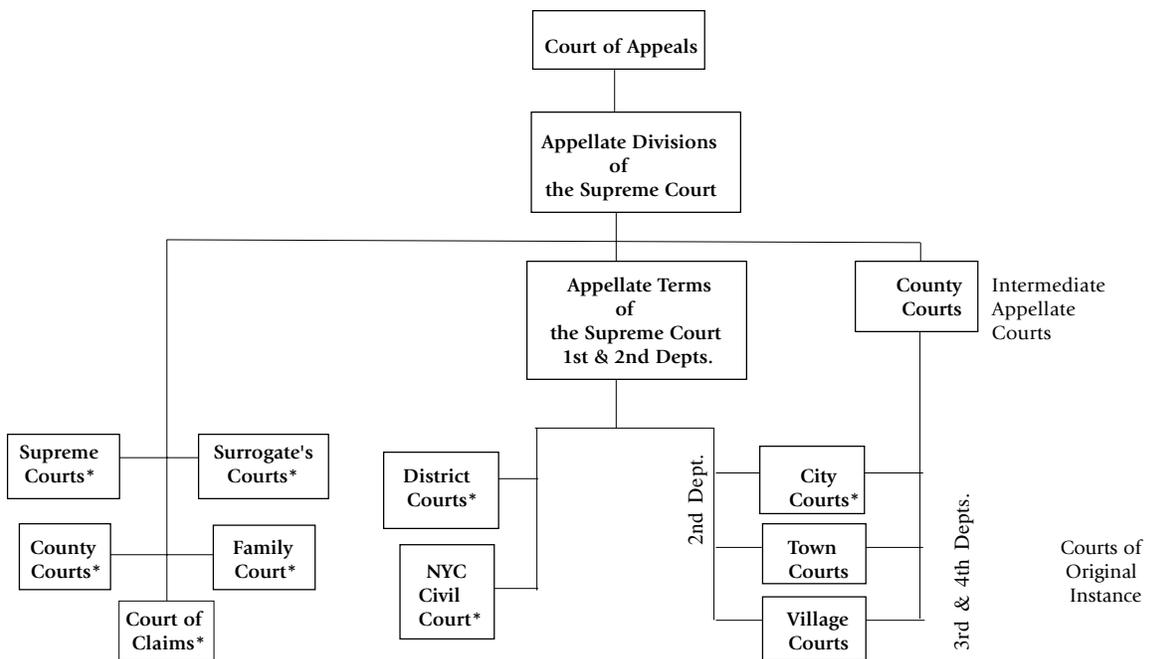
<i>Number of Judges</i>	<i>Court</i>
7	..... Court of Appeals
59 <sup>a</sup>	..... Supreme Court, Appellate Divisions
14 <sup>b</sup>	..... Appellate Terms
268 <sup>c</sup>	..... Supreme Court, Trial Parts
64	..... Supreme Court, Certificated Retired Justices
22	..... Court of Claims
50	..... Court of Claims (15 judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program, as amended by Chapters 500, 501, Laws of 1982; 23 appointed pursuant to Chapter 906, Laws of 1986; 8 appointed pursuant to Chapter 209, Laws of 1990; and 4 appointed pursuant to Chapter 731, Laws of 1996)
30	..... Surrogate's Courts (including 2 Surrogates in New York County)
71	..... County Courts* (County Judges outside the City of New York in counties that have separate Surrogate's Court and Family Court Judges)
13	..... County Courts* (County Judges who are also Surrogate's Court Judges)
6	..... County Courts* (County Judges who are also Family Court Judges)
38	..... County Courts* (County Judges who are also Surrogate's and Family Court Judges)
126	..... Family Courts (including 47 Family Court Judges in the City of New York)
107	..... Criminal Court of the City of New York
120 <sup>d</sup>	..... Civil Court of the City of New York
50	..... District Courts (in Nassau and Suffolk Counties)
158	..... City Courts in the 61 cities outside New York City including Acting and Part-time Judges
1,203	Total
[2,300	Town and Village Justice Courts]

\* In smaller counties, judges may sit in two or three of the county-level courts simultaneously (County, Surrogate's or Family Courts).  
a In addition to the 24 Supreme Court justices permanently authorized, 22 justices and 13 certificated retired justices are temporarily designated to the Appellate Division.  
b Includes 4 certificated justices.  
c Judiciary Law §140-a authorizes 324 elected Supreme Court justices in the 12 judicial districts. This number includes the 24 permanently authorized justices who are assigned to the Appellate Division, as well as all non-certificated justices who are temporarily designated to the Appellate Division. This number does not include judges of other courts, including the Civil and Criminal Courts of the City of New York, who sat as acting Supreme Court justices during the year. It also does not include any certificated justices.  
d Does not include the additional 11 Civil Court judgeships authorized by the 1982 Session Laws, chapter 500, but still not filled.

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



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



**Table 2**

**CASELOAD ACTIVITY IN THE COURT OF APPEALS - 2004**

Applications Decided [CPL 460.20(3(b))]	2,644
Records on Appeal Filed	206
Oral Arguments (Includes Submissions)	172
Appeals Decided	185
Motions Decided	1,192
Judicial Conduct Determinations Reviewed	2

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

BASIS OF JURISDICTION	AFFIRMED	REVERSED	MODIFIED	DISMISSED	OTHER	TOTAL
<b>All Cases:</b>						
Reversal, Modification, Dissent in Appellate Division	22	9	-	-	-	31
Permission of Court of Appeals or Judge thereof	62	34	4	2	-	102
Permission of Appellate Division or Justice thereof	19	8	-	-	-	27
Constitutional Question	5	-	1	-	-	6
Stipulation for Judgment Absolute	-	-	-	-	-	0
Other*	-	1	2	1	15	19
<b>Total</b>	<b>108</b>	<b>52</b>	<b>7</b>	<b>3</b>	<b>15</b>	<b>185</b>
<b>Civil Cases:</b>						
Reversal, Modification, Dissent in Appellate Division	22	9	-	-	-	31
Permission of Court of Appeals or Judge thereof	34	31	4	1	-	70
Permission of Appellate Division or Justice thereof	9	4	-	-	-	13
Constitutional Question	5	-	1	-	-	6
Stipulation for Judgment Absolute	-	-	-	-	-	0
Other*	-	1	-	-	15	16
<b>Total</b>	<b>70</b>	<b>45</b>	<b>5</b>	<b>1</b>	<b>15</b>	<b>136</b>
<b>Criminal Cases:</b>						
Permission of Court of Appeals or Judge thereof	28	3	-	1	-	32
Permission of Appellate Division or Justice thereof	10	4	-	-	-	14
Other*	-	-	2	1	-	3
<b>Total</b>	<b>38</b>	<b>7</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>49</b>

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

## Appellate Divisions

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

- resolving appeals from judgments or orders of the superior courts of original jurisdiction in civil and criminal cases, and reviewing civil appeals taken from the Appellate Terms and the County Courts acting as appellate tribunals; and
- establishing rules governing attorney conduct and conducting proceedings to admit, suspend or disbar attorneys.

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

The Governor designates the Presiding and Associate Justices of each Appellate Division from among the justices of the Supreme Court. The Presiding Justice serves for the remainder of his or her term of office, while Associate Justices are designated for five-year terms, or for the remainder of their unexpired term of office, if less than five years.

The 2004 caseload of the Appellate Divisions is in Table 3.

**Table 3**  
**CASELOAD ACTIVITY IN THE APPELLATE DIVISIONS - 2004**

	FIRST DEPT		SECOND DEPT		THIRD DEPT		FOURTH DEPT		TOTAL
	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	
<b>Records on Appeal Filed</b>	<b>1,711</b>	<b>974</b>	<b>3,330</b>	<b>762</b>	<b>1,461</b>	<b>573</b>	<b>1,094</b>	<b>466</b>	<b>10,371</b>
Disposed of before Argument or Submission (e.g., Dismissed, Withdrawn, Settled)	176	130	6,211	757	1	0	14	1	<b>7,290</b>
Disposed of after Argument or Submission:									
Affirmed	1,048	765	1,636	771	910	321	669	490	<b>6,610</b>
Reversed	333	20	733	54	133	23	115	24	<b>1,435</b>
Modified	215	37	260	34	122	27	167	52	<b>914</b>
Dismissed	172	4	365	8	71	1	234	15	<b>870</b>
Other	95	10	83	176	3	0	11	1	<b>379</b>
<b>Total Dispositions</b>	<b>2,039</b>	<b>966</b>	<b>9,288</b>	<b>1,800</b>	<b>1,240</b>	<b>372</b>	<b>1,210</b>	<b>583</b>	<b>17,498</b>

	FIRST DEPT	SECOND DEPT	THIRD DEPT	FOURTH DEPT	TOTAL
*Oral Arguments	1,198	1,991	689	900	<b>4,778</b>
*Motions Decided	5,370	10,612	5,723	4,481	<b>26,186</b>
Admissions to the Bar	3,088	2,422	2,566	331	<b>8,407</b>
Atty. Disciplinary Proceedings Decided	57	175	50	14	<b>296</b>

\*Not broken down by civil or criminal.

## Appellate Terms

Appellate Terms have been established in the First and Second Departments. They exercise jurisdiction over civil and criminal appeals taken from various local courts and, in the Second Department, over nonfelony appeals from County Courts. The Chief Administrator designates the justices of Appellate Terms from among the justices of the Supreme Court, with the approval of the Presiding Justice of the appropriate Appellate Division.

The 2004 caseload of the Appellate Terms is in Table 4.

**Table 4**  
**CASELOAD ACTIVITY IN THE APPELLATE TERMS - 2004**

	FIRST DEPT			SECOND DEPT			TOTAL
	Civil	Criminal	Total	Civil	Criminal	Total	
<b>Records on Appeal Filed</b>	<b>344</b>	<b>59</b>	<b>403</b>	<b>1,169</b>	<b>400</b>	<b>1,569</b>	<b>1,972</b>
Disposed of before Argument or Submission (e.g. dismissed, withdrawn, settled)	13	8	21	582	262	844	865
Disposed of after Argument or Submission:							
Affirmed	196	40	236	310	67	377	613
Reversed	45	8	53	168	40	208	261
Modified	28	2	30	73	10	83	113
Dismissed	16	-	16	14	3	17	33
Other	2	1	3	18	1	19	22
<b>Total Dispositions</b>	<b>300</b>	<b>59</b>	<b>359</b>	<b>1,165</b>	<b>383</b>	<b>1,548</b>	<b>1,907</b>
*Oral Arguments			285			306	591
*Motions Decided			1,327			2,972	4,299

\*Not broken down by civil or criminal.

## TRIAL COURTS

### Caseload Overview<sup>1</sup>

The statewide trial courts of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogate's Court, and, outside New York City, the County Court. In New York City, the Supreme Court exercises both civil and criminal jurisdiction. Outside New York City, Supreme Court exercises civil jurisdiction, while County Court generally handles criminal matters. The trial courts of limited jurisdiction in New York City are the Civil Court and the Criminal Court. Outside New York City, these courts include City Courts, District Courts and Town and Village Courts and have both civil and criminal jurisdiction.

In 2004, 4,129,220 new cases were filed in the trial courts.<sup>2</sup> Excluding parking tickets, new filings totaled 3,975,687 (see Table 5); 39% of these were criminal filings, another 39% were civil filings. About two-thirds were in courts of limited jurisdiction (see Figure 2).

As Table 5 shows, total filings, which peaked in 2003, are back to 2000 levels. However, while civil increased

<sup>1</sup> Most of the data in this chapter are from the Caseload Activity Reporting System of the UCS and are current as of August 11, 2005. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrator of the Courts (22 NYCRR, Part 115).

<sup>2</sup> Does not include locally-funded Town and Village Courts.

19.5% over the five-year period, criminal decreased 12.3%. Of the nonparking dispositions, 39% were in criminal courts, 38% in civil courts, 20% in Family Courts and 3% in Surrogate's Courts. Table 6 contains a breakdown of filings and dispositions by type of court and filing.

### Standards and Goals

The Chief Administrator has established Standards and Goals for the work of certain trial courts—Supreme and County Court felony cases, Supreme Court civil cases and Family Court proceedings—to provide performance measures reflecting the time from case filing to disposition. The Standards and Goals for each of these courts is noted in their descriptions below.

### Arbitration

Part 28 of the Rules of the Chief Judge (22 NYCRR) authorizes the Chief Administrator to establish mandatory arbitration programs in the trial courts. These programs operate in 31 counties. Outside New York City, the programs involve damages of \$6,000 or less, while in New York City, cases are limited to \$10,000 or less. (Appendix A shows the programs' activities in 2004 by judicial district.)

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

COURT	2000	2001	2002	2003	2004
<i>CRIMINAL</i>					
Supreme and County Courts Criminal	53,932	52,500	53,284	54,549 <sup>a</sup>	63,217 <sup>a</sup>
Criminal Court of the City of NYC <sup>b</sup>	989,074	869,265	798,427	856,825	786,540
City & District Courts Outside NYC <sup>b</sup>	653,249	645,625	713,595	717,004	702,079
Parking Tickets	248,520	238,107	252,126	197,848	153,533
<b>Criminal Total</b>	<b>1,944,775</b>	<b>1,805,497</b>	<b>1,817,432</b>	<b>1,826,226</b>	<b>1,705,369</b>
<i>CIVIL</i>					
Supreme Court Civil <sup>c</sup>	412,264	407,283	422,362	430,007	415,132
Civil Court of the City of NYC <sup>d</sup>	593,048	629,013	770,677	840,902	756,852
City & District Courts Outside NYC <sup>d</sup>	237,698	249,067	283,424	308,392	292,925
County Courts Civil <sup>e</sup>	28,584	26,565	25,979	27,833	30,333
Court of Claims	2,092	1,910	1,826	1,683	1,694
Small Claims Assessment Review Program	50,523	49,257	51,218	18,255 <sup>f</sup>	85,324 <sup>f</sup>
<b>Civil Total</b>	<b>1,324,209</b>	<b>1,363,095</b>	<b>1,555,486</b>	<b>1,627,072</b>	<b>1,582,260</b>
<i>FAMILY</i>	690,941	683,390	712,726	689,281	695,842
<i>SURROGATE'S</i>	164,863	163,166	158,520	151,239	145,749
<b>Total</b>	<b>4,124,788</b>	<b>4,015,148</b>	<b>4,244,164</b>	<b>4,293,818</b>	<b>4,129,220</b>

<sup>a</sup> Includes felonies and misdemeanors, of which 11,234 were misdemeanor filings in 2004.

<sup>b</sup> NYC includes arrest and summons cases; outside NYC includes arrest cases and uniform traffic tickets.

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

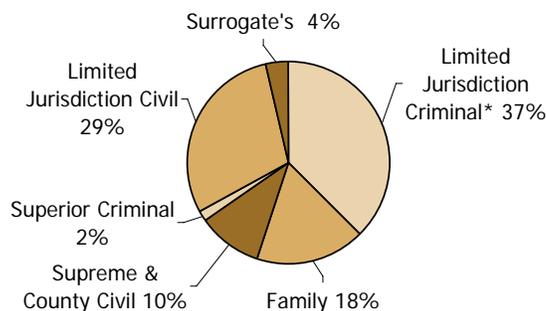
<sup>d</sup> Includes civil, housing, small claims and commercial claims.

<sup>e</sup> Includes new cases and ex parte applications.

<sup>f</sup> 2003 decrease/2004 increase due to 2003 Nassau County program that resulted in many 2003 SCAR-eligible petitions being filed in 2004 (see Appendix B).

Figure 2

**Trial Court Filings by Case Type - 2004**



\*Excludes parking tickets

**Table 6  
FILINGS & DISPOSITIONS IN THE TRIAL COURTS - 2004**

<b>COURT</b>	<b>FILINGS</b>	<b>DISPOSITIONS</b>
<i>CRIMINAL</i>		
Supreme and County Courts		
Felony Cases	51,983	53,819
Misdemeanor Cases	11,234	6,626
Criminal Court of the City of New York:		
Arrest Cases	318,248	330,521
Summons Cases <sup>a</sup>	468,292	356,029
City & District Courts outside New York City:		
Arrest Cases	285,404	276,925
Uniform Traffic Tickets <sup>a</sup>	416,675	392,996
Parking Tickets <sup>a</sup>	153,533	139,276
<b>Criminal Total</b>	<b>1,705,369</b>	<b>1,556,192</b>
<i>CIVIL</i>		
Supreme Court:		
New Cases	178,675	197,926
Ex Parte Applications	188,884	188,884
Uncontested Matrimonial Cases	47,573	47,865
Civil Court of the City of New York:		
Civil Actions	400,931	245,822 <sup>b</sup>
Landlord/Tenant Actions & Special Proceedings	314,367	268,812
Small Claims	32,220	35,867
Commercial Claims	9,334	11,214
City & District Courts outside New York City:		
Civil Actions	171,140	156,927 <sup>b</sup>
Landlord/Tenant Actions & Special Proceedings	74,997	75,887
Small Claims	34,604	34,746
Commercial Claims	12,184	11,925
County Courts <sup>c</sup>	30,333	30,416
Court of Claims	1,694	1,729
Arbitration Program	21,387 <sup>d</sup>	17,499
Small Claims Assessment Review Program	85,324 <sup>e</sup>	42,933
<b>Civil Total</b>	<b>1,582,260</b>	<b>1,368,452</b>
<i>FAMILY</i>	695,842	704,348
<i>SURROGATE'S</i>	145,749	119,702 <sup>f</sup>
<b>Total</b>	<b>4,129,220</b>	<b>3,748,694</b>

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

<sup>b</sup>Does not include dispositions in the Arbitration Program (see Appendix A).

<sup>c</sup>Filings includes new cases and ex parte applications.

<sup>d</sup>Shown here for reference only and not included in totals. Included as intake in the civil courts listed above (see Appendix A).

<sup>e</sup>Increase due to Nassau County (see Table 5, footnote f and Appendix B).

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

## TRIAL COURTS OF SUPERIOR JURISDICTION

### Supreme Court

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

- civil matters beyond the monetary limits of the lower courts' jurisdiction
- divorce, separation and annulment proceedings
- equity suits, such as mortgage foreclosures and injunctions
- criminal prosecutions of felonies.

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

#### Civil Cases

During 2004, there were 415,132 total civil filings in Supreme Court, including 178,675 new cases, also known as requests for judicial intervention (RJIs), 188,884 *ex parte* applications and 47,573 uncontested matrimonial cases. A total of 434,675 matters reached disposition in 2004, including 197,926 RJIs, 188,884 *ex parte* applications and 47,865 uncontested matrimonial cases. Table 7 lists the number of RJIs and trial notes of issue filed and disposed of in each county. Figure 3 (on p. 11) displays a breakdown of these filings by case-type, while Figure 4 (also on p. 11) shows the breakdown of cases by manner of disposition. Two-thirds of the cases were disposed of before the trial note of issue was filed—either by settlement or on some other basis, *e.g.*, dismissal, default or consolidation.

Supreme Court also hears appeals from administrative proceedings brought under the Small Claims Assessment Review Program (SCAR). These proceedings are commenced by owners of one-, two- or three-family,

owner-occupied residences to challenge their real property tax assessments. (See Appendix B for filings and dispositions by judicial district.)

#### Commercial Division

The Commercial Division of the Supreme Court, established to handle and facilitate the resolution of complicated commercial disputes, began operations in 1995 in two counties, New York and Monroe. Since then, it has expanded to Erie, Nassau, Westchester, Albany, Kings and Suffolk Counties. The division employs technology and advanced case management techniques to streamline and expedite the commercial litigation process.

#### Standards and Goals

There are three Standards and Goals periods established by the Chief Administrator that apply to Supreme Court civil cases to measure the length of time from filing an action to disposition. The first, or “pre-note” standard, measures the time from filing the RJI (the point at which the parties first seek some form of judicial relief), to filing of the trial note of issue (indicating readiness for trial). The second, or “note” standard, measures the time from filing the trial note of issue to disposition. The third, or “overall” standard, covers the entire period from filing of the RJI to disposition.

