

REPORT TO THE CHIEF JUDGE AND CHIEF ADMINISTRATIVE JUDGE

ACTION PLAN
for the
JUSTICE COURTS

TWO YEAR UPDATE



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PREFACE

THE ACTION PLAN FOR THE JUSTICE COURTS MARKED A SEA CHANGE IN THE HISTORIC RELATIONSHIP BETWEEN THE STATE JUDICIARY AND THE JUSTICE COURT SYSTEM, by undertaking the most comprehensive and far reaching steps ever taken by the State to aid localities and their Justice Courts. This Report documents the progress that has been made in the nearly two years since the release of the Action Plan in November 2006.

The Plan set forth dozens of programs and initiatives falling into four broad areas:

- Court operations and administration
- Education and training
- Fiscal practices
- Facilities and court security

The Plan was as ambitious as it was unprecedented. The sheer size of the Justice Court system posed a daunting challenge – more than 2,100 Town and Village Justices serve in more than 1,250 Justice Courts, hearing more than two millions cases each year and collecting more than \$210 million in fines and fees. Further challenges were posed by the many differences among the Justice Courts (e.g., size and nature of dockets, staffing, facilities, use of technology) as well as by the complicated division of responsibility for the Justice Courts among various branches and levels of government. The Action Plan also altered long-established patterns of relationships, with its vision of a new level of collaboration between the State Judiciary and the Justice Courts, which had previously operated with little State oversight or support.

We are pleased to report that these challenges are being met. Today, New York's Town and Village Courts are stronger and better able to meet the justice needs of New Yorkers than ever before. Although more remains to be done, the Action Plan was never intended as a quick fix, but rather marked the beginning of a long-term commitment that would require sustained effort from all levels and branches of government having a stake in the success of these courts.

In this regard, we acknowledge the assistance and collaboration of many partners in government, including local Justices and court staff, town and village governments, the Legislature, the Executive Branch, and the Division of Local Government Services and Economic Development in the Office of the State Comptroller. We are also grateful for the support and cooperation of the New York State Magistrates Association and the New York State Association of Magistrate Court Clerks. Together we have already made significant progress and will continue to pursue the Action Plan's essential goal of "ensur[ing] that the Justice Court system is fully prepared to meet its tremendous responsibilities to litigants, taxpayers, service providers and the law."

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ACTION PLAN FOR THE JUSTICE COURTS - TWO YEAR UPDATE

THE ACTION PLAN WAS DEvised TO PROVIDE IMMEDIATE ASSISTANCE AND RESOURCES TO THE JUSTICE COURTS. While the Plan included a few legislative proposals to maximize support for localities and Justice Courts, it was essentially designed to work within the existing legal framework, without the need for structural reform. As shown below, in the nearly two years since it was released, the Action Plan has strengthened the Justice Courts in concrete ways that can already be felt by the Justices and court clerks, the government agencies that work in and with the Justice Courts, and by the public served by these courts.

APPOINTMENT OF SUPERVISING JUDGES

HISTORICALLY, EACH OF NEW YORK'S JUSTICE COURTS LARGELY OPERATED AUTONOMOUSLY, with limited State oversight or support. The unprecedented provision of resources and the historic level of collaboration embodied in the Action Plan required a rethinking of the oversight and supervision of the Justice Courts.

Therefore, in January 2007, the Chief Administrative Judge appointed one or more Supervising Judges for the Justice Courts in each judicial district in the State outside of New York City, many of whom had previously served as Town or Village Court Justices. Subsequently, attorneys, most of whom currently also serve as Town or Village Justices, were appointed in each judicial district to assist the