Expedited cases must meet the first standard within 8 months, the second within 15 months and the third within 23 months. For standard cases (most tort and contract matters) the respective time frames are 12 months-15 months-27 months; for complex cases (*e.g.*, medical malpractice cases) they are 15 months-15 months-30 months. The exceptions are matrimonial cases, for which the standards are 6 months-6 months-12 months, and tax certiorari cases, for which the standards are 48 months-15 months-63 months.

**Table 7**  
**SUPREME COURT CIVIL: FILINGS & DISPOSITIONS - 2004** (Excludes Ex Parte Applications & Uncontested Matrimonials)

Location	Filings		Dispositions					
	New Cases	Note of Issue	Total	Pre-Note Settlements	Other Pre-Note	Post-Note Settlements	Jury Verdicts/Decisions	Other Note
<b>TOTAL STATE</b>	<b>178,675</b>	<b>62,352</b>	<b>197,926</b>	<b>32,041</b>	<b>101,422</b>	<b>41,549</b>	<b>5,913</b>	<b>17,001</b>
NYC	84,680	34,677	96,282	10,325	50,035	23,931	3,200	8,791
New York	22,136	7,463	24,829	4,431	12,770	5,324	747	1,557
Bronx	14,678	5,095	13,726	1,111	7,179	4,203	308	925
Kings	24,619	12,256	29,884	2,556	15,913	7,695	1,019	2,701
Queens	20,197	8,470	24,476	1,905	12,368	5,981	880	3,342
Richmond	3,050	1,393	3,367	322	1,805	728	246	266
ONYC	93,995	27,675	101,644	21,716	51,387	17,618	2,713	8,210
Albany	3,778	548	4,034	412	2,931	355	27	309
Allegany	226	39	275	106	116	41	6	6
Broome	804	240	964	49	695	58	14	148
Cattaraugus	336	136	369	228	4	118	5	14
Cayuga	591	52	673	37	543	43	3	47
Chautauqua	591	191	529	57	282	42	8	140
Chemung	504	98	434	24	297	30	14	69
Chenango	174	71	227	13	153	33	24	4
Clinton	344	93	397	8	271	5	10	103
Columbia	469	103	511	29	316	39	2	125
Cortland	139	45	142	4	95	10	1	32
Delaware	193	51	228	5	100	10	0	113
Dutchess	2,631	690	2,728	1,573	451	570	51	83
Erie	7,377	1,265	7,633	2,333	3,978	947	158	217
Essex	185	49	169	9	106	32	3	19
Franklin	295	68	301	33	230	12	6	20
Fulton	533	139	466	58	288	35	14	71
Genesee	210	91	288	67	126	60	3	32
Greene	288	107	344	52	196	38	7	51
Hamilton	0	0	0	0	0	0	0	0
Herkimer	426	127	370	52	188	33	3	94
Jefferson	427	162	510	53	287	136	6	28
Lewis	170	35	158	8	116	25	2	7
Livingston	445	64	521	33	475	2	2	9
Madison	179	91	180	11	96	18	2	53
Monroe	6,084	1,298	6,880	432	4,999	684	57	708
Montgomery	382	86	401	51	282	34	0	34
Nassau	17,860	6,818	20,604	6,759	5,378	6,058	586	1,823
Niagara	1,721	236	1,974	620	1,088	197	23	46
Oneida	3,329	577	3,491	170	2,758	231	252	80
Onondaga	2,669	969	3,211	187	1,980	372	52	620
Ontario	655	174	763	57	539	130	5	32
Orange	3,178	1,061	3,690	521	2,041	607	130	391
Orleans	162	13	228	79	123	12	0	14
Oswego	686	222	751	24	507	61	145	14
Otsego	243	77	248	16	170	45	6	11
Putnam	699	203	618	169	246	109	19	75
Rensselaer	1,134	145	1,433	157	1,099	104	22	51
Rockland	3,017	980	3,034	77	2,035	730	73	119
St. Lawrence	388	139	478	58	254	70	3	93
Saratoga	1,257	298	1,259	291	712	158	42	56
Schenectady	1,151	223	1,290	176	874	120	22	98
Schoharie	117	48	98	18	43	9	4	24
Schuyler	68	21	72	3	61	4	0	4
Seneca	291	84	368	15	243	36	1	73
Steuben	411	129	454	28	277	32	4	113
Suffolk	13,180	4,564	13,534	5,663	4,341	2,333	385	812
Sullivan	745	145	841	69	637	76	11	48
Tioga	165	50	177	11	132	9	0	25
Tompkins	293	117	331	43	168	37	15	68
Ulster	1,511	488	1,480	319	731	302	16	112
Warren	524	116	537	81	324	37	5	90
Washington	406	68	453	71	309	10	2	61
Wayne	670	94	1,014	17	831	30	3	133
Westchester	9,161	3,589	8,954	262	5,472	2,257	456	507
Wyoming	371	52	345	12	277	18	1	37
Yates	152	36	182	6	116	14	2	44

Figure 3

**Supreme Civil New Case Filings by Case Type - 2004**

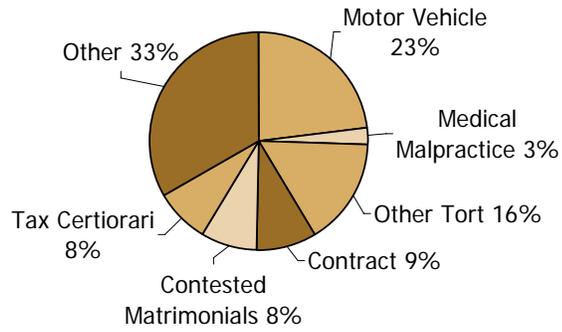


Figure 4

**Supreme Civil Dispositions by Type of Disposition - 2004**

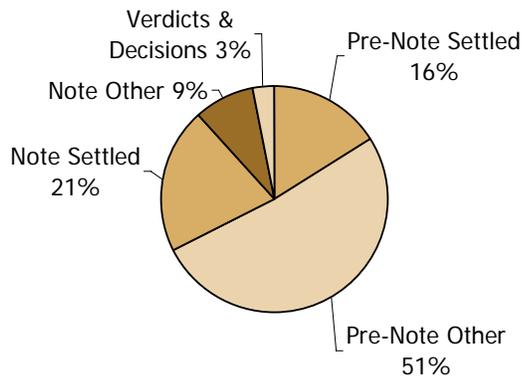
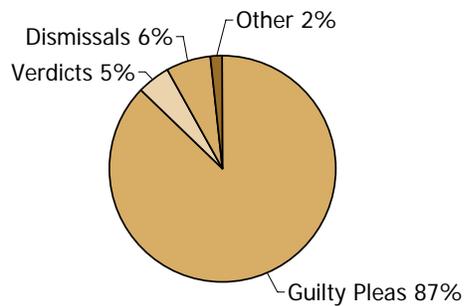


Figure 5

**Supreme Criminal & County Court Felony Dispositions by Type of Disposition - 2004**



### Criminal Cases

Felony cases (criminal cases for which a sentence in excess of one year may be imposed) are heard in the Supreme Court in New York City and predominantly in the County Courts outside New York City. During the year, there were a total of 63,217 criminal filings in the Supreme and County Courts, of which 51,983 were felony cases.<sup>1</sup> Table 9 (on p. 13) shows filings and dispositions for each county. Figure 5 (on p. 11) shows the breakdown of cases by type of disposition.

### Standards and Goals

The court system's performance standard for felony cases is disposition within six months from filing of the indictment, excluding periods when a case is not within the active management of the court, *e.g.*, where a warrant is outstanding. In 2004, 84% of felony case dispositions statewide were achieved within the six-month standard.

### County Court

There is a County Court in each county outside New York City. It is authorized to handle criminal prosecutions of both felonies and lesser offenses committed within the county, although in practice most minor offenses are handled by lower courts. County Court also has limited jurisdiction in civil cases, generally involving amounts up to \$25,000. The statistical data for County Court's

<sup>1</sup>There were 11,234 misdemeanor cases heard in Supreme Court in 2004 in various specialized parts (*e.g.*, Integrated Domestic Violence Courts).

criminal felony caseload is reported in Table 9, in combination with the data for Supreme Court. County Court judges are elected to terms of 10 years.

### Court of Claims

The Court of Claims is a special statewide trial court with exclusive jurisdiction over claims for money damages against the State of New York. The court's jurisdiction includes claims for the torts of the state's officers and employees and damages for unjust convictions and imprisonment. It also has jurisdiction over claims for the appropriation of real property brought against certain state-related entities such as the New York State Thruway Authority, the City University of New York and the New York State Power Authority. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, to nine-year terms. The court hears cases at nine locations around the state. Cases are heard without juries. During 2004, 1,694 claims were filed and 1,729 cases were decided by the court.

### Surrogate's Court

The Surrogate's Court is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, as well as adoptions. Surrogates are elected to 10-year terms in each county outside New York City and to 14-year terms in each county in New York City. See Table 8 for filings and dispositions by case-type during 2004.

**Table 8**  
**SURROGATE'S COURT FILINGS & DISPOSITIONS: PROCEEDINGS BY CASE TYPE - 2004**

Case Type	TOTAL STATE		NYC		OUTSIDE NYC	
	Filings	Dispositions*	Filings	Dispositions*	Filings	Dispositions*
<b>Total</b>	<b>145,749</b>	<b>119,702</b>	<b>40,574</b>	<b>35,435</b>	<b>105,175</b>	<b>84,267</b>
Probate	44,406	47,115	13,460	13,040	30,946	34,075
Administration	14,947	13,980	7,332	5,780	7,615	8,200
Voluntary Admin.	18,318	18,318	6,026	6,026	12,292	12,292
Accounting	29,418	8,855	2,972	1,569	26,446	7,286
Inter Vivo Trust	241	185	36	0	205	185
Miscellaneous	14,224	14,126	4,794	4,947	9,430	9,179
Guardianship	21,669	12,811	5,455	3,137	16,214	9,674
Adoption	1,982	3,758	247	684	1,735	3,074
Estate Tax	544	554	252	252	292	302

\*Includes orders and decrees signed.

Table 9

## SUPREME CRIMINAL &amp; COUNTY COURT - FELONY CASES 2004

County	FILINGS			DISPOSITIONS						
	Total	Indictments	*SCIs	Total	Guilty Pleas	Convictions	Aquittals	Non-jury Verdicts	Dismissals	Other
<b>TOTAL STATE</b>	<b>51,983</b>	<b>31,426</b>	<b>20,557</b>	<b>53,819</b>	<b>46,870</b>	<b>1,475</b>	<b>612</b>	<b>508</b>	<b>3,512</b>	<b>842</b>
NYC	24,469	18,208	6,261	25,517	21,100	837	428	174	2,327	651
New York	8,208	6,910	1,298	8,596	6,958	335	128	50	949	176
Bronx	5,662	4,246	1,416	5,708	4,756	132	119	60	490	151
Kings	5,385	4,561	824	5,865	4,754	208	108	31	516	248
Queens	4,545	2,055	2,490	4,692	4,058	150	71	32	314	67
Richmond	669	436	233	656	574	12	2	1	58	9
ONYC	27,514	13,218	14,296	28,302	25,770	638	184	334	1,185	191
Albany	1,011	621	390	1,116	1,025	28	9	1	51	2
Allegany	92	58	34	103	98	0	0	0	2	3
Broome	757	376	381	733	654	15	3	6	53	2
Cattaraugus	236	141	95	201	196	2	3	0	0	0
Cayuga	152	70	82	181	161	3	3	1	12	1
Chautauqua	604	157	447	596	579	0	0	7	8	2
Chemung	341	305	36	310	233	12	4	28	32	1
Chenango	120	81	39	125	114	4	0	1	5	1
Clinton	147	65	82	217	207	5	2	0	2	1
Columbia	108	20	88	121	115	4	1	0	0	1
Cortland	143	77	66	131	115	8	1	1	5	1
Delaware	55	31	24	64	54	6	1	0	3	0
Dutchess	413	120	293	430	352	7	3	2	23	43
Erie	2,057	857	1,200	2,308	2,017	65	16	118	81	11
Essex	79	59	20	74	59	3	2	0	8	2
Franklin	178	103	75	172	155	4	1	0	6	6
Fulton	115	36	79	115	108	1	0	0	4	2
Genesee	252	125	127	253	240	8	3	0	2	0
Greene	82	35	47	93	89	2	0	0	1	1
Hamilton	7	3	4	12	9	0	0	0	3	0
Herkimer	213	93	120	222	213	2	0	1	6	0
Jefferson	537	148	389	544	533	3	0	0	6	2
Lewis	253	16	237	226	226	0	0	0	0	0
Livingston	329	159	170	322	296	10	1	1	12	2
Madison	92	74	18	107	92	6	1	2	5	1
Monroe	2,636	1,331	1,305	2,068	1,818	85	28	42	90	5
Montgomery	98	34	64	111	105	3	1	0	2	0
Nassau	2,557	608	1,949	2,655	2,437	38	12	40	112	16
Niagara	434	240	194	467	399	19	6	0	35	8
Oneida	789	592	197	801	757	17	4	0	21	2
Onondaga	1,395	759	636	1,399	1,280	34	9	3	62	11
Ontario	320	138	182	313	283	15	5	3	3	4
Orange	1,043	726	317	1,070	975	25	6	21	27	16
Orleans	126	109	17	142	116	9	1	1	9	6
Oswego	269	96	173	287	272	7	1	0	6	1
Otsego	80	48	32	94	87	2	4	0	1	0
Putnam	103	40	63	100	97	1	0	0	2	0
Rensselaer	432	172	260	525	494	14	4	0	11	2
Rockland	602	505	97	571	535	10	5	1	16	4
St. Lawrence	315	177	138	347	317	5	7	0	16	2
Saratoga	332	120	212	300	295	3	0	2	0	0
Schenectady	442	269	173	495	452	22	4	2	15	0
Schoharie	60	20	40	62	61	1	0	0	0	0
Schuyler	64	35	29	65	64	0	0	1	0	0
Seneca	117	31	86	125	114	4	2	0	4	1
Steuben	328	106	222	370	355	6	3	3	2	1
Suffolk	3,006	1,661	1,345	3,415	2,992	35	3	12	360	13
Sullivan	271	89	182	304	282	14	4	0	1	3
Tioga	126	113	13	124	115	2	0	4	3	0
Tompkins	133	95	38	129	113	3	1	2	9	1
Ulster	467	254	213	501	465	10	4	5	14	3
Warren	233	118	115	245	231	3	2	0	9	0
Washington	177	135	42	182	173	3	0	0	4	2
Wayne	300	172	128	324	316	5	2	1	0	0
Westchester	1,667	523	1,144	1,710	1,620	37	10	21	17	5
Wyoming	138	38	100	146	135	4	2	1	4	0
Yates	81	34	47	79	75	4	0	0	0	0

\*Superior Court Information

## Family Court

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

- adoption
- guardianship
- foster care approval and review
- delinquency
- persons in need of supervision
- family offense (domestic violence)
- child protective proceedings (abuse and neglect)
- termination of parental rights
- custody and visitation
- support.

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

A breakdown of 2004 filings and dispositions is contained in Table 10. Statistical data included in the annual report pursuant to sections 213 and 385 of the Family Court Act is published separately as Volume II of this report. Cases involving paternity, support, custody and family offenses comprised 82% of the caseload. The remaining cases involved child protective proceedings (8%), juvenile delinquency or designated felonies (3%), persons in need of supervision (2%), adoption (1%), and termination of parental rights cases (2%). All other case-types comprised 2% of the caseload.

### Standards and Goals

The performance standard for Family Court cases is disposition within 180 days of the commencement of the proceeding, excluding periods when a case is not within the active management control of the court. During the year, 93% of dispositions statewide were reached within the standard.

Table 10  
FAMILY COURT - FILINGS & DISPOSITIONS BY TYPE OF PETITION - 2004

Type of Petition	TOTAL STATE		NYC		OUTSIDE NYC	
	Filings	Dispositions <sup>a</sup>	Filings	Dispositions	Filings	Dispositions
<b>Total</b>	<b>695,842</b>	<b>704,348</b>	<b>221,761</b>	<b>226,030</b>	<b>474,081</b>	<b>478,318</b>
Termination of Parental Rights	11,871	12,792	8,997	9,961	2,874	2,831
Surrender of Child	3,654	3,722	2,382	2,461	1,272	1,261
Child Protective (Neglect & Abuse)	57,009	59,192	18,315	20,370	38,694	38,822
Juvenile Delinquency	21,732	21,284	7,740	7,896	13,992	13,388
Designated Felony	703	502	345	210	358	292
Persons in Need of Supervision	15,592	16,082	1,789	2,029	13,803	14,053
Adoption	5,084	5,088	2,691	2,700	2,393	2,388
Adoption Certification	505	492	116	107	389	385
Guardianship	4,617	4,735	2,577	2,733	2,040	2,002
Custody of Minors	170,269	167,853	39,559	38,759	130,710	129,094
Foster Care Review	6,373	6,493	1,632	1,739	4,741	4,754
Approval for Foster Care	1,310	1,347	709	733	601	614
Physically Handicapped	0	0	0	0	0	0
Family Offense	51,512	51,389	22,110	22,450	29,402	28,939
Paternity	48,482	56,778	25,489	29,652	22,993	27,126
Support	282,985	282,578	80,426	77,580	202,559	204,998
Uniform Interstate Family Support Act	13,610	13,484	6,812	6,579	6,798	6,905
Consent to Marry	10	7	4	3	6	4
Other	524	530	68	68	456	462

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

**TRIAL COURTS OF LIMITED JURISDICTION IN  
NEW YORK CITY**

**New York City Civil Court**

The New York City Civil Court has jurisdiction over civil cases involving amounts up to \$25,000. It includes a Small Claims Part and a Commercial Claims Part for the informal disposition of matters not exceeding \$5,000. It

also has a Housing Part for landlord-tenant proceedings. Civil Court judges are elected to 10-year terms. Housing judges are appointed by the Chief Administrator to five-year terms.

Table 11 shows the breakdown of filings and dispositions by case-type and county. Figure 6 shows 2004 filings by case-type.

**Table 11  
NEW YORK CITY CIVIL COURT: Filings & Dispositions by Case Type - 2004**

<b>Total<sup>a</sup></b>	
Filings:	756,852
Dispositions:	561,715

	CIVIL ACTIONS		HOUSING		SMALL CLAIMS		COMMERCIAL CLAIMS	
	Filings <sup>b</sup>	Dispositions <sup>c</sup>	Filings <sup>b</sup>	Dispositions <sup>c</sup>	Filings	Dispositions	Filings	Dispositions
<b>New York City</b>	<b>400,931</b>	<b>245,822</b>	<b>314,367</b>	<b>268,812</b>	<b>32,220</b>	<b>35,867</b>	<b>9,334</b>	<b>11,214</b>
New York	66,486	40,379	81,611	57,328	7,113	7,890	2,461	3,602
Bronx	57,797	41,969	97,858	102,455	4,491	4,619	965	894
Kings	133,148	75,360	82,856	73,368	9,863	10,091	1,926	2,039
Queens	129,426	78,952	45,435	32,205	8,413	11,096	2,964	3,681
Richmond	14,074	9,162	6,607	3,456	2,340	2,171	1,018	998

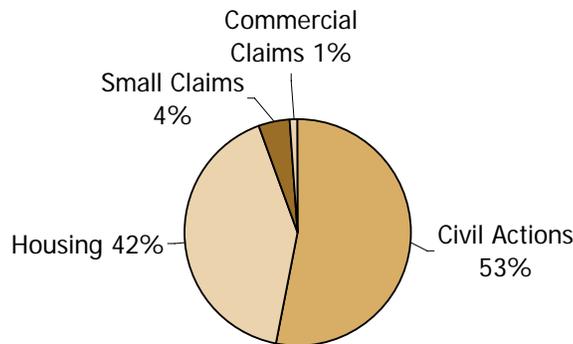
<sup>a</sup>The large difference between the number of filings and dispositions is due to the number of cases filed but never pursued by the filing party.

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

<sup>c</sup>Includes courtroom dispositions and default judgments.

**Figure 6**

**NYC Civil Court Filings by Case Type - 2004**



## New York City Criminal Court

The New York City Criminal Court handles misdemeanors and violations. Criminal Court judges, who are appointed by the Mayor to 10-year terms, also act as arraigning magistrates for felonies and may handle other preliminary (pre-indictment) felony proceedings.

During 2004, close to three quarters of the arrest cases filed were misdemeanors, with 49% of all cases reaching

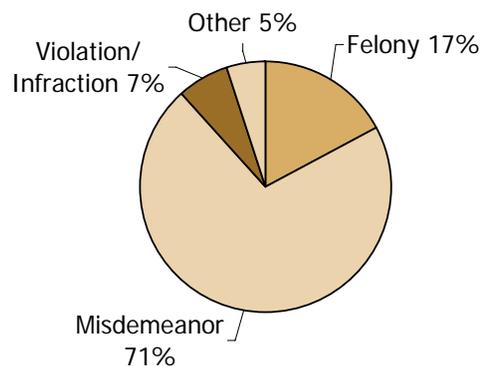
disposition by plea. Another 34% were dismissed; 5% were sent to the grand jury; 10% were disposed of by other means; and 2% pled to a superior court information. Only 0.2% of the dispositions in Criminal Court were by verdict after trial. Table 12 shows filings and dispositions by county for both arrest cases and summons cases (cases in which an appearance ticket, returnable in court, is issued to the defendant). Figure 7 shows filings by case-type.

**Table 12**  
**NEW YORK CITY CRIMINAL COURT: Filings & Dispositions - 2004**

	ARREST CASES		SUMMONS CASES	
	Filings	Dispositions	Filings*	Dispositions
<b>New York City</b>	<b>318,248</b>	<b>330,521</b>	<b>468,292</b>	<b>356,029</b>
New York	104,391	104,414	101,544	77,243
Bronx	66,861	78,027	126,180	75,866
Kings	79,338	80,095	146,438	118,425
Queens	58,273	58,473	76,799	69,858
Richmond	9,385	9,512	17,331	14,637

\*Includes both answered and unanswered cases.

**Figure 7**  
**NYC Criminal Court Filings by Case Type - 2004**



### TRIAL COURTS OF LIMITED JURISDICTION OUTSIDE NEW YORK CITY

These courts are the City Courts, District Courts and Town and Village Courts. They exercise both civil and criminal jurisdiction.

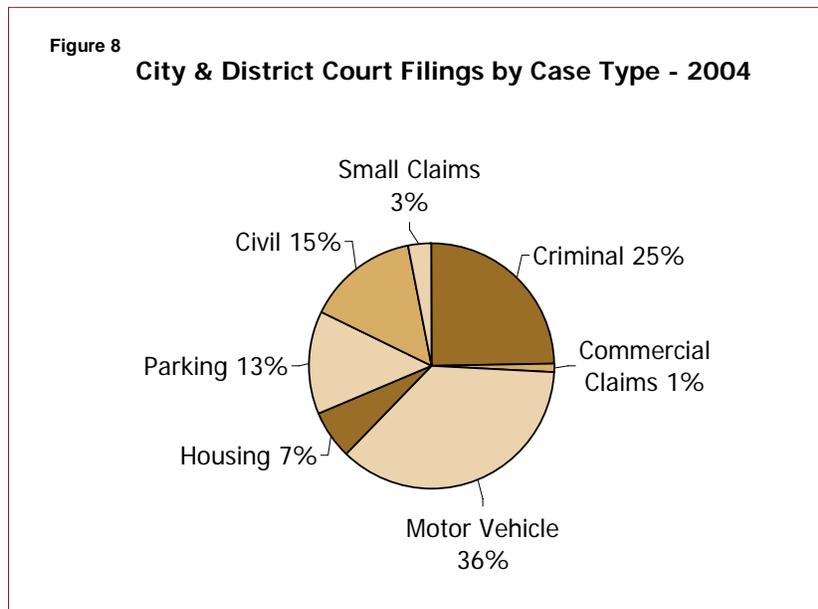
#### City and District Courts

City Courts and District Courts have essentially the same jurisdiction. District Courts exist only in Nassau County and the five western towns of Suffolk County. Both courts have civil jurisdiction up to \$15,000. Some have a small claims part for the informal disposition of matters not exceeding \$5,000, as well as a housing part for landlord-

tenant disputes and housing violations. Their criminal jurisdiction extends to misdemeanors, violations and petty offenses (although some locations have administrative bureaus that handle traffic and/or parking violations). They may also handle preliminary (pre-indictment) felony proceedings.

The term of office for full-time City Court judges is 10 years, for part-time judges it is six years. District Court judges are elected to six-year terms.

In 2004, there were a total of 1,148,537 filings and 1,025,682 dispositions in the City and District Courts. Table 13 contains a breakdown of the filings by location and case-type. Figure 8 shows filings by case-type.



**Table 13**  
**CITY & DISTRICT COURTS: FILINGS BY CASE TYPE - 2004**

	Total Filings <b>1,148,537</b>						
<b>Location</b>	<b>Criminal</b>	<b>MV</b>	<b>Parking</b>	<b>Civil</b>	<b>Small Claims</b>	<b>L&amp;T</b>	<b>Commercial</b>
<b>TOTAL ONYC</b>	<b>285,404</b>	<b>416,675</b>	<b>153,533</b>	<b>171,140</b>	<b>34,604</b>	<b>74,997</b>	<b>12,184</b>
Albany	9,245	14,881	0	3,436	1,090	4,322	347
Amsterdam	1,043	3,113	0	531	176	130	60
Auburn	2,487	2,407	776	960	417	635	60
Batavia	1,192	2,015	226	399	148	89	59
Beacon	1,027	4,378	0	278	126	136	11
Binghamton	4,525	6,873	1,280	2,918	637	903	298
Buffalo	21,056	3,307	8	15,696	3,042	8,233	1,124
Canandaigua	600	1,946	0	859	81	92	40
Cohoes	1,236	3,017	0	348	68	251	13
Corning	806	1,871	526	613	102	55	54
Cortland	2,244	2,141	613	733	191	156	49
Dunkirk	1,373	1,289	345	348	176	109	36
Elmira	2,851	4,122	1,004	1,490	331	939	138
Fulton	939	2,184	38	979	137	150	37
Geneva	801	3,225	0	302	118	170	8
Glen Cove	629	3,628	2,719	11	105	94	28
Glen Falls	1,545	3,300	258	767	140	197	55
Gloversville	1,360	2,100	82	469	184	227	36
Hornell	566	1,502	0	186	110	202	26
Hudson	966	1,877	0	370	146	123	203
Ithaca	1,532	4,717	1,767	880	248	613	74
Jamestown	2,881	3,187	1,891	1,501	347	217	121
Johnstown	499	1,460	27	293	87	51	54
Kingston	2,381	5,043	79	904	249	641	227
Lackawanna	1,639	5,719	117	268	335	545	61
Little Falls	407	1,091	2	342	157	14	35
Lockport	1,810	4,461	0	1,186	277	152	41
Long Beach	1,802	2,973	18,635	8	126	235	25
Mechanicville	331	1,052	0	226	48	43	84
Middletown	1,566	4,643	252	1,349	296	565	179
Mount Vernon	6,241	10,569	0	2,327	433	2,076	184
Newburgh	4,379	5,916	777	1,868	223	1,189	75
New Rochelle	5,547	14,625	66,148	2,099	393	1,122	145
Niagara Falls	5,915	14,160	25,770	2,225	560	1,184	189
North Tonawanda	1,627	4,397	0	678	432	465	133
Norwich	586	714	113	483	120	38	67
Ogdensburg	1,177	1,116	0	859	143	69	161
Olean	1,014	2,731	188	408	164	107	64
Oneida	841	1,628	62	710	113	56	59
Oneonta	1,128	1,190	559	367	220	53	37
Oswego	1,541	3,277	325	982	205	69	39
Peekskill	3,154	4,449	0	510	137	349	29
Plattsburgh	1,551	6,863	0	853	377	209	86
Port Jervis	1,114	2,497	71	231	86	154	23
Poughkeepsie	4,637	7,556	1,266	1,275	399	1,086	209
Rensselaer	862	2,707	0	375	52	110	79
Rochester	17,400	7,088	0	11,298	2,920	6,416	629
Rome	2,178	6,437	438	1,229	264	464	25
Rye	480	5,274	0	81	57	17	84
Salamanca	753	1,037	0	102	72	32	4
Saratoga Springs	1,674	5,141	300	1,393	257	112	178
Schenectady	4,372	8,131	499	2,364	754	2,772	136
Sherrill	179	1,185	0	255	19	1	29
Syracuse	15,816	28,988	0	8,875	1,264	6,710	329
Tonawanda	1,113	3,618	0	439	269	63	6
Troy	3,244	10,762	910	1,188	351	4,533	77
Utica	6,937	10,749	2,001	2,327	552	716	210
Watertown	1,813	3,975	0	988	202	327	63
Watervliet	604	2,105	0	317	65	298	18
White Plains	4,620	21,543	1,754	988	644	927	249
Yonkers	11,090	31,272	0	3,841	851	8,138	290
Nassau District	30,289	18,092	0	38,906	5,951	6,553	2,032
Suffolk District	70,189	63,361	21,707	41,649	6,360	8,293	2,663

## Town and Village Courts

Town and Village Courts have criminal jurisdiction over violations and misdemeanors, and civil jurisdiction over claims of up to \$3,000 (including small claims cases not exceeding \$3,000). The majority of cases handled by the justice courts are criminal matters such as minor traffic offenses, drunk-driving cases and zoning violations. They may also handle preliminary proceedings in felony cases, which are tried in the county courts.

There are approximately 1,250 Town and Village Courts, presided over by approximately 2,000 justices who are elected for four-year terms. (Although there are

approximately 2,300 town and village justice positions, some individuals serve in more than one position.) Close to 75% of these justices are not attorneys (these new justices must complete a special training course). All justices must attend annual continuing judicial education programs. Most justice courts operate on a part-time basis, but justices can be called at any time of the day or night for an arraignment.

As Table 14 shows, the overwhelming majority of activity in each judicial district involves vehicle and traffic matters.

**Table 14**  
**Town and Village Court Activity\* - 2004**  
 (Data provided by New York State Comptroller's Office)

District	Civil	Criminal	Vehicle/Traffic	Total
<b>Total</b>	<b>54,241</b>	<b>326,354</b>	<b>1,802,318</b>	<b>2,182,913</b>
3 <sup>rd</sup>	6,841	38,876	214,006	259,723
4 <sup>th</sup>	6,627	41,926	206,012	254,565
5 <sup>th</sup>	4,505	33,885	174,648	213,038
6 <sup>th</sup>	4,751	31,518	134,757	171,026
7 <sup>th</sup>	7,678	40,150	190,613	238,441
8 <sup>th</sup>	7,887	52,143	324,435	384,465
9 <sup>th</sup>	13,475	60,734	396,407	470,616
10 <sup>th</sup> - Nassau	260	9,923	95,351	105,534
10 <sup>th</sup> - Suffolk	2,217	17,199	66,089	85,505

\*Cases involving more than one financial payment are counted each time a payment is made.

### PROBLEM-SOLVING COURTS

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

### Drug Treatment Courts

Drug Treatment Courts provide court-mandated substance abuse treatment to nonviolent addicted offenders, as well as to parents charged in Family Court child neglect cases and juveniles, in an effort to end the cycle of addiction and recidivism. Participants are subject to rigorous judicial monitoring. As of the end of 2004, there were 125 drug courts with a total of 6,412 open cases: 5,573 in criminal treatment courts and 839 in family drug treatment courts. See Chapter Three for additional information about these courts and the Office of Court Drug Treatment Programs.

### Domestic Violence Courts

Domestic Violence (DV) Courts were introduced in 1996 to handle cases of violence between intimates in an effort to enhance defendant accountability and increase victim safety. These courts handle felony and/or misdemeanor cases, bringing together a range of criminal justice and social service partners to provide a coordinated response to domestic violence. There are now 16 DV Courts around the state.

### Integrated Domestic Violence Courts

In 2001, the DV Court concept was taken a step further with the development of Integrated Domestic Violence (IDV) Courts, in which one judge is assigned to handle a victim's related cases where domestic violence is involved. Approximately 25% of criminal domestic violence cases also have a related case in another court.

Under this "one-family/one-judge" model, both criminal and civil matters, such as custody, visitation, civil protection orders and matrimonial actions, are handled by one judge, rather than various judges in different courts. This approach promotes better and more consistent judicial decision-making and requires fewer court appearances by the victim. At the end of 2004, there were 18 such courts in operation. See Chapter Two for additional information on IDV Courts.

Table 15 shows caseload activity for IDV Courts in 2004: 9,017 new cases were assigned, and 1,870 new families were added to their dockets. Figures 9 and 10 break down the filings by court of origin and case-type.

### Mental Health Courts

The first Mental Health Court was opened in Kings County Supreme Court in 2002. Where appropriate, this court links mentally ill offenders with court-monitored mental health treatment in an effort to provide offenders with structure and assistance in leading normal lives. Four additional Mental Health Courts began operation in 2004 in Bronx, Monroe, Niagara and Erie Counties. Planning is underway for courts in Suffolk, Clinton, Westchester and Queens Counties in 2005.

Figure 9 Integrated Domestic Violence Court Filings by Court of Origin - 2004

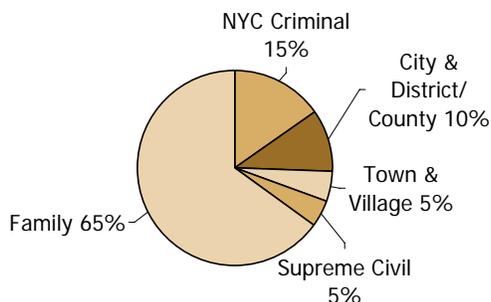
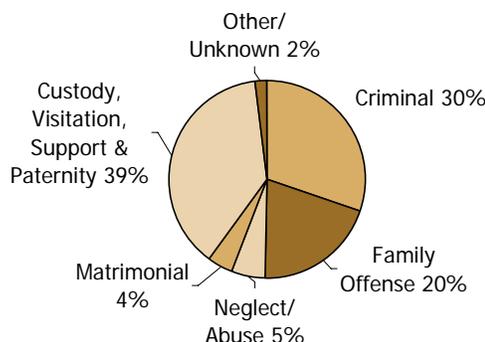


Figure 10 Integrated Domestic Violence Court Filings by Case Type - 2004



**Table 15**  
**CASELOAD ACTIVITY IN INTEGRATED DOMESTIC VIOLENCE COURTS\* - 2004**

County	Cases			New Families
	Filings	Dispositions	Pending	
<b>Total State</b>	<b>9,017</b>	<b>6,841</b>	<b>4,530</b>	<b>1,870</b>
Bronx	1,648	1,355	1,337	448
Cayuga	13	3	10	4
Clinton	274	243	34	46
Erie	779	480	317	188
Essex	69	60	11	12
Franklin	93	75	18	13
Monroe	959	622	382	197
Onondaga	488	296	275	117
Queens	1,190	874	414	286
Rensselaer	1,810	1,655	594	202
Richmond	302	208	118	76
Suffolk	768	726	338	134
Tompkins	281	179	113	55
Westchester	304	50	545	83
Wyoming	39	15	24	9

\*The Nassau, Schenectady and Yonkers IDV Courts are not included because they opened in late December 2004.

### Community Courts

New York's community courts bring together government agencies, local civic organizations, businesses, social service providers and community residents to solve neighborhood problems and spur local revitalization. New York is a national and international leader in the development of community courts, with courts being piloted or planned in nearly three dozen U.S. cities and several countries, including South Africa, Canada, Australia and the United Kingdom.

The Midtown Community Court, located in Manhattan, has been addressing quality-of-life issues since 1993. The court addresses nonviolent crimes such as prostitution, graffiti and illegal vending through community restitution and social service sentences. It also houses an adult job-placement program as well as a job-readiness program for young adults. Midtown handles an average of 22,000 cases a year.

The Red Hook Community Justice Center in Brooklyn was the nation's first multi-jurisdictional community court, with a single judge to hear criminal, housing and family cases. Red Hook provides an array of sanctions and services including community restitution projects, on-site job training, GED classes, conflict-resolution workshops and drug treatment—all rigorously

monitored by the court. It offers extensive services targeted at young people, including a substance abuse and HIV prevention program. It also runs a youth court. Researchers have found that neighborhood levels of fear and attitudes toward criminal justice agencies have improved significantly since the center opened in 2000.

The Harlem Community Justice Center in uptown Manhattan is a multi-jurisdictional community court hearing Housing Court cases as well as Family Court cases involving delinquency charges. Its initiatives focus on strengthening the court's relationship with the community and addressing local concerns such as youth crime, lack of affordable housing and the impact of offenders released from confinement. Programs help landlords and tenants resolve conflicts; provide at-risk youth with a community service corps, tutoring and mentor programs; and assist juvenile and adult offenders returning to the community.

The Hempstead Community Court, opened in 1999, covers Nassau County, focusing on New Castle, Roosevelt, Uniondale and the villages of Hempstead and Freeport. The Syracuse Community Court opened in 2003 and, like the Midtown court, is an experiment that addresses low-level crime. In 2004, the court's work crews performed over 2,200 hours of community restoration projects.

### COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM

The Unified Court System provides funding to a network of not-for-profit Community Dispute Resolution Centers (CDRCs). The grant program is administered, monitored and evaluated by the ADR Office. CDRCs provide a range of dispute resolution services including mediation, conciliation and arbitration as well as conflict resolution education. Matters are referred from the courts and local government and community-based agencies including police, departments of social services and probation. Parties can also contact CDRCs directly. CDRC staff screen each matter to determine if it is appropriate for dispute resolution services. Staff recommend a particular dispute resolution process and provide case management services from intake to final disposition, or, for matters deemed inappropriate, provide referrals to other community-based or government services.

The majority of matters are mediated, a process that gives parties the opportunity to negotiate solutions to their disagreements with the assistance of a trained neutral, the mediator. CDRCs provide mediation services in minor criminal, small claims, housing and family matters including PINS, child custody, visitation and divorce. Where a face-to-face meeting between parties is not necessary or desired, matters are “conciliated” by CDRC staff. Other matters are referred to arbitration, including consumer-merchant disputes, matrimonial property division issues and automobile Lemon Law cases.

In 2004, CDRCs served 108,553 people, resolving 80% of the matters in which dispute resolution services were provided. Family cases, or cases in which the parties were married, divorced, separated, immediate or extended family, domestic partners or parents of a common child, accounted for 9,417 or 21% of cases. On average, a single-hearing mediation or arbitration took 18 days from intake to final disposition. Complex cases, such as child custody and visitation, often require multiple sessions, which averaged 40 days from intake to final disposition.

(See Appendix C for the 2004 workload of the CDRCs by county.)

# Administration Highlights

## Overview

Under the New York State Constitution, the Chief Judge of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a Chief Administrative Judge of the Courts (or Chief Administrator) with the advice and consent of the Administrative Board of the Courts, which consists of the Chief Judge and the Presiding Justices of the four Appellate Divisions of the Supreme Court. The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board and approval by the Court of Appeals.

The Court of Appeals and the Appellate Divisions administer their respective courts. The Appellate Divisions also oversee appellate auxiliary operations, including candidate fitness for admission to the bar; attorney discipline; assigned counsel; law guardians; and the Mental Hygiene Legal Service.

The Chief Administrative Judge is responsible for supervising the administration and operation of the trial courts. In this task, the Chief Administrative Judge is assisted by the First Deputy Administrative Judge as well as two Deputy Chief Administrative Judges who oversee day-to-day court operations – one for the New York City courts and one for the courts outside New York City (including Town and Village Courts). There is also a Deputy Chief Administrative Judge for Justice Initiatives, a Deputy Chief Administrative Judge for Court Operations and Planning and a Statewide Administrative Judge for Matrimonial Matters (their work is outlined below).

The responsibility for on-site management of trial courts is vested in local Administrative Judges, one for each judicial district outside New York City and one for each major court within New York City. Administrative Judges manage court caseloads and are responsible for general administrative functions including personnel and budget matters.

The Chief Administrative Judge is also responsible for directing the Office of Court Administration, the administrative office for the courts, assisted by the First Deputy Chief Administrative Judge as well as the

Chief of Operations for OCA and the Administrative Director of OCA. Counsel to the Chief Administrative Judge directs the legal and legislative work of the Counsel's Office, which prepares and analyzes legislation, represents the UCS in litigation, staffs the Advisory Committees to the Chief Administrative Judge and provides other legal assistance. The work of Counsel's Office is reported in Chapter Four.

See Figure 11 for a complete diagram of the administrative structure and offices of the UCS, and visit the New York courts website for additional information, [www.nycourts.gov](http://www.nycourts.gov).

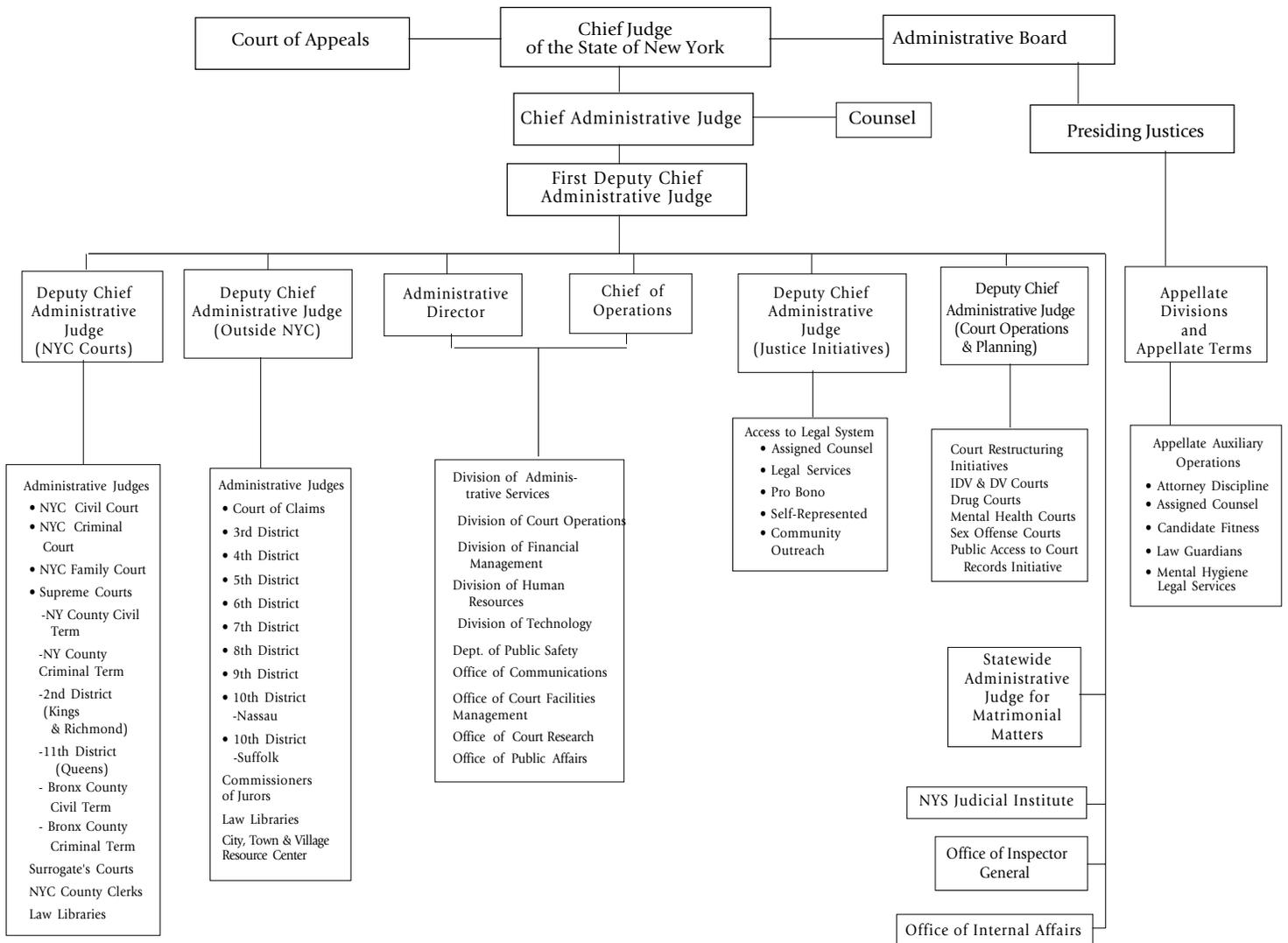
## Office of the Deputy Chief Administrative Judge for Justice Initiatives

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

At the forefront of the office's efforts this year was the release of a two-volume report "The Future of *Pro Bono* in New York," which proposes increasing voluntary participation with the establishment of a statewide system of local committees to oversee development and implementation of local action plans. Implementation of the proposal is expected in 2005.

The office partnered with the Law Help Consortium to integrate information from the court system's

**Figure 11**  
**UNIFIED COURT SYSTEM ADMINISTRATIVE STRUCTURE**



website for self-represented litigants (CourtHelp, [www.nycourthelp.gov](http://www.nycourthelp.gov)), which received nearly 250,000 visits in 2004, into [www.LawHelp.org](http://www.LawHelp.org), a website that provides legal, referral and client education information to advocates and clients. The office also partnered with community-based organizations in the Fourth and Ninth Judicial Districts to establish new Community Resource Centers where information about the courts can be obtained. The centers are housed in six public libraries in Clinton, Essex and Franklin Counties and two transitional housing shelters in Westchester County.

The office developed a full-day training program for judges and quasi-judicial personnel that explored courtroom dynamics, ethical issues and practical strategies relating to cases involving the self-represented. The program was presented to New York City Civil Court judges, New York State Family Court judges, support magistrates and court-attorney referees. Additional training is planned.

In the area of community education, the office worked with the Interfaith Center of New York, a nonprofit secular organization, to develop educational programs on the courts and justice system for religious leaders. In June, a full-day program was held in Kings County Supreme Court, with approximately 150 leaders from diverse backgrounds and traditions participating. In the fall, a Clergy Roundtable was established to facilitate regular meetings between judges and religious leaders to discuss issues of importance to religious communities.

## Office of the Deputy Chief Administrative Judge for Court Operations and Planning

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The Office of the Deputy Chief Administrative Judge for Court Operations and Planning, under the leadership of Hon. Judy Harris Kluger, is responsible for long-range planning for court reform and the direction and oversight of court restructuring projects and specialized courts, including developing policy for problem-solving courts. The office, established in 2002, oversees the state's Integrated Domestic Violence (IDV) Courts, Drug Courts (including the Office of Court Drug Treatment Programs), Domestic Violence (DV) Courts, Mental Health Courts, Sex Offense Courts, the new Bronx Criminal Division and the initiative involving public access to court records on the Internet.

Highlights of 2004 included the establishment of the Bronx Criminal Division, the opening of seven IDV Courts, four DV courts, 16 Drug Courts, and a pilot Sex Offense Court in Oswego County.

### • IDV Courts

The initial focus of the office was the statewide implementation of IDV Courts. Based on the one-family/one-judge concept, IDV Courts allow a single judge to hear related cases (criminal, family, matrimonial) involving a family where the underlying issue is domestic violence. The goal is to improve the justice system's treatment of families through fewer court appearances, more informed judicial decision-making and greater consistency in court orders. IDV Courts also ensure more intensive offender monitoring and accountability and enhanced access to services for victims and their families. See Chapter One for additional information about the work of the IDV Courts.

In 2004, seven IDV Courts opened, bringing the total number to 18. More than half of the state now lives in counties served by IDV Courts. Nine more are scheduled to open in 2005.

The office, working with the Center for Court Innovation (see Chapter Three) provides training and technical assistance for IDV Courts. Training occurs twice a year: in March, teams from newly-selected IDV Court locations attend a two-day planning program at the Judicial Institute; in September, IDV judges and their court attorneys are trained in substantive areas of law and domestic violence. Other programs this year included support magistrate training, technology training and training in handling abuse and neglect cases.

- **Drug Courts and the Office of Court Drug Treatment Programs (OCDTP)**

Drug Courts, including Family Treatment Courts, link eligible adult and juvenile offenders with treatment programs for drug and alcohol addiction. OCDTP has focused on building an infrastructure to support the planning, implementation and operation of drug courts statewide. There are 125 Drug Courts in operation and 66 Drug Courts in the planning stage. More than seven thousand people have graduated from Drug Courts and over six thousand people are active participants in these courts. See Chapter Three for additional information about OCDTP.

- **Bronx Criminal Division**

The Bronx Criminal Division, which reorganized criminal case processing in Bronx County, opened in November 2004. Aimed at reducing case backlogs and making more efficient use of court resources, the division eliminates the artificial barriers between Criminal Court and Supreme Court, Criminal Term. The newly consolidated criminal division maximizes the resources of the two courts and enhances the court system's response to the needs of the public. The division is an important step toward improving and streamlining the structure of the court system.

As part of the reorganization, the office, working with the Center for Court Innovation, participated in the planning process for Bronx Community Solutions, an initiative that will apply the problem-solving approach proven effective in community courts to appropriate cases.

- **Domestic Violence Courts**

In an effort to address the unique needs of families affected by domestic violence, these courts focus on providing services to victims and intensive judicial monitoring of offenders. There are 16 courts in operation and three more in the planning stage. The office assists the courts with operations and training. A best practices manual is under development.

- **Mental Health Courts**

Mental Health Courts aim to better assess and evaluate offenders with mental illness, link these offenders to appropriate mental health treatment and monitor their compliance in a consistent manner. There are five Mental Health Courts in operation in Kings, Bronx, Monroe, Niagara and Erie Counties; the goal is to double the number by the end of 2005. The development of a model for Mental Health Courts is underway.

- **Sex Offense Courts**

Sex Offense Courts seek to increase the supervision of sex offenders who are sentenced to probation. They use a combination of supervision and treatment to control offending behavior. The first court is in Oswego County, and planning has begun for courts in Nassau and Westchester Counties.

- **Public Access to Court Records**

The Commission on Public Access to Court Records delivered its report and recommendations to the Chief Judge in February 2004 ([www.nycourts.gov/reports](http://www.nycourts.gov/reports)). Under the direction of Judge Kluger and Ronald Younkens, Chief of Operations for OCA, the court system has begun examining ways to implement those recommendations and, specifically, ways to make public, through the Internet, a full complement of court decisions, calendars and selected case files while protecting litigants against the disclosure of nonpublic or highly sensitive information. See Chapter Three for information about the commission.

## Office of the Statewide Administrative Judge for Matrimonial Matters

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

The office is especially committed to focusing its resources on programs designed to minimize litigation in cases involving children. This year, a parenting form was adopted, which requires each parent in a contested custody matter to complete a detailed decision-making and scheduling plan for their children. This enables judges to identify areas of agreement and build on them to facilitate ultimate custody resolution. The office also implemented a pilot program in New York County Supreme Court to mediate post-judgment custody cases and helped create a mediation project for high-conflict custody cases.

To provide assistance to self-represented litigants in matrimonial actions, new forms for common applications were distributed to the Offices of the Self-Represented and the Offices of the Chief Clerk, and a glossary of terms commonly used in matrimonial actions was created. Both the forms and the glossary will be on the new website in a user-friendly format.

The office plays an active role in providing continuing education and training for judges and nonjudicial court personnel. In March 2004, the office provided a comprehensive two-day Matrimonial Seminar for judges and their court attorneys. In May, a renowned law professor conducted training on understanding complex financial documents in divorce cases. The office also worked closely with OCA

on a Fiduciary Seminar for matrimonial judges, which included the development of a handbook on the new rules governing fiduciary appointments.

In addition, the office provided training for judges and their staff on financial software; offered sessions at the annual summer judicial seminars; and participated in training for IDV court judges and staff. The office created a lending library of training materials for judges and staff newly assigned to matrimonial parts, along with a primer to educate new matrimonial judges on the basic principles of matrimonial law.

Pursuant to its responsibility to monitor the implementation of the 1993 Matrimonial Rules that govern case management and attorney-client relations, the office issued a comprehensive report in February 2004 on their effectiveness entitled, "The Matrimonial Rules - Ten Years Later." The report includes a statistical analysis of the improvements achieved in case management as a result of the rules' implementation.

## Offices of the Chief of Operations and the Administrative Director of OCA

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In 2004, the responsibilities of the position of Deputy Chief Administrative Judge or Administrator for Management Support were divided between the positions of Chief of Operations for OCA and Administrative Director of OCA. The former is responsible for long-term projects and initiatives, while the latter is responsible for day-to-day OCA operations. Together, they oversee the Divisions of Financial Management, Court Operations, Technology, Human Resources and Administrative Services; the Office of Court Research; Communications Office; Public Affairs Office; Office of Court Facilities Management; and Department of Public Safety.

### The Division of Financial Management - 2004-2005 Budget

The UCS's budget is based upon a fiscal year that runs from April 1 through March 31 of the following year. The Chief Administrative Judge presents the budget to the Court of Appeals for approval and for certification by the Chief Judge, after which it is transmitted to the Governor for inclusion in the state budget. The budget is submitted to the state Legislature by the Governor without revision, although recommendations may be included.

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

The Judiciary budget request submitted for the 2004-05 fiscal year was approved by the Legislature as submitted. A total of \$1.45 billion was appropriated for court and agency operations, reflecting a 2.7 percent increase over the previous year's allocation. In recognition of the serious deficit facing the state as a result of a delayed economic recovery, the budget request did not include any new nonjudicial positions.

It did include funding for increased security for court facilities as well as funds for Family Court initiatives such as support for increased workload associated with the Adoption and Safe Family Act; family treatment courts that address the growing problem of drug abuse and child neglect; and domestic violence parts. In addition, the budget provided funding for drug treatment courts being phased in throughout the state. Included in the court and agency operations base budget component were funds necessary to meet the court system's usual and normal budgetary requirements – support of current judgeships; payment of service increments and longevity awards to eligible employees in April 2004; continued automation for judges' chambers, courtrooms and operations offices under CourtNet; continued jury reform; and contractual services such as court security, automated legal reference access and law guardian representation. In addition, the budget included funds to provide an increased \$75 hourly rate, effective January 1, 2004, paid to panel law guardians representing juveniles in Family Court.

The funding provided in this budget ensures the operational capacity of trial courts to process caseloads while supporting the program of the Chief Judge and Chief Administrative Judge to achieve economy and efficiency through reducing the administrative overhead of the court system.

In addition to preparing and implementing the UCS's budget, the Division of Financial Management also develops fiscal policies and procedures and oversees the Central Payroll Office.

### Division of Court Operations

The Division of Court Operations provides services and support for the trial courts in a variety of areas, including records management, legal information, security administration and alternative dispute resolution. It also coordinates activities related to the Americans With Disabilities Act and the UCS Domestic Violence Policy as they impact on court operations. 2004 highlights included the following:

- **Office of Court Interpreting Services (OCIS)**

In 2004, the Office of Court Interpreting Services was incorporated into the Division of Court Operations. The coordinator of this office monitors and evaluates compliance with OCA standards, policies and procedures for interpreting services.

The accomplishments of the year included: an update of the Court Interpreter Manual; continued collaboration with the Office of Workforce Diversity in education and recruitment outreach efforts; systematic monitoring of voucher-paid services to insure compliance with court system policy; and development and coordination of a remote interpreting service available statewide through video and telephonic systems.

Working with the Office of Career Development, the Judicial Institute and others, OCIS designed and presented in-service workshops for court-employee interpreters of all languages, covering interpreting modes, ethics, rules, enhancement of language skills, and policies and procedures. Similar professional development for voucher-paid interpreters is being developed. Judiciary staff who interact with court interpreters will be offered training to give them a broader understanding of the interpreter's role.

- **Office of Alternative Dispute Resolution Programs**

The court system has steadily increased the availability of alternative dispute resolution processes as viable and efficient options to litigation. The Office of Alternative Dispute Resolution Programs works collaboratively with courts at every level to develop, maintain and evaluate court-annexed and community ADR programs offering arbitration, mediation, neutral evaluation and summary jury trials. For a complete list of New York's ADR programs, visit [www.nycourts.gov/ip/adr](http://www.nycourts.gov/ip/adr).

During 2004, the ADR Office focused especially on developing court-annexed ADR programs for families in Supreme and Family Courts. A custody and visitation mediation program, developed in collaboration with bench and bar, was launched in New York County Supreme Court in contested matrimonial cases

(excluding cases involving domestic violence), using professional mediators who provide *pro bono* services for an initial mediation session. The office also worked with Family Courts in New York City and Erie and Nassau Counties to integrate case coordination and mediation services for child custody and visitation matters into court operations, which involves early triage and case-screening.

The office continued its collaboration with the Permanent Judicial Commission on Justice for Children and the New York State Office of Children and Families Services to expand court-based child permanency mediation services. The pilot program in Kings County Family Court began expansion to Bronx, New York and Queens Counties. Planning and implementation are underway in Albany, Chemung, Erie, Monroe, Nassau, Niagara, Oneida, Rockland and Westchester Counties. A formal evaluation of these pilot programs is being conducted.

As part of its ongoing support to the Board of Governors for the Attorney-Client Fee Dispute Resolution Program, which offers arbitration of fee disputes in most civil cases, the ADR Office conducted training on behalf of local bar associations and judicial district administrative offices that serve as local program administrators. It developed a user-friendly database application to help local program administrators manage their caseload and report their workload to the board more efficiently. The program website, [www.nycourts.gov/admin/feedispute](http://www.nycourts.gov/admin/feedispute), is maintained by the ADR Office.

The office also oversees the Community Dispute Resolution Centers (CDRC) Program, which provides dispute resolution services in every county for minor civil, criminal and family matters referred by the courts and community agencies. The work of the CDRCs is included in Chapter One.

## **Division of Technology**

The Division of Technology (DoT) provides automation services for the Unified Court System, including software applications support, wide area and local area network support, and telephone, email and Internet

services. DoT also operates the statewide Domestic Violence Registry and a 24/7 Technical Support Center.

### **Software Applications**

DoT programming staff has written and maintains over thirty software applications supporting statewide case-processing systems and administrative applications. Implementation of a major initiative to create a centralized automated case-processing system – the Universal Case Management System (UCMS) – for all courts statewide continued, with the Family Court component installed last fall. Among 2004 enhancements were: a module for automatic case-transfers between courts; an automated one-step procedure by which courts dispose of a paternity case and create and calendar a support case; and the ability to email court calendars to other agencies and attach external pdf documents to a case file. Work is underway on the criminal and civil court components.

Other 2004 efforts included the fall deployment of a new automated system to support IDV Courts; an increase in the number of criminal drug courts (from 81 to 94) and family treatment courts (from 27 to 44) using the Universal Treatment Application (UTA), which supports the drug court initiative; and installation of the automated Kronos timekeeping system for over 5,000 court personnel, a Human Resources Division initiative to automate the time and leave system, to be completed in 2006.

DoT maintains websites that permit city, county, town and village courts to report criminal and traffic dispositions electronically and import electronic traffic ticket information automatically. During 2004, the number of courts reporting criminal dispositions through this website increased from 240 to 442; the number reporting traffic dispositions increased from 87 to 248; and the number electronically importing traffic tickets rose from 62 to 286.

The first phase of the Universal Budget System (UBS), a web-based automated application, was completed in 2004 and used in the 2005-2006 fiscal year budget preparation process.

### **Domestic Violence Registry**

The Domestic Violence Registry, established in 1995, collects all family offense orders of protection issued by the courts and transmits them to the New York State Police Information system (NYSPIN). In turn, NYSPIN transmits the data to the National Crime Information Center (NCIC). Last year, programming was completed to permit orders of protection to be added directly to the Registry through the Family Court UCMS component. In 2004, the courts submitted 179,721 orders to the Registry.

### **CourtNet**

The backbone of the court system's automation system is CourtNet, a high-speed network that extends to all court and administrative offices. It currently supports over 15,000 court employees at over 250 locations. Last year, the CourtNet backbone reached Buffalo, Rochester, Syracuse, Binghamton, Albany, Poughkeepsie and parts of New York City. This year, courthouses in Bronx, Long Island, Westchester and Albany were added to the 425-mile comprehensive optical fiber network.

The CourtNet-based videoconferencing system has expanded to at least one court location in all 62 counties. The system is used for court administration and training purposes as well as for limited inmate court "appearances." In 2004, approximately 7,500 such inmate "appearances" took place in New York City.

### **Telecommunications Services**

The telecommunications office traditionally provides telephone support for New York City courts. A major effort is underway to implement a voice-over IP phone system in all major courthouses throughout the state using the CourtNet network, to provide the courts with a more adaptable phone system—and the advantage of merging computer and telephone technologies (free long distance calls within the network; transmittal of telephone messages through the email system; and retention of the same telephone number if the user changes location). Last year, the systems were installed in Queens County Supreme

Court, New York County Family Court and all courts in Buffalo. This year, most courthouses in Manhattan and White Plains, as well as the UCS computer center in Troy, were added to the IP phone network.

### **Public Access Network**

This year, DoT began installing public access terminals in courthouses throughout the state, providing self-represented litigants with access to UCS's CourtHelp website and, in two pilot locations, allowing them to prepare their own petitions. Free Internet terminals began to be installed in juror-assembly rooms, and terminals were installed in 21 courts to permit attorneys to access information about pending criminal cases from the courts' automated Criminal Records and Information System. More public access terminals will be installed during the next few years.

### **Division of Human Resources**

The five operational offices of the Division of Human Resources provide personnel and employment-related support to the courts. The division is currently implementing an ambitious statewide human resources automation project beginning with the time and leave and personnel systems.

The *Personnel Office* administers the Judiciary's civil service system and oversees implementation of the classification plan. The *Employee Relations Office* oversees labor/management initiatives and negotiates and administers collective bargaining agreements with the 12 unions that represent nonjudicial personnel. The *Judiciary Benefits Office* works closely with Executive Branch agencies to administer health and retirement benefits and coordinates the supplemental benefits for judges and managerial and confidential employees.

The *Professional Development Center*, home to the Court Officers Academy and the Career Services Office, offers training and educational programs and provides resources and support for employee development. Building upon title-specific programs offered in previous years, newly-appointed court clerical employees sharpened their courtroom skills in a moot court environment and attended a notary training

program. Court managers attended seminars about new court system initiatives, administrative programs and legislative updates. Court reporters participated in the third annual professional development program, which concentrated on state-of-the-art technology and skill-building techniques. The professional development program designed to enhance work skills for employees serving in clerical support positions was in great demand. Programs on business writing and public speaking, and lunchtime workshops on resume-writing and interview skills, cosponsored by the Franklin A. Williams Minorities Commission, were offered to all nonjudicial employees.

Programs for middle managers and "Making the Transition," a program for employees recently promoted to positions with supervisory responsibility, were offered throughout the year. Also, in support of the newly-established Bronx County Criminal Division, Career Services facilitated the delivery of skills-based training programs and offered a program on managing change in the workplace.

In addition to basic recruit training, in-service and firearms training, the Court Officer's Academy delivered a two-day program to more than 150 uniformed personnel in the newly-classified Lieutenant title.

The *Workforce Diversity Office* offers recruitment and outreach initiatives and programs for judges and nonjudicial employees to ensure that the court system continues to meet its commitment to diversity. In 2004, the office retooled the Anti-Discrimination Panels and delivered training workshops for newly-appointed and veteran panel members.

This year the office welcomed the third year of Legal Fellows. This successful outreach program offers a one-year fellowship to law school graduates interested in pursuing a career in public service. Fellows gain hands-on experience in court operations and attend monthly seminars.

In coordination with the Personnel Office, the Workforce Diversity Office concluded an exhaustive review of the 2000 census results made available this year. This analysis will be used to develop local recruitment and outreach programs.

## Division of Administrative Services

The Division of Administrative Services provides support services to the trial courts and OCA, including key office management functions relating to the day-to-day operation of central and local administration; major purchasing and revenue-processing responsibilities; high-volume data-entry services and management of criminal history searches for private businesses and government agencies; management of various registration, certification and application processes;\* and oversight of the Continuing Legal Education Department.

### • Secure Pass Identification Cards

Since 2002, attorneys have been able to obtain a "Secure Pass" identification card valid for a two-year period. This ID card, designed with enhanced security features, provides attorneys with access to state courthouses without being subjected to magnetometer screening, while maintaining the highest level of courthouse security. There is a \$25 processing fee for the card, and the application process includes an electronic criminal history search. Similar cards are available, free of charge, to tenants of court facilities and to government agencies (from a pre-approved list) for employees who regularly work in court facilities. In 2004, the Secure Pass Unit issued a total of 10,052 Secure Pass ID cards and collected \$246,425 in processing fees.

### • Fiduciary Appointment Reporting Process

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

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\* See Appendix D for statistics relating to attorney registration; Appendix E for statistics relating to the criminal history search unit, retainer and closing statements, and adoption affidavits

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

At the end of 2004, over 5,600 applicants met the eligibility requirements and were placed on approved lists in all appointment categories. There were 11,587 notices of appointment filed by fiduciaries with the Chief Administrator in 2004. Under Section 35-a of the Judiciary Law, judges who approve the payment of a fee over \$500 for services performed by any person appointed by the court pursuant to Part 36 must file a statement of approval of compensation with OCA. In 2004, 6,558 such statements were filed.

In order to fulfill the obligation of the Chief Administrator to publish the names of all persons and entities appointed by each judge and the compensation approved for each appointee, a data base is available on the UCS website allowing the public to search and retrieve information contained in those records filed with OCA.

### • Continuing Legal Education

Newly admitted attorneys must complete 16 hours of accredited CLE in each of their first two years of admission. Attorneys admitted for more than two years must complete 24 hours every two years – a requirement that may be fulfilled in a variety of ways, including teaching or performing *pro bono* services.

In November 2004, the CLE Board hosted its first annual Accredited Provider Conference at the New York State Judicial Institute, offering an opportunity for providers from across the country to share ideas. CLE staff also conducted monthly information sessions for new providers. In addition, the CLE website ([www.nycouts.gov/attorneys/cle](http://www.nycouts.gov/attorneys/cle)) was redesigned and expanded in 2004.

## Court Facilities

New York court facilities are provided and operated by the cities and counties they serve. Since 1987, when the Court Facilities Act was passed – and the Court Facilities Incentive Aid Fund established – in response to a pervasive sense that facilities were increasingly inadequate, the UCS has provided guidance and financial assistance to local governments to help them meet this responsibility. The Act has been amended several times, in each case enhancing the state’s role and increasing the amount of financial assistance provided to localities. The result is that there are many new and substantially renovated court facilities throughout the state.

Two new major court facilities were completed in 2004: in Jefferson County, a former post office facility was renovated, expanded and converted into a new court complex, and in Westchester County, a new Family and County Court Annex opened.

Across the state, work continued on major court improvement projects. In Riverhead, construction of a new annex to the Supreme Court commenced. In Albany, construction of a new Family Court and a new County Court advanced rapidly. In New York City, construction of the two largest court facilities ever built in this state – the 84-courtroom Kings County Supreme/Criminal and Family Courthouse being built by a private developer and the 47-courtroom Bronx County Supreme/Criminal Courthouse being built by the State Dormitory Authority – continued on schedule. Planning and design also continued elsewhere, to meet court facility needs in various jurisdictions.

## Office of Public Affairs

In 2004, the Office of Public Affairs helped organize events commemorating the fiftieth anniversary of *Brown v. Board of Education*, including a video-conference that linked the Chief Judge and a panel of legal experts with high school students from five judicial districts and a program at the Bronx High School for Law, Government & Justice, featuring the Chief Judge, students and the New York City Department of Youth and Community Development.

As part of its role to foster public understanding of the Judiciary and build meaningful connections with local citizenry, Public Affairs launched two initiatives in 2004: an online public events calendar that lists noteworthy court happenings around the state, from educational seminars to public hearings, and an internship program that prepares high school, college and law school students to serve as “court ambassadors,” acquainting their peers and others with the New York State court system. The office also produced a forum for court employees entitled “Men and Women Working Together to End Domestic Violence.”

## Department of Public Safety

During 2004, the court system continued to take steps to ensure that its courthouses are always safe, open and accessible.

At the urging of the Unified Court System the Legislature enacted and the Governor signed legislation (L.2004, c.42) that directs the Disaster Preparedness Commission (DPC) and localities to expand their emergency planning to include considerations relating to the courts and to consult with the judiciary on matters of mutual concern. Specifically, state and local emergency planning must provide for the “continued effective operation of the criminal and civil justice systems.”

In furtherance of that mandate, OCA is working closely with the State Emergency Management Office (SEMO) to integrate the court system’s emergency planning and continuity of operations efforts with those of the state. Our Department of Public Safety is working with county and city governments to develop emergency response partnerships at the local level by participating in a variety of interagency drills and tabletop exercises.

A systematic program of emergency drills with multi-agency participation continues to be implemented around the state. These full-building evacuation drills, which bring the courts together with local OEMs and risk management, police and fire agencies, have identified and ameliorated issues affecting public safety in court facilities.

To ensure effective communications during emergencies, a 24/7 Command Center staffed by uniformed personnel was established in New York City. The center enhances our ability to monitor courthouse security and respond to court emergencies. The existing Mobile Security Patrol (MSP) program has been operationally integrated with the center and can be dispatched via radio wherever needed. The center also monitors secure information portals (national, state and local) that provide information on possible security vulnerabilities.

### **Office of Court Research**

The Office of Court Research provides caseload activity statistics and analysis, jury system support, and operations research services to all courts within the UCS. The office also maintains data relating to capital cases and provides caseload activity information to other agencies, the press and the public.

In addition, the office provides support to the Chief Judge's Jury System Improvement Project. In 2004, this effort included staffing the Jury Trial Project and implementing recommendations of the Commission on the Jury. The Jury Trial Project collected data from judges, jurors and attorneys in 112 trials to test the effectiveness of innovative jury trial practices such as juror note-taking. The work of the Commission on the Jury is described in Chapter Three.

In 2004, the office organized development of consistent juror orientation scripts for judges and nonjudicial personnel; monitored statewide utilization of summoned jurors; compiled statewide data on the civil and criminal voir dire process; worked on standardizing jury summonses in all counties; and developed a standardized *voir dire* questionnaire for criminal and civil trials. In conjunction with the Division of Technology, the office implemented technology enabling potential jurors throughout the state to complete qualification questionnaires by phone or by web. The office also worked to provide jurors in several counties with computer and free internet access. The office maintains the statewide jury website, [www.nyjuror.gov](http://www.nyjuror.gov), which in 2004 responded to more than 1,000 inquiries daily.

This year, the office worked with the Family Courts to develop an e-petition for use in visitation proceedings. By year's end, petitioners in four New York City counties could prepare their own visitation petitions using computer terminals at the courthouse. Expansion is planned to bring this technology to other Family Courts and petition-types.

# Program Highlights

*The diverse committees established and the numerous initiatives undertaken by the Unified Court System, under the leadership of the Chief Judge and Chief Administrative Judge, are integral to the effective operation and administration of the courts. This chapter highlights the accomplishments of both the permanent entities (Part I) and the ad hoc committees or commissions (Part II) in 2004.<sup>1</sup>*

## Part I

### **Center for Court Innovation**

*Office of Court Drug Treatment Programs*

*New York State Judicial Institute*

*Office of Guardian and Fiduciary Services*

*Parent Education Advisory Board*

*Advisory Committee on Judicial Ethics*

*Judicial Campaign Ethics Center*

*Franklin H. Williams Judicial Commission on Minorities*

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

*Permanent Judicial Commission on Justice for Children*

*Lawyer Assistance Trust*

*Ethics Commission for the Unified Court System*

### **Center for Court Innovation**

The Center for Court Innovation is a nonprofit think tank that serves as the independent research and development arm of the New York court system, promoting ongoing innovation and improving the judicial response to problems such as addiction, mental illness, domestic violence and juvenile delinquency.

The center's primary role is to help create demonstration projects that test new strategies and technologies in an effort to improve the way courts serve citizens (examples include the award-winning Mid-

town Community Court, Red Hook Community Justice Center and the Brooklyn Mental Health Court). The goal is to use these experiments as laboratories, where new ideas are field-tested and, if successful, implemented systemwide. In addition, the center documents results (and lessons) of innovation. It also shares lessons with other court systems, helping to keep New York at the cutting edge of court innovation around the country and the world.

Highlights from the center's work in 2004 include:

**Addressing Domestic Violence Among Teens:** In helping to launch the Youth Offender Domestic Violence Court in Brooklyn, the center sought to test how courts can better address the growing problem of dating violence among teenagers. The court promotes victim safety by linking victims to a specialized victim advocate, social services and other resources that address the unique needs of these teenagers. In 2004, the court worked with 244 offenders. Where appropriate, offenders were linked to a program designed to teach adolescent boys about healthy relationships and the effects of domestic violence. The court's long-term goal is to prevent offenders from continuing the cycle of violence into adulthood.

**Supporting Adult Domestic Violence Courts:** To further support the court system's role as a national leader in the fight against domestic violence, the center provided training and technical assistance to the state's growing number of adult Domestic Violence Courts and Integrated Domestic Violence Courts (the latter simplify the court process for domestic violence victims by bringing all cases involving a single family before one judge). Working with the Office of Deputy Chief Administrative Judge for Court Operations and Planning, Judy Harris Kluger, the center conducted 25 training programs across the state, involving 35 Domestic Violence Courts.

<sup>1</sup> The work of the standing advisory committees to the Chief Administrative Judge, established pursuant to Judiciary Law Sec. 212(1)(q), is covered in Chapter Four.

**Empowering Youth:** A Youth Justice Board was established to bring a youth perspective to juvenile justice policymaking. The board, comprised of 16 New York City teenagers, spent a year studying juvenile justice after school. The goal is to develop the leadership potential of participants, teaching them how public policy is made by actually engaging them in the process. The inaugural group elected to examine juvenile re-entry – the challenges confronting youth returning to New York City following placement in a state facility. After a period of rigorous research, the board drafted a report and presented it to the New York City Schools Chancellor, the Commissioner of the Office of Children and Family Services, and the Criminal Justice Coordinator of New York, among others.

**Research:** Researchers from the center conducted the first-ever study assessing the potential for transferring best practices from problem-solving courts to mainstream courts. The study found several elements – including links to treatment, direct interaction with litigants and judicial monitoring of offender compliance with alternative sanctions – that could be replicated outside of the specialized court setting at little or no cost. The center also published more than a dozen white papers and policy articles on topics such as community prosecution in rural jurisdictions, new approaches to youth dating violence, and the intersection of managed care and the courts, as well as *A Problem-Solving Revolution: Making Change Happen in State Courts*, a collection of essays about how to go to scale with problem-solving principles.

In 2005, the center plans to release major evaluations of the Brooklyn Mental Health Court, the Suffolk County Juvenile Drug Court, and the Suffolk County Integrated Domestic Violence Court. It will also test the impact of batterer-intervention programs and judicial monitoring on the recidivism of domestic violence offenders.

**Upstate Resources:** The center opened a satellite office in Syracuse to help spread the concept of problem-solving justice throughout the state. The office works with Judge Kluger's office to create a statewide infrastructure for the planning and implementation of problem-solving courts. Among other things, the office offers training; helps build stronger links between courts, service providers and other stakeholders; and disseminates the latest information about court innovation through a quarterly newsletter and one-on-one assistance.

**Recognition:** The Citizens Budget Commission awarded the center its Prize for Public Sector Innovation at a gala banquet attended by numerous public officials. Center projects continued to generate media attention, including major stories in the *ABA Journal*, *New York Sun*, *Village Voice*, *National Law Journal* and the *Guardian* in England, which has devoted several articles to the replication of the Red Hook Community Justice Center in Liverpool.

### **Office of Court Drug Treatment Programs**

The Office of Court Drug Treatment Programs (OCDTP), directed by Deputy Chief Administrative Judge for Court Operations and Planning Judy Harris Kluger, is responsible for developing and overseeing a statewide initiative to provide court-mandated substance abuse treatment to nonviolent addicted offenders, as well as parents charged in Family Court child neglect cases, in an effort to end the cycle of addiction and recidivism.

The mandate of the office, established in 2000, is to ensure that nonviolent addicted offenders brought before the courts will be offered an opportunity for treatment. The office is well on the way toward meeting this goal. As of December 31, 2004, there were 125 drug courts in operation: 79 in the criminal courts, 29 in family courts, 8 in the town and village courts, and 9 focused solely on juveniles. Another 66 community teams were actively engaged in the planning process to open new drug courts in the

coming year. At the end of 2004 there were 6,410 active participants in the court drug treatment program, with 7,883 successful graduates since the program began.

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

The OCDTP is working with a committee of drug court practitioners and the Center for Court Innovation to produce a *Best Practices* manual for the criminal drug treatment courts. A plan to provide an annual continuing education program for drug court judges and other team members has been established, and training is expected to begin in early 2005.

All treatment courts use a single data base, either the criminal or family model, which provides case management tools as well as the means to gather uniform statistical data. Such data was helpful to the Center for Court Innovation in its statewide evaluation of drug courts, which documented a significant decrease in recidivism rates realized by graduates of the drug treatment courts over the three-year term of the study.

Data on cost-savings is beginning to be collected. These savings are the result of graduates finding employment and reuniting with their children (as well as having drug-free babies), thus reducing the costs of social services and foster care. Additional savings are realized throughout the criminal justice system by a reduction in continued criminal activity.

For the future, the main focus of the office will become the institutionalization of the drug court program into the normal operational activities of the court system.

## **New York State Judicial Institute**

The New York State Judicial Institute is a year-round center for education and research designed to enhance the quality of the courts and ensure judicial excellence. Inaugurated on May 5, 2003, the JI is the first judicial research and training facility built by and for a state court system. In just a year and a half, it has hosted over 200 programs for judges, court attorneys and staff, spanning every major area of law and cutting-edge issues in judicial administration and public policy. The institute's calendar of events illustrates the blend of academics and practical training provided by faculty drawn from the bar, bench and educational institutions.

The year's highlights included a seminar on the scientific analysis of children's testimony, an in-depth exploration of re-entry and recidivism, and a groundbreaking event on bio-ethics and the law that brought together judges and physicians to examine the legal implications of bio-ethical issues that may appear before the courts.

Through a unique collaboration with Pace University Law School, on whose campus it is located, the institute hosted the first North American convocation on environmental law. The three-day program was also sponsored by the United Nations Environment Program and the World Conservation Union. Distinguished members of the judiciary from across the globe attended, including Sir Robert Carnwath CVO, Lord Justice of Appeal for England and Wales, and Chief Justice Marie Madouh of the Egyptian Supreme Constitutional Court. The program also drew judges from Australia, Belgium, Croatia, Canada, Mexico, South Africa, the Caribbean and the United States, as well as practitioners from around the world.

In April 2004, a Lunch and Learn Series was launched – a one-hour lunchtime program broadcasting live presentations to courthouse sites around the state. Program topics have included mental health and substance abuse issues pertinent to the criminal justice system; the science and admissibility of field sobriety tests in DWI cases; recent developments in civil

practice; and the applicability and benefits of summary jury trials.

The institute provided seven judicial summer seminar programs at five sites and legal updates to court attorneys and law secretaries on compulsory ethics topics as well as major developments in areas of law germane to their courts. The JI also provided a comprehensive week-long training to newly-elected and appointed judges and hosted several series of court-specific trainings.

The 2005 schedule includes issue-specific programs such as eyewitness identification and e-discovery; a collaboration with Pace Law School on public health emergencies and responses; and international symposiums.

### **Office of Guardian and Fiduciary Services**

The Office of Guardian and Fiduciary Services (GFS), established in January 2001, serves as a resource for judges, court personnel, fiduciaries, attorneys and the public in the areas of guardianship practice and fiduciary appointment. The office continues to develop and evaluate education and training programs, as mandated by the Rules of the Chief Judge. This year, GFS organized, certified and participated in many programs throughout the state, including those for guardians, court evaluators, counsel for alleged incapacitated persons, court examiners, law guardians, receivers, supplemental needs trustees and guardians *ad litem*. Special programs were conducted on fiduciary appointment issues for matrimonial judges as well as court attorneys and fiduciary clerks.

GFS continued its focus on the needs of individuals who are the subject of guardianship. In order to improve the standards of guardianship practice, Article 81 educational programs were provided for judges who preside over guardianship proceedings and their court attorneys, as well as the bar and the public. Investigation and integration of community resources and guardianship needs is an ongoing task for the office.

GFS and the Committee on Matrimonial Practice produced a pamphlet that answers frequently asked questions about the impact of Part 36 of the Rules of the Chief Judge on matrimonial and domestic relations practice. The office also assisted in developing official forms to conform privately paid law guardian appointments with the provisions of Part 36. The pamphlet and forms are available at the GFS website ([www.nycourts.gov/ip/gfs](http://www.nycourts.gov/ip/gfs)), a popular resource for the courts and the public, containing information on all aspects of the fiduciary appointment system including an extensive case compendium, statutory amendments and commentaries on guardianship practice and procedure, training schedules, reports and reference materials as well as a link to appointment and compensation data.

### **Parent Education Advisory Board**

In 2001, Chief Judge Kaye established the Parent Education and Awareness Program to inform judges and others about the benefits of parent education for individuals going through a divorce and to increase utilization of this resource. At the same time, she appointed the Parent Education Advisory Board, chaired by Supreme Court Justice Evelyn Frazee of Rochester, to develop uniform standards for parent education programs to which courts make referrals and to oversee their implementation. After a two-year study, the board issued a report in October 2003 in which it established a statewide system of certification and monitoring, setting forth standards that parent education programs must meet in order to receive court referrals.

In fall 2004, a series of Lunch & Learn seminars to educate and train judicial officers and district liaisons were held around the state. Feedback from these sessions led to several revisions in the board's recommendations. In 2005, the board will offer training for providers on new curriculum guidelines and continued education and training for judges and nonjudicial staff. The complete implementation of this child-centered program next year will help promote children's healthy adjustment and development by

educating parents about what they can do to help their children during this transitional time in their family.

### **Advisory Committee on Judicial Ethics**

The Advisory Committee on Judicial Ethics, established by statute in 1987, issues advisory opinions to judges and justices, upon request, concerning issues of “ethical conduct or proper execution of judicial duties” as well as “possible conflicts between private interests and official duties” (Judiciary Law Sec. 212[[2][1])). To date, more than 2,000 opinions have been issued and are available in periodically published volumes and at [www.nycourts.gov/search/ethics-opinions.asp](http://www.nycourts.gov/search/ethics-opinions.asp). Last year, the committee issued a *Judicial Campaign Ethics Handbook* to advise judicial candidates concerning ethical issues and constraints involved in campaign activity. This year, a subcommittee of five members was created to work with the newly established Judicial Campaign Ethics Center in providing quick responses to judicial candidates with questions about campaign ethics.

### **Judicial Campaign Ethics Center**

The Judicial Campaign Ethics Center, which opened in fall 2004, serves as a central resource on campaign ethics for all judicial candidates and provides the public with information about the judicial election process. The establishment of the JCEC was first recommended by the Commission to Promote Public Confidence in Judicial Elections in its December 2003 report (see Part II of this chapter). Candidates may call or write for answers to questions about prospective campaign activity.

The center’s website will go live in early 2005 ([www.nycourts.gov/ip/jcec](http://www.nycourts.gov/ip/jcec)), providing a link to opinions of the Advisory Committee on Judicial Ethics as well as information relevant to judicial candidates and the public.

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

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

The commission works to achieve those goals through regular dialogue and frequent meetings with the Chief Judge as well as with administrative judges, bar associations, fraternal organizations within the courts and its own Buffalo Advisory Committee. The commission also meets with the executive assistants from the upstate judicial districts to determine their outreach and promotional efforts for minorities during the year.

The commission conducts an extensive outreach program to increase awareness of the courts and focus attention on job opportunities in the courts. It also collects data and statistics on minority hiring and promotional practices and analyzes data from the Office of Workforce Diversity and the Office of the Inspector General.

In May 2004, the commission convened Part II of the “Leadership Development Conference: Courts for the 21<sup>st</sup> Century” for the upstate judicial districts. The conference brought 81 minorities and court decision makers together to discuss issues impacting minorities within the court system. It was the second step in the commission’s effort to review the representation of minorities in nonjudicial positions and recommend ways to address underrepresentation where it exists. There were panel discussions on the promotion process and on the functions of the Workforce Diversity Office and the Office of the Inspector General for Bias Matters, followed by three workshops: Perception of Bias; Promotional Opportunities; and Embracing Leadership for a Competitive Advantage. The conference also included a historical review of the commission.

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

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

Education – through publications, conferences and training programs – is a mainstay of the committee’s work. Many of the committee’s efforts this year have focused on domestic violence. The committee readied for publication the fourth edition of the *Lawyer’s Manual on Domestic Violence: Representing the Victim*, a book produced under the auspices of the Appellate Division, First Department. Concerned about the problems of mental health evaluations for domestic violence victims, the committee studied the use of forensic experts in custody litigation and prepared a half-day presentation for matrimonial judges exploring the benefits and pitfalls of current practices. The committee has also begun to analyze commercial sexual exploitation as a form of violence against women and to work with a newly-formed court committee to present judicial education on prostitution and human trafficking.

As a cosponsor with the Lawyers’ Committee Against Domestic Violence and the Appellate Division, First Department, the committee played a major role in organizing the annual two-day conference at Fordham Law School for domestic violence advocates; this year’s conference addressed human trafficking and prostitution.

The committee continued to provide support to local gender bias and gender fairness committee activities, including programs for Domestic Violence Awareness Month and Women’s History Month. In April, at the annual statewide meeting for the chairs of local committees, Chief Judge Kaye was honored for her role as a trailblazer for New York women.

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

The Permanent Judicial Commission on Justice for Children works to address the problems of children whose lives and life chances are affected by the courts. The commission develops initiatives to improve the court outcome for these children, to assess and improve child-protective proceedings and to help children and their families obtain vital services. The commission’s projects seek to highlight the connection between preventative services, healthy development and permanency.

The commission operates 31 Children’s Centers in courts across the state that collectively served 51,200 children in 2004. The Literacy Program, in partnership with a federal program, Reading is Fundamental, continued to provide new books for children in centers in the Eighth and Ninth Judicial Districts. Private donations help obtain books for all centers.

The Court Improvement Project (CIP), administered by the commission, focuses on improving the handling of child abuse and neglect cases. In 2004, the CIP funded a number of local projects across the state, including in Erie, Monroe, Oneida, Albany and Nassau Counties. Working in close collaboration with the New York State Office of Children and Family Services (OCFS), the CIP planned and conducted “Sharing Success Two,” a series of eleven local forums for Family Court judges, court staff, and local social services commissioners and staff. A total of 786 individuals attended these forums. In cooperation with OCFS and the UCS ADR Office, the CIP funded child welfare permanency mediation projects in Albany, Chemung, Erie, Monroe, Oneida and Westchester Counties.

With a grant from the New York Community Trust, the commission’s “Babies Can’t Wait” project provided early childhood expertise to the New York City Family Court. In addition Erie, Nassau and Monroe County Family Courts each launched a “Babies Can’t Wait” project, leading off with a core curriculum covering the medical, developmental and emotional needs of infants. To connect children to

vital early intervention services, the commission wrote "Opening the Door to Early Intervention for Abused and Neglected Children: A New CAPTA Requirement," published in the *ABA Child Law Practice*.

The commission also published *Education Matters: Addressing the Educational Needs of Children in Foster Care* and conducted multi-disciplinary training on education for children in foster care in a number of jurisdictions including Albany, Poughkeepsie, White Plains, Rochester and Buffalo.

### **Lawyer Assistance Trust**

Established in 2001 to bring statewide resources and awareness to the prevention and treatment of alcohol and substance abuse among attorneys, judges, law faculty and students, the Lawyer Assistance Trust is governed by a 21-member board and funded through attorney registration fees (see Appendix D).

A highlight of 2004 programming was a conference on "Substance Abuse in the Legal Profession: the Local Response," cosponsored by several bar associations. The program examined the role of the organized bar and the judiciary in addressing alcohol and substance abuse in the profession. The trust's new brochure, "Model Lawyer Assistance Program Initiatives," was distributed at the conference.

Implementing initiatives recommended at its 2003 law school conference, the trust developed a course module on the topic "Substance Abuse, Stress, Mental Health and the Legal Profession," designed to facilitate the teaching of alcohol and substance abuse issues in Professional Responsibility/Legal Ethics law school courses. The curriculum (including videos, selected readings and a teacher's guide) was distributed to New York law school deans and professors.

Other 2004 highlights: the first-ever meeting of upstate law school student services professionals at Syracuse Law School to discuss options for program services and utilizing student LAP representatives; completion of the Video Project (distribution of two videos about struggles with alcoholism and addiction to 161 local and speciality bar associations); and

creation of two print advertisements about lawyer assistance services.

The trust's Grant Program awarded \$51,130 this year to five bar associations to support a variety of programs and services. Bar associations, bar foundations and law schools are eligible to apply for such funding for education, research, and prevention and treatment efforts.

This year, the Third Department adopted rules authorizing the option of diversion to a court-approved monitoring program for attorneys with alcohol or substance abuse problems who are involved in disciplinary proceedings. The Fourth Department adopted similar rules in 2003, and the Second Department currently has such rules under consideration.

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

In order to help preserve the integrity of governmental institutions, New York State requires that all public employees disclose potential areas of conflict of interest resulting from private activities. All judges and justices, officers and employees of the courts who receive annual compensation at or above a specified statutory filing rate, or hold policy-making positions, must file annual financial disclosure statements setting forth detailed personal and financial information. The information contained in the statements is available for public inspection, except for the categories of value and amount, the names of unemancipated children and any information deleted by the commission at the request of the filer. In filing year 2004 (reporting year 2003), the filing rate was \$70,851, and approximately 4,800 employees were required to file financial disclosure statements.

Since 1990, the UCS Ethics Commission has been responsible for administering the distribution, collection, review and maintenance of financial disclosure statements. In 2004, the commission consisted of two judges, one law school dean and two attorneys in private practice.

The commission posted new forms in 2004 (for filings due in 2005) on its website, [www.nycourts.gov/ip/ethics](http://www.nycourts.gov/ip/ethics). A first step toward electronic filing, these forms can be completed online, then printed, signed and sent to the commission. The filing instructions were also revised, using “plain English,” and a “Quick Filing Guide” is now available.

## Part II

### *Commission to Promote Public Confidence in Judicial Elections*

#### *Commission on the Jury*

#### *Commission on Fiduciary Appointments*

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

#### *Matrimonial Commission*

#### *Commission to Examine Solo and Small Firm Practice*

#### *Commission on the Future of Indigent Defense Services*

### **Commission to Promote Public Confidence in Judicial Elections**

The Commission to Promote Public Confidence in Judicial Elections, chaired by John D. Feerick, Esq., was established in January 2003 to undertake an examination of the state’s judicial election process and make recommendations to promote dignified judicial campaigns and an independent and impartially elected judiciary.

The commission issued its first report in December 2003 and a second in June 2004, recommending both short- and long-term measures to improve the judicial elective system. The commission found that the state’s elected judiciary is overwhelmingly well-qualified, hard working and dedicated to the highest ethical standards. It also identified five aspects of judicial elections that threaten public confidence in the independence and impartiality of the courts: campaign speech and conduct, campaign finance, political party influence over candidate selection, lack of voter participation and lack of candidate diversity. To address these issues, the reports contain more than twenty recommendations, including.

- Independent Judicial Election Qualifications Commissions in each judicial district to pre-screen judicial candidates and ensure that they are well qualified. The public is frequently unaware of who is running for judicial office and is even less informed about the qualifications and experience of candidates. Leaders of all three branches of government would appoint the commission members.
- Electronic filing of judicial campaign finance disclosures with OCA, available to the public on the Internet.
- Legislation to establish public campaign financing for judicial races (to reduce the influence of private contributions).
- Legislation to adopt a system of noncompetitive, nonpartisan retention elections for qualified incumbent judges running for re-election.
- Rules limiting how much judicial candidates can spend to attend political functions and restricting the use of campaign contributions or personal funds to pay for campaign-related goods or services for which fair value is not received.

Another recommendation, to create a resource center where judicial candidates can get quick responses to ethics questions, resulted in the opening of the Judicial Campaign Ethics Center (see Part I) in fall 2004.

Those recommendations involving amendments to the rules governing judicial conduct have been forwarded to the Court of Appeals for approval.

### **Commission on the Jury**

The Commission on the Jury was established in spring 2003, after a study revealed that 82 percent of New Yorkers called for jury service are never selected to serve. The commission was charged with finding better ways to utilize the time of citizens who report for jury service and building on the reforms made in the past decade following the 1994 Jury Project report, which recommended many ways to improve jury service.

In June 2004, the commission made numerous recommendations for more effective utilization of

juror time. A major improvement will be the increase in time between successive calls to jury service: six years instead of four, with eight years off for those who serve more than ten days. Other proposals include: implementing a stand-by call-in system for jurors who are available within two hours by beeper or phone; sanctioning attorneys for multiple unexcused lateness to ensure cases proceed according to schedule; requiring mandatory settlement conferences before jury selection to prevent jurors being used as bargaining tools; developing new guidelines in order to better estimate how many jurors to call; expanding juror questionnaires to make oral *voir dire* more efficient; and offering free Internet access during waiting periods. (See Chapter Two, Office of Court Research, for implementation efforts.)

### **Commission on Fiduciary Appointments**

New York courts have long appointed private individuals or fiduciaries to assist judges and litigants in various capacities. Fiduciaries generally are awarded fees from the assets and income of the persons or property they represent or manage. In 2000, the Commission on Fiduciary Appointments was appointed in response to a series of abuses in this area. Its 2001 report contained recommendations that led to an overhaul of New York's fiduciary selection process.

In January 2004, Chief Judge Kaye formally asked the commission to reconvene to review the progress of the new reforms and consider additional issues not addressed in its first report. A second report will be released in February 2005 and will focus on strengthening court oversight of guardians and counsel to the public administrator. The recommendations are expected to address: court review of the work of court examiners (fiduciaries who oversee guardians); stronger evaluation processes; and standardized forms and procedures to improve the thoroughness with which guardians' accountings are reviewed.

The commission is also expected to make recommendations bringing greater accountability and

transparency to the office of the public administrator, which acts as the fiduciary of estates where no person is eligible and available to serve as an administrator or executor, and to the counsel to the public administrator.

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

Chief Judge Kaye established the Commission on Public Access to Court Records in 2002 to help develop a comprehensive policy for Internet access to court records. After reviewing established court practices and policies, as well as applicable state and federal law, and considering the balance between public access to court records and privacy interests, the commission issued a report in February 2004 recommending that information already deemed public in court files be subjected to no greater restriction when placed on the Internet. The commission also proposed that court records – paper or electronic – not include certain kinds of information such as social security numbers, financial account numbers, names of minor children or birth dates, to protect the privacy and security of individuals. Compliance with these restrictions would be the responsibility of litigants or attorneys. Pilot programs are expected to begin that will make case information available online on a prospective basis.

### **Matrimonial Commission**

The Matrimonial Commission was appointed in June 2004 and charged with examining every facet of the divorce process and recommending reforms to correct existing problems. Chaired by Associate Justice Sondra Miller of the Appellate Division, Second Department, the panel will consider, among other topics, the many complex issues involved in custody disputes, including the role and qualifications of forensics experts and law guardians. The formation of the commission represented the latest in the court system's efforts concerning matrimonial litigation. In a January 2004 report issued by the Office of the Statewide Administrative Judge for Matrimonial Matters, the

1993 rules governing matrimonial litigation were found to have produced considerable advancements, such as major reductions in case-resolution times, but the report also identified persisting problems, particularly in the area of custody litigation.

The commission held public hearings in New York City and Albany, with three additional hearings scheduled in 2005 in White Plains, Buffalo and New York City. There will continue to be substantial outreach to and meetings with family law sections of state, local and specialty bar associations, former litigants, judicial associations and other stakeholders. Among the numerous issues being considered by the commission are interim counsel fees, enforcement of court orders and custody resolution, the use of alternative dispute resolution measures, provision of parent education programs and no-fault legislation. The commission expects to report its findings by the end of 2005.

### **Commission to Examine Solo and Small Firm Practice**

The Commission to Examine Solo and Small Firm Practice, appointed in April 2004, has been asked to examine the unique challenges faced by solo and small firm practitioners and make recommendations for improvements to facilitate their practice in the New York courts. The commission consists of thirty such practitioners from across the state and is chaired by June Castellano, Esq., a Rochester solo practitioner. It is divided into five subcommittees: Case Processing and Scheduling; Attorney Regulation; Technology; Strengthening the Profession; and Law Office Economics.

In December 2004, the commission held its first public hearing in New York City; additional hearings will be held in Albany and Rochester in January 2005. The commission is developing a survey to be distributed by bar associations and made available in courthouses statewide to provide interested parties the opportunity to comment and submit suggestions. The commission is expected to release its report and recommendations in the summer of 2005.

### **Commission on the Future of Indigent Defense Services**

The New York State Commission on the Future of Indigent Defense Services is charged with performing a top-to-bottom examination of the state's criminal indigent defense system and developing a blueprint for reform. Chaired by former New York State Supreme Court Justice Burton Roberts and Professor William Hellerstein, the commission will examine, among other things, the current method of funding indigent defense services, the effectiveness of the various types of criminal defense systems in use throughout the state, the quality of representation afforded indigent criminal defendants, the adequacy of the training received by the attorneys who deliver these services, and the availability and quality of ancillary resources such as investigative and interpretive services.

Four public hearings are scheduled for 2005, as well as extensive follow-up interviews. In preparation for the hearings, the commission conducted a survey of indigent defense systems in other states and gathered data on funding and caseloads from various defenders in New York.

# Legislation and Rules

*This chapter provides a summary of the Judiciary's 2004 legislative agenda and the work of the five standing advisory committees to the Chief Administrative Judge. The full text of the legislative program and the annual reports of each of the committees may be found online at <http://www.nycourts.gov/ip/judiciary/legislative/index.shtml#a>.*

## Counsel's Office

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

The office drafts legislative measures to implement recommendations made by the Chief Judge in the State of the Judiciary message, as well as required UCS measures, including budget requests, adjustments in judicial compensation and implementation of collective bargaining agreements negotiated with court employee unions pursuant to the Taylor Law. Counsel's Office consults frequently with legislators, legislative committee staff and the Governor's Counsel to generate support for the Judiciary's legislative program and provide technical assistance in the development of court-related proposals initiated by the executive and legislative branches.

Counsel's Office also staffs the Chief Administrative Judge's advisory committees on civil practice, criminal law and procedure, family law, estates and trusts, and the local courts (see below).

During the 2004 legislative session, Counsel's Office, with the assistance of the advisory committees, prepared and submitted 33 new measures. This was in addition to 134 measures prepared during the 2003 session, which remained active for consideration in 2004. Of these measures, 14 were enacted into law. Counsel's Office also furnished the Governor's Counsel with analyses and recommendations on 49 measures awaiting executive action.

## Work of the Advisory Committees

The five advisory committees annually submit legislative proposals to the Chief Administrative Judge. When approved by the latter, they are transmitted to the Legislature in bill form, for sponsors and legislative consideration. These committees also submit recommendations to the Chief Administrative Judge on other legislative proposals. These recommendations may then be relayed through counsel to the Legislature and the Executive.

For each advisory committee, the proposals enacted during the 2004 legislative session are listed below, as well as highlights of their 2005 agenda.

### Advisory Committee on Civil Practice

*Three proposals enacted:* to clarify the applicable statute of limitations for a claim based upon fraud (L.2004, c.403); to speed up access to medical records needed for litigation (L.2004, c.634); and to expand the New York State Unified Court System's e-filing pilot to new locales and case-types (L.2004, c.384)

*Highlights for 2005:* reauthorization and expansion of the e-filing pilot; expansion of expert disclosure in commercial cases; and clarification of the law governing collateral source payments in the settlement of certain tort actions.

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

*Two proposals enacted:* to add a new §180.85 to the CPL, authorizing a local criminal court or superior court to terminate a prosecution, on consent of the parties, where a felony complaint has been pending for at least one year from arraignment without Grand Jury action or other disposition of the charges (L.2004, c.518); and to amend Correction Law §803(1)(d) specifying that an otherwise eligible inmate serving an indeterminate sentence with a minimum term of “one year or more” may earn a merit time allowance under that section (L.2004, c.553).

In addition, as part of a comprehensive drug law reform measure (L.2004, c.738), the Legislature enacted into law versions of two committee bills: Penal Law §70.06(2) was amended to clarify that a defendant on parole or conditional release from a previously imposed felony sentence is not thereby rendered ineligible for a sentence of parole supervision under CPL §410.91; and Penal Law §70.45(2) was amended to, inter alia, eliminate the “default” mechanism for determining the post-release supervision period for certain violent felony offenders.

*Highlights for 2005:* creating a “bona fide researcher” exception to the CPL sealing requirements (empowering the Chief Administrator to provide by rule for the release of sealed records for bona fide noncommercial research purposes, e.g., to give researchers evaluating New York’s “specialized” courts access to relevant information); and permitting all ineffective assistance of counsel claims to be raised on collateral review (following the federal system and the majority of other states on this issue, CPL §440.10(2) would be amended to remove existing procedural bars to collateral review of such claims).

Other highlights are: permitting “nunc pro tunc” license sanctions under VTL §1193 in certain drug court cases (where the license suspension during the treatment period was for at least six months);

amending CPL §160.55 to prohibit release of noncriminal dispositions (e.g., convictions for traffic infractions or violations) on OCA’s electronic statewide criminal history database (by requiring OCA to delete references to such dispositions from “search results” returned to customers of its electronic search service since other official records of such dispositions are generally sealed); and (by court rule) requiring justice courts to take affirmative steps to effectuate a defendant’s right to counsel where bail has been set or defendant remanded at the initial appearance.

## **Family Court Advisory and Rules Committee**

*Two proposals enacted:* to add unreimbursed medical expenses to the restitution an adjudicated delinquent may be ordered to pay and to require that such expenses be included in the victim impact statement prepared for dispositional hearings (L.2004, c.317); and to clarify that Family Court support magistrates are authorized to adjudicate the vast majority of paternity proceedings (contested and uncontested), except those involving an equitable estoppel defense, and provide that support magistrate willfulness determinations recommending incarceration are not subject to the 30-day objection process, but have no force or effect until and unless confirmed by Family Court judges (L.2004, c.336). This measure will expedite enforcement of child support orders by permitting prompt confirmation hearings by judges.

In addition, the committee’s efforts were capped by its successful child welfare roundtable at the New York State Judicial Institute, presided over by the Chief Judge and attended by representatives of all three branches of government, as well as advocates for parents, children and child welfare agencies. The high level of consensus achieved will facilitate progress in efforts to improve New York’s compliance with the federal Adoption and Safe Families Act. The legislation discussed at the roundtable, including numerous committee proposals, will be the focus of

the committee's efforts in 2005, including follow-up roundtables.

*Highlights for 2005:* compliance with court orders in child welfare proceedings; stays of administrative fair hearings regarding child abuse and neglect reports; termination of parental rights on the grounds of homicide; duration of orders of probation in family offense cases (to parallel duration of orders of protection); and orders of protection in termination of parental rights and permanency proceedings (in conjunction with dispositional orders).

### **Surrogate's Court Advisory Committee**

*Two proposals enacted:* adding Section 7-1.19 to the Estates, Powers and Trust Law (EPTL) to permit, on application to the Surrogate's Court, the early termination of certain uneconomical trusts (L. 2004, c.359); and amending Section 10-10-1 of the EPTL to clarify that a trustee's power to make discretionary distributions, of income or principal, to herself or himself as a beneficiary does not create an inadvertent federal tax conflict (L.2004, c.82).

*Highlights for 2005:* clarification of "after-born" child; renunciation of specific compensation in favor of statutory commissions; and incorporation by reference, as a testamentary trust.

### **Local Courts Advisory Committee**

*Highlights for 2005:* clarification of commencement of thirty-day period for filing supporting depositions; expansion of equity jurisdiction in local courts outside New York City; authorization for usage of credit card to post bail; and clarification of procedural measures relating to DMV electronic ticketing program.

## **Judiciary Measures Enacted into Law in 2004\***

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**Chapter 16** (Senate bill 6524). Amends section 2 of chapter 51 of the Laws of 2003 to enact the court system's 2003-2004 deficiency appropriation request. Eff. 3/17/04 and deemed to have been effective since April 1, 2003.

**Chapter 42** (Assembly bill 8130-A). Amends sections 21, 22 and 23 of the Executive Law in relation to disaster contingencies and preparedness planning for the Judiciary by expressly directing the Disaster Preparedness Commission to consult with the Chief Administrative Judge whenever its planning addresses issues affecting administration of the state's civil and criminal justice systems; and by requiring the Commission to submit a copy of its annual report to the Chief Judge. Eff. 4/20/04.

**Chapter 82** (Senate bill 6308). Amends section 10-10.1 of the Estates, Powers and Trusts Law to make a technical change authorizing a trust grantor to permit a trustee to make a discretionary distribution of income or principal to himself or herself as beneficiary. Eff. 5/18/04.

**Chapter 203** (Assembly bill 11225). Amends section 37 of the Judiciary Law to implement collective bargaining agreements between the state and 11 public employee unions negotiating on behalf of court employees in the New York City administrative, librarian, clerical and support unit, New York City administrative services unit, New York City court clerks unit, New York City court reporters unit, New York City senior court attorneys unit, citywide law assistants

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*\*Note: Measures newly introduced in the 2004 legislative session or carried over from the 2003 legislative session and not enacted into law are listed in Appendix F.*

unit, New York City court officers unit, ninth judicial district unit, Nassau County unit, Suffolk County unit and statewide judiciary unit, respectively. Eff. 7/20/04 and deemed to have been effective since April 1, 2003.

**Chapter 240** (Assembly bill 7518). Amends section 524 of the Judiciary Law to extend the incompetency period of jurors who serve on a grand or petit jury in any court of the Unified Court System or in a Federal court to serve again as a grand or trial juror from four to six years; and to authorize a commissioner of jurors to reduce such incompetency period for persons whose service consists of less than three days to a period of not less than two years. Eff. 7/27/04.

**Chapter 317** (Senate bill 5245). Amends sections 351.1 and 353.6 of the Family Court Act to provide that adjudicated juvenile delinquents may be ordered to pay restitution that includes unreimbursed medical expenses and to direct that victim impact statements in investigative reports prepared for juvenile delinquency dispositional hearings include the amount of such expenses, if any. Eff. 11/8/04.

**Chapter 336** (Assembly bill 7511-B). Amends section 439 of the Family Court Act and section 2302 of the CPLR to clarify and extend the role of support magistrates in child support and paternity proceedings in family court. Eff. 11/8/04.

**Chapter 359** (Assembly bill 10967). Adds a new section 7-1.19 to the Estates, Powers and Trusts Law to provide a procedure for termination of uneconomical trusts where such trusts are too expensive to administer. Eff. 8/10/04.

**Chapter 384** (Senate bill 7537). Amends section 6 of chapter 367 of the Laws of 1999 to expand pilot programs permitting use of facsimile transmission or electronic means to commence an action or special proceeding by authorizing the participation of

additional counties and adding to the number of authorized case types. Eff. 8/17/04 .

**Chapter 403** (Assembly bill 10800). Amends section 213 of the CPLR to provide that the statute of limitations for a fraud action shall be the greater of six years from the date of accrual of the cause of action or two years from the date by which plaintiff should have discovered the fraud. Eff. 8/17/04.

**Chapter 405** (Assembly bill 10966). Amends section 813 of the Judiciary Law to designate the Supreme Court Library at Troy as the F. Warren Travers Supreme Court Library at Troy. Eff. 8/17/04.

**Chapter 518** (Assembly bill 10803-B). Amends sections 160.50 and 450.20 of the Criminal Procedure Law and adds a new section 180.85 to the Criminal Procedure Law to provide for the termination of prosecution of a felony complaint on consent of the parties. Eff. 11/1/05.

**Chapter 553** (Senate bill 5408-A). Amends section 803(1)(d) of the Correction Law to specify that an otherwise eligible inmate serving an indeterminate sentence with a minimum term of "one year or more" may earn a merit time allowance under that section. Eff. 10/5/04.

**Chapter 634** (Senate bill 4964-A). Amends section 18 of the Public Health Law to provide for the accessibility of medical records to a distributee of a deceased subject for whom no personal representative has been appointed, and to the attorney of a qualified person or the subject's estate, when such attorney holds a power of attorney explicitly authorizing a written request for patient information. Eff. 10/26/04.

## Judiciary Measures Vetoed in the 2004 Legislative Session

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**Senate 7470/Assembly 11449.** This measure would have amended sections 1112, 1115, 1118, 1120 and 1121 of the Family Court Act and sections 1101 and 5521 of the CPLR to expedite the processing of appeals in child welfare cases in family court and simplify the process for assignment of counsel [Veto No. 228].

## Rules of the Chief Judge

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The following rules of the Chief Judge were amended or added during 2004:

Part 41 of the Rules of the Chief Judge was added, effective January 6, 2004, authorizing the establishment of Integrated Domestic Violence Parts in the Supreme Court.

Part 42 of the Rules of the Chief Judge was added, effective September 8, 2004, authorizing the establishment of a Criminal Division in the Supreme Court, Bronx County.

## Rules of the Chief Administrative Judge

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The following rules of the Chief Administrative Judge were amended or added during 2004:

Section 100.0(D) of the Rules of the Chief Administrator Governing Judicial Conduct was amended, effective September 9, 2004, to create a “*de minimus*” exception to a judge’s holding of an “economic interest” in a party before the court.

Part 141 of the Rules of the Chief Administrator was added, effective January 12, 2004, to establish Integrated Domestic Violence Parts in the Supreme Court and to set forth the procedure for transferring cases to those Parts.

Part 142 of the Rules of the Chief Administrator was added, effective September 21, 2004, to establish a Criminal Division of the Supreme Court, Bronx County, and to set forth the procedure for transferring cases to that division.

Section 202.5 of the Uniform Civil Rules for the Supreme and County Courts was amended, effective February 20, 2004, to add a new subdivision (c) to clarify that papers commencing actions or proceedings must be filed with the County Court.

Section 206.5-aa and 206.10 of the Uniform Rules of the Court of Claims was amended, effective October 18, 2004, to fine-tune procedures for electronic filing and the holding of court conferences.

## APPENDIX A

### INTAKE, DISPOSITIONS & TRIALS *DE NOVO* IN MANDATORY ARBITRATION PROGRAMS - 2004

District	Intake	Dispositions	Demands for Trial De Novo	De Novo Rate
<b>Total State</b>	<b>21,387</b>	<b>17,499</b>	<b>993</b>	<b>6%</b>
New York City	1,913	1,861	356	19%
1 <sup>st</sup>	1,913	1,861	356	19%
2 <sup>nd</sup>	0	0	0	0%
11 <sup>th</sup>	0	0	0	0%
12 <sup>th</sup>	0	0	0	0%
Outside New York City	19,474	15,638	637	4%
3 <sup>rd</sup>	24	21	1	5%
4 <sup>th</sup>	6	6	1	17%
5 <sup>th</sup>	70	61	4	7%
6 <sup>th</sup>	43	29	0	0%
7 <sup>th</sup>	3,232	3,250	216	7%
8 <sup>th</sup>	109	91	1	1%
9 <sup>th</sup>	65	32	0	0%
10 <sup>th</sup> - Nassau	3,442	2,128	0	0%
10 <sup>th</sup> - Suffolk	12,483	10,020	414	4%

## APPENDIX B

### SMALL CLAIMS ASSESSMENT REVIEW PROGRAM: FILINGS & DISPOSITIONS by Judicial District - 2004

	FILINGS	DISPOSITIONS	PENDING
<b>Total State</b>	<b>85,324</b>	<b>42,933</b>	<b>55,604</b>
New York City	20	52	19
1 <sup>st</sup>	0	3	0
2 <sup>nd</sup>	16	40	15
11 <sup>th</sup>	4	5	4
12 <sup>th</sup>	0	4	0
Outside New York City*	85,304	42,881	55,585
3 <sup>rd</sup>	222	253	0
4 <sup>th</sup>	353	350	3
5 <sup>th</sup>	527	534	0
6 <sup>th</sup>	126	126	0
7 <sup>th</sup>	312	313	3
8 <sup>th</sup>	379	379	0
9 <sup>th</sup>	1,036	761	855
10 <sup>th</sup> - Nassau*	75,682	34,141	50,260
10 <sup>th</sup> - Suffolk	6,667	6,024	4,464

\*The disproportionate number of filings versus dispositions is due to the fact that many Nassau County cases that could have been filed in 2003 were in fact filed in 2004. This occurred because a 2003 Nassau County program offered resolution of SCAR-eligible cases without resort to the courts; those litigants who received a negative outcome through the program could thereafter file their SCAR petitions in 2004.

## APPENDIX C

### COMMUNITY DISPUTE RESOLUTION CENTERS<sup>1</sup> WORKLOAD: NEW YORK STATE BY COUNTY - 2004

County	DR Services Provided: Resolved	DR Services Provided: Not Resolved	Outreach Attempted, No Contact	Matter Screened Inappropriate	Party(ies) Declined/ Withdrew	Party(ies) Failed to Show	Unable to Contact Party(ies)	Other	Total
<b>Total State</b>	<b>20,772</b>	<b>5,249</b>	<b>1,853</b>	<b>1,724</b>	<b>6,287</b>	<b>2,417</b>	<b>4,503</b>	<b>1,427</b>	<b>44,232</b>
NYC	3,910	1,093	262	697	940	1,420	185	127	8,634
New York	669	176	18	281	216	103	25	4	1,492
Bronx	948	235	128	34	75	285	4	24	1,733
Kings	900	398	69	149	203	723	15	47	2,504
Queens	778	204	37	89	314	296	48	41	1,807
Richmond	615	80	10	144	132	13	93	11	1,098
ONYC	16,862	4,156	1,591	1,027	5,347	997	4,318	1,300	35,598
Albany	264	117	7	14	97	20	38	23	580
Allegany	33	1	7	2	37	0	4	4	88
Broome	665	162	125	30	235	205	154	96	1,672
Cattaraugus	74	3	1	5	110	5	18	18	234
Cayuga	28	8	2	1	12	4	14	4	73
Chautauqua	370	86	4	19	130	27	60	13	709
Chemung	197	16	7	119	204	10	52	0	605
Chenango	88	6	197	22	49	1	19	18	400
Clinton	276	54	0	0	41	154	4	12	541
Columbia	47	19	74	76	29	1	25	5	276
Cortland	21	2	0	0	8	0	3	0	34
Delaware	106	16	128	1	81	2	37	5	376
Dutchess	385	106	0	21	632	14	42	9	1,209
Erie	4,811	836	205	111	379	78	2,549	542	9,511
Essex	15	9	0	0	13	0	0	2	39
Franklin	5	0	0	0	0	0	0	0	5
Fulton	69	32	0	29	36	9	20	1	196
Genesee	190	35	10	17	52	3	33	1	341
Greene	215	9	9	15	42	2	238	3	533
Hamilton	1	0	0	0	1	0	0	5	7
Herkimer	411	8	4	31	123	5	24	14	620
Jefferson	287	27	0	2	138	50	25	1	530
Lewis	26	0	0	0	11	11	4	0	52
Livingston	221	43	0	27	55	14	16	2	378
Madison	30	4	0	6	34	0	5	0	79
Monroe	328	68	34	6	205	37	55	32	765
Montgomery	107	35	0	29	31	6	25	7	240
Nassau	1,873	1,250	32	68	286	109	85	114	3,817
Niagara	189	29	4	78	197	13	109	24	643
Oneida	365	42	37	75	123	25	15	23	705
Onondaga	558	59	25	27	362	52	154	12	1,249
Ontario	83	16	2	6	38	8	8	1	162
Orange	258	154	2	3	110	9	6	12	554
Orleans	4	0	0	0	0	0	1	1	6
Oswego	131	8	0	12	124	11	8	19	313
Otsego	77	9	20	31	141	2	29	3	312
Putnam	88	41	16	32	92	2	11	51	333
Rensselaer	81	15	0	27	29	3	4	27	186
Rockland	79	26	5	2	12	4	5	11	144
Saratoga	71	33	215	2	59	3	45	34	462
Schenectady	125	73	4	4	141	10	23	29	409
Schoharie	14	0	2	6	10	0	0	2	34
Schuyler	92	4	0	1	32	0	12	0	141
Seneca	36	8	1	2	10	4	6	0	67
St. Lawrence	693	11	0	0	16	0	1	0	721
Steuben	275	21	49	14	84	7	34	58	542
Suffolk	309	146	4	0	57	2	28	10	556
Sullivan	143	34	2	2	12	11	0	4	208
Tioga	52	4	0	0	108	5	1	1	171
Tompkins	130	37	24	13	121	10	70	0	405
Ulster	153	29	310	4	134	1	95	6	732
Warren	141	29	17	27	81	2	17	7	321
Washington	40	4	0	0	3	0	1	1	49
Wayne	105	28	0	3	15	4	2	13	170
Westchester	1,358	318	5	0	155	36	82	19	1,973
Wyoming	17	5	0	0	2	0	1	0	25
Yates	52	21	1	5	8	6	1	1	95

<sup>1</sup>Chapter 847 of the Laws of 1981 created this program, which has provided alternative mechanics for the resolution of minor disputes, both criminal and civil. "Persons Served" was set to 1 for each case in which the number of persons served was not reported.

Source: Compiled August, 2005 from data submitted to the State ADR Office by Community Dispute Resolution Centers

## APPENDIX D

### Attorney Registration

Under Section 468-a of the Judiciary Law and the Rules of the Chief Administrator (22 NYCRR §118), every attorney admitted to practice in New York must file a biennial registration form. Attorneys engaged in the active practice of law in this state or elsewhere pay a fee of \$350 with the registration (now payable by credit card). Attorneys certifying that they are “retired” from the practice of law as defined in the rules are exempt from the fee.

The fee is allocated as follows: \$60 to the Lawyers’ Fund for Client Protection to support its programs providing restitution to clients of dishonest attorneys; \$50 to the Indigent Legal Services Fund to cover fees to attorneys on the 18-b panels who represent indigent defendants; \$240 to the Attorney Licensing Fund to cover the cost of the Appellate Divisions’ attorney admission and disciplinary programs.

In 2004, 130,522 registrations were processed and \$38,033,700 collected in fees.

### Attorney Registration by Location – Calendar Year 2004 COUNTY OF BUSINESS\*

<u>Location</u>	<u>Total</u>	<u>Location</u>	<u>Total</u>
Albany	4,083	Otsego	125
Allegany	44	Putnam	313
Bronx	2,280	Queens	5,283
Broome	612	Rensselaer	437
Cattaraugus	111	Richmond	1,216
Cayuga	110	Rockland	1,453
Chautauqua	234	St. Lawrence	124
Chemung	172	Saratoga	518
Chenango	65	Schenectady	431
Clinton	126	Schoharie	56
Columbia	182	Schuyler	29
Cortland	70	Seneca	48
Delaware	81	Steuben	148
Dutchess	879	Suffolk	6,369
Erie	4,617	Sullivan	205
Essex	89	Tioga	56
Franklin	82	Tompkins	356
Fulton	77	Ulster	459
Genesee	92	Warren	233
Greene	103	Washington	70
Hamilton	9	Wayne	98
Herkimer	76	Westchester	9,316
Jefferson	166	Wyoming	49
Kings	6,690	Yates	27
Lewis	23		
Livingston	80	Total In-State	142,538
Madison	101		
Monroe	3,211	Outside N.Y. State	62,297
Montgomery	78		
Nassau	12,750	Out of USA	10,500
New York	73,322		
Niagara	360	Total	215,335
Oneida	555		
Onondaga	2,309		
Ontario	191		
Orange	930		
Orleans	29		
Oswego	131		

\*If no business address, by county of residence

Number of Attorneys by Judicial Department of Business*	
First Department	75,602
Second Department	45,199
Third Department	9,028
Fourth Department	12,709
Total by Department	142,538

## APPENDIX E

### • Retainer and Closing Statements

In accordance with the Rules of the Appellate Division, First Department (22 NYCRR §603.7) and the Appellate Division, Second Department (22 NYCRR §691.20), every attorney who enters into a contingent-fee agreement in specified categories of cases must file a retainer statement with OCA within 30 days. These statements include the date of agreement, plaintiff's name and terms of compensation.

A closing statement must also be filed in such cases within 15 days after the attorney receives or shares in any sum received in connection with the claim. A closing statement must be filed even if an action is abandoned or the agreement is terminated without recovery.

During 2004, a total of 385,063 retainer and closing statements were processed: 176,858 in the First Department and 208,205 in the Second Department.

### • Adoption Affidavits

In accordance with the rules of the respective Appellate Divisions, 22 NYCRR §603.23 (First Dept.), §691.23 (Second Dept.), §806.14 (Third Dept.), and §1022.33 (Fourth Dept.), attorneys handling adoption proceedings must file an affidavit with OCA for the purpose of maintaining a record of attorneys and agencies involved in adoptions and recording the fees, if any, charged for their services. In order to expedite finalization of adoptions, court rules no longer require a receipt of this filing prior to entry of the decree. During 2004, 6,278 adoption affidavits were filed.

### • Criminal History Search Unit

Since July 2003, this unit has sold statewide criminal history public records that include felony and misdemeanor convictions from all 62 counties. By law, OCA is now solely responsible for the sale of such records produced by a search of its electronic database and charges \$52 per name searched. County courts are precluded from selling their electronically stored county criminal history records.

The revenue generated from each search request is allocated as follows: \$16 to OCA's Judiciary Data Processing Offset Fund, \$27 to the Indigent Legal Services Fund and \$9 to the Legal Services Assistance Fund. For calendar year 2004, the unit received \$44,676,684 for criminal history record searches.

## APPENDIX F

*Measures Newly Introduced in the 2004 Legislative Session or Carried Over from the 2003 Legislative Session and Not Enacted Into Law*

**Assembly 11847.** This measure would correct an inadvertent omission in legislation enacted earlier in 2004 (L. 2004, c. 203) to implement collective bargaining agreements reached between the State and public employee unions representing court employees by amending section 41(j)(1) of the Retirement and Social Security Law to allow represented and unrepresented court employees to receive an additional day's pension credit for each day of accumulated unused sick leave up to 200 days.

**Senate 7213/Assembly 10550-A.** This measure would amend sections 60, 448 and 606 of the Retirement and Social Security Law to permit State-paid judges and justices of the Unified Court System to elect to have their beneficiaries receive a pension, in lieu of the regular death benefit, upon their death while in service.

**Assembly 10804.** This measure would amend section 60.01 of the Penal Law to increase the maximum period of incarceration that may be served in conjunction with a sentence of probation or a conditional discharge (*i.e.*, a "split" sentence) from 60 days to 90 days for class A misdemeanors, and from 6 months to 9 months for felonies.

**Assembly 10807.** This measure would amend section 220.20 of the CPLR in relation to the definition of lesser included offense for plea purposes.

**Assembly 10805.** This measure would amend sections 530.20 and 530.40 of the Criminal Procedure Law to direct the court to exonerate bail and order recognizance when no grand jury action has occurred within 45 days of arraignment, unless the people show good cause otherwise.

**Assembly 10802.** This measure would repeal subdivision two of section 70.45 of the Penal Law and add a new subdivision two in its place to require a criminal court at sentencing to specify the period of post-release supervision to be served by a first-time violent felony offender sentenced to a determinate sentence.

**Senate 7215/Assembly 10801.** This measure would amend rule 3217 of the CPLR to extend the

time period in which the voluntary discontinuance of a civil action may be obtained without need for a court order or stipulation of settlement.

**Senate 7210.** This measure would amend chapter 689 of the Laws of 1993 to make authorization for the use of electronic court appearances in certain counties permanent.

**Senate 7211/Assembly 11597.** This measure would amend section 312.1 of the Family Court Act to provide for the issuance of summonses to each parent, including a non-custodial parent, of any juvenile who is the subject of a juvenile delinquency petition.

**Senate 7245.** This measure would amend sections 54-j and 55 of the Judiciary Law to provide that when a political subdivision undertakes to design, acquire, lease, construct, reconstruct, rehabilitate or improve facilities to serve as chambers for a resident judge of the Court of Appeals, such political subdivision shall be entitled to State financial assistance.

**Senate 7249-A/Assembly 11633-A.** This measure would amend section 10 of chapter 367 of the Laws of 1999, section 420.05 of the Criminal Procedure Law and section 212 of the Judiciary Law to authorize payment of sex offender registration fees and DNA databank fees by credit card.

**Senate 7248/Assembly 11228.** This measure would amend section 306-b of the CPLR to correct a time of service problem that can occur when a court order extending time for filing is granted pursuant to section 304 of the CPLR.

**Senate 7416/Assembly 11447.** This measure would amend section 439 of the Family Court Act to expedite confirmation hearings by Family Court judges with respect to willfulness determinations by support magistrates where incarceration is recommended.

**Senate 4957/Assembly 7885.** This measure would amend section 2001 of the CPLR to provide a safe harbor for litigants who inadvertently file either initiating or interlocutory papers with the wrong clerk.

**Senate 2875/Assembly 8382.** This measure would amend section 410.91 of the Criminal Procedure Law to clarify eligibility for parole supervision and placement in the Willard Drug Treatment Program for defendants on parole or

conditional release from a previously-imposed felony sentence.

**Senate 2876/Assembly 8381.** This measure would amend sections 450.60, 460.10 and 460.50 of the Criminal Procedure Law and add a new section 450.25 to such Law to authorize an appeal by permission to an intermediate appellate court by a non-party to a criminal case of an order denying the non-party's motion to quash a subpoena *duces tecum*.

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

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

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

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

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

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

offense of criminal contempt in the first degree the "contumacious and unlawful" refusal to be sworn as a witness at a criminal trial or other criminal proceeding in a superior court, and the "contumacious and unlawful" refusal of a sworn witness at such a trial or proceeding to answer a legal and proper question.

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

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

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

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

**Senate 3571.** This measure would amend sections 383-c and 384 of the Social Services Law to permit an authorized agency to accept a surrender conditioned upon adoption by an individual without need for a full investigation of him or her provided he or she already has been fully investigated and certified or approved as a foster parent or as a qualified adoptive parent.

**Senate 4984.** This measure would amend section 384-b(3)(h) of the Social Services Law to provide that the clinical and spousal privileges that are abrogated

automatically in termination of parental rights proceedings alleging mental illness and mental retardation likewise be abrogated in proceedings alleging permanent neglect, severe and repeated child abuse and abandonment.

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

**Senate 3567.** This measure would amend section 633 of the Family Court Act in relation to suspended judgments in permanent neglect cases by (1) providing that only one extension of a suspended judgment of up to a period of one year is permitted; (2) requiring that orders of suspended judgment include a warning in conspicuous print that failure to comply may lead to commitment of guardianship and custody of the child; and (3) clarifying procedures to be followed when an application is made to extend a suspended judgment order or to adjudicate a respondent parent in violation of such an order.

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

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

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

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

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

**Senate 3572/Assembly 8380.** This measure would amend section 240 of the Domestic Relations Law and section 413 of the Family Court Act to authorize the court to order a non-custodial parent to pay child support in an amount that such court finds just and appropriate based upon certain considerations when such court finds that the basic child support obligation is unjust and inappropriate; and to clarify that, in cases where imposition of the basic child support obligation would reduce the non-custodial parent’s income to an amount below the self-support reserve but not the poverty level, the court would be authorized, although not required, to order child care, educational and health care payments in addition to payment of the greater of \$50 per month or the difference between the non-custodial parent’s income and the self-support reserve.

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

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

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

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

**Senate 5285.** This measure would amend section 73 of the Domestic Relations Law to insure the legal legitimacy of children born to a married couple by means of assisted reproduction.

**Assembly 7495-A.** This measure would amend section 117 of the Domestic Relations Law and section 2-1.3(a)(1) of the Estates, Powers and Trusts Law to provide that where an adoption by an unrelated person occurs, and the child maintains a relationship with his or her natural family after entry of the adoption order as a result of the child continuing to reside with the natural parent, the child will not lose any inheritance rights or testamentary disposition from his or her natural family.

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

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

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

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

**Senate 5195-A/Assembly 2907-A.** This measure would amend rule 3211 of the CPLR, in relation to requiring leave to plead, to permit the party seeking

dismissal of a claim or defense to elect whether to attack the pleading on the law or immediately to seek a substantive victory on a claim that the pleader has no viable cause of action.

**Senate 5196.** This measure would amend sections 7804 and 307 of the CPLR, in relation to pleadings in special proceedings pursuant to Article 78 of the CPLR: (1) to permit a respondent to demand that the petitioner serve papers on which it will rely before the respondent answers or moves; and (2) to clarify that service upon the Attorney General is required in all instances in order to commence a proceeding against a State officer, sued officially, or a state agency.

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

**Senate 5197/A10806.** This measure would amend sections 1603 and 3018(b) of the CPLR in relation to requiring that reliance on Article 16 be pleaded as an affirmative defense.

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

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

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

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

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

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

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

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

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

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

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

**Senate 4955/A10965.** This measure would amend section 3101 of the CPLR to provide a minimal deadline for expert disclosure (*i.e.*, 60 days before trial) — a time frame that could be expanded to give earlier expert disclosure in certain commercial cases or as the need arises in other cases, if directed by the court.

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

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

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

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

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

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

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

**Senate 4956/A10963.** This measure would amend sections 1811 and 1811-A of the New York City Civil Court Act, the Uniform District Court Act and the Uniform City Court Act and amend section 1811 of the Uniform Justice Court Act in relation to notice of small claims judgments and time for satisfying small claims judgments; and to provide that a notice of judgment sent to a judgment creditor must specify that a failure to satisfy a judgment may subject the debtor to certain action.

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

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

**Senate 5258.** This measure would amend sections 100.20 and 100.25 of the Criminal Procedure Law to provide defendants charged with misdemeanors by simplified information with the same right to the complainant's supporting deposition as is enjoyed by defendants charged with misdemeanors by "long-form" complaints.

**Senate 4929/Assembly 7117.** This measure would amend section 65-c of the Alcoholic Beverage Control Law to authorize entry of default judgment in unlawful possession of alcoholic beverages cases for persons under the age of 21 who fail to pay fines, complete programs or perform community service.

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

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

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

**Senate 5260/Assembly 8385.** This measure would amend section 690.35(3) of the Criminal Procedure Law to require that an application for a search warrant disclose all prior denials of the same or a similar application, as well as any failure to issue a search warrant based on the same or a similar application, by a different judge, if known to the applicant.

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

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

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

**Senate 5228/Assembly 8389.** This measure would amend section 410.91 of the Criminal Procedure Law to eliminate the requirement that the

prosecution consent before a court may sentence a defendant to parole supervision.

**Senate 5407.** This measure would amend section 60.43 of the Criminal Procedure Law to provide that the same protections against the admissibility of evidence of a victim's sexual conduct in a non-sex offense criminal case apply also to a witness in such case.

**Senate 5265/Assembly 8774.** This measure would add a new section 60.41 to the Criminal Procedure Law to provide a trial court with discretion, in certain circumstances, to permit the admission of evidence of a person's violent conduct.

**Senate 5266/Assembly 8081.** This measure would amend section 300.50(2) of the Criminal Procedure Law to provide that a request to submit a lesser included offense to the jury be made prior to the summations.

**Senate 5267/Assembly 8079.** This measure would amend sections 280.20, 310.60, 330.50 and 470.55 of the Criminal Procedure Law to establish a procedure for amending an indictment, prior to retrial, to charge lesser included offenses of counts that have been disposed of under such circumstances as to preclude defendant's retrial thereon.

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

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

**Senate 5201/Assembly 8751.** This measure would amend paragraphs (c) and (d) of section 30.30(5) of the Criminal Procedure Law to provide that, when a

criminal action is commenced by the filing of a felony complaint that is replaced by an indictment in which the highest offense charged is a misdemeanor, the period of time within which the prosecution must be ready for trial is the statutory period applicable to misdemeanor offenses, not the six-month period applicable to felony offenses.

**Senate 5229/Assembly 8745.** This measure would add a new subdivision seven to section 530.70 of the Criminal Procedure Law to provide that a bench warrant issued by a local criminal court, in a case in which the defendant is held for action of the grand jury or in which the local criminal court is divested of jurisdiction by the filing of an indictment in the superior court, shall remain effective in most cases until the superior court issues its own bench warrant.

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

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

**Senate 5233/Assembly 8742.** This measure would amend sections 30.20, 30.30 and 255.20 of the Criminal Procedure Law to grant criminal courts greater authority to fix and enforce expeditious schedules for hearings and trials, and to minimize opportunities for delay by requiring earlier disclosure of *Rosario* material.

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

**Senate 5271.** This measure would amend section 730.30(2) of the Criminal Procedure Law to provide that, when each psychiatric examiner concludes that the defendant is not an incapacitated person, the court

may, but need not conduct a hearing on the defendant's mental capacity.

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

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

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

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

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

**Senate 3564/Assembly 7232.** This measure would amend sections 353.3, 355.5, 756 and 756-a of the Family Court Act in relation to placement of juvenile delinquents and persons in need of supervision and requires that the parent or other person responsible for a respondent be notified of any planning conference, provides for a right to attend such conference and a right to representation, and

adds a requirement of notice that parental rights may be terminated if the respondent remains in placement for 15 out of the most recent 22 months.

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

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

**Senate 5246/Assembly 7490.** This measure would amend sections 315.3 and 360.2 of the Family Court Act to clarify applicable procedure in cases of alleged violations of orders adjourning in contemplation of dismissal and orders of conditional discharge; and authorize a court to restore certain matters to its calendar upon application in the form of a certified petition.

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

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

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

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

**Assembly 7880.** This measure would amend sections 237 and 238 of the Domestic Relations Law to create a rebuttable presumption that *pendente lite* awards of counsel fees should be granted in matrimonial cases involving parties with greatly unequal financial resources.

**Senate 5274/Assembly 8740.** This measure would amend section 5519 of the CPLR to require a court order before the losing party to a matrimonial action with provisions for maintenance or child support may obtain a stay of enforcement.

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

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

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

**Senate 5307-A.** This measure would amend sections 153, 453, 454, 841 and 846-a of the Family

Court Act and section 243 of the Executive Law in relation to electronic monitoring as a condition of probation and pre-dispositional bail and release in child support and family offense proceedings.

**Senate 5292/Assembly 4881-A.** This measure would amend section 221-a of the Executive Law to establish as a class A misdemeanor the knowing and willful release of any data or information contained in the statewide registry or orders of protection to persons or agencies not authorized by law or regulations and subject any offender to a \$5,000 civil penalty.

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

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

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

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

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

**Senate 4981.** This measure would amend section 35 of the Judiciary Law and sections 243 and 245 of the Family Court Act in relation to compensation of law guardians in custody and visitation proceedings, including provision for financially-able parties to pay fees, expenses and disbursements of law guardians appointed in custody and visitation proceedings.

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

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

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

**Senate 3498/Assembly 8736.** This measure would amend section 360.20 of the Criminal Procedure Law to permit a local criminal court judge to allow more than 6 potential jurors to be in the jury box during *voir dire*.

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

**Senate 5492.** This measure would amend section 111 of the Domestic Relations Law to establish new criteria for determining under what circumstances the consent of a biological father is required when his non-marital child under the age of 6 months is placed for adoption.

**Senate 3570/Assembly 4284.** This measure would codify the decision of the United States District Court in *Williams v. Lambert* (902 F.Supp. 460 (S.D.N.Y., 1995)) by repealing section 516 of the Family Court Act.

**Senate 3499/Assembly 8086.** This measure would amend section 1204 of the CPLR to provide compensation from State or county funds for guardians *ad litem* appointed for children and adults in civil proceedings.

**Senate 3792.** This measure would amend section 270.25 of the Criminal Procedure Law to authorize a limited and experimental reduction in the numbers of peremptory challenges available in criminal cases.

**Senate 3500.** This measure would add a new section 60.27 to the Criminal Procedure Law to allow, in certain circumscribed situations, a third party to testify to a witness's pre-trial identification of the defendant when the witness is unwilling to identify the defendant in court because of fear.

**Senate 3501/Assembly 8903.** This measure would amend section 530.40(3) of the Criminal Procedure Law to allow a superior court to order bail or recognizance for a defendant who has been convicted of a class A-II felony if the defendant is providing, or has agreed to provide, material assistance pursuant to section 65.00(1)(b) of the Penal Law.

**Senate 3502.** This measure would amend the Criminal Procedure Law to permit the People to appeal from a preclusion order if they first file a statement asserting that the prosecution cannot proceed without the precluded evidence.

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

**Senate 4879.** This measure would add a new section 400.50 to the Criminal Procedure Law and amend sections 450.30, 470.15 and 470.20 of such Law to permit an appeal as of right from a judgment of conviction or sentence in a class A-1 drug felony case upon the ground that the sentence imposed was "unjust"; and to authorize the appellate court, under specified circumstances, to impose a lesser indeterminate sentence with a minimum period of not less than five years.

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

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

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

**Senate 4880/Assembly 8899.** This measure would amend section 460.60 of the Criminal Procedure Law to permit a judge who has received an application for leave to appeal to the Court of Appeals to issue an order staying execution of the judgment or sentence being appealed regardless of the nature of the sentence that was imposed.

**Senate 5276.** This measure would amend section 200.70 of the Criminal Procedure Law to authorize a trial court, upon timely application by the People, to order the amendment of an indictment to add an offense that was omitted therefrom because of a clerical error.

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

**Senate 5234/Assembly 8902.** This measure would amend section 210.40(1) of the Criminal Procedure Law to require that a court, in determining whether to grant a motion to dismiss an indictment in the interest of justice, consider whether there has been unreasonable delay due to the People’s repeated and unjustifiable failure to proceed with the action after both sides have answered ready and the court has fixed a date for a hearing or trial.

**Senate 5253/Assembly 8773.** This measure would amend section 812 of the Family Court Act and section 530.11 of the Criminal Procedure Law to clarify that family offenses committed by persons younger than age 16 shall be treated as juvenile delinquency or PINS proceedings under Article 3 or 7 of the Family Court Act rather than as family offenses under Article 8 of such Act.

**Senate 5045-A/Assembly 6031-A.** This measure would amend sections 6514 and 6515 and add two new sections 6516 and 6517 to the CPLR to provide for the cancellation of notices of pendency, security by the plaintiff and the effect of cancellation of notices of pendency.

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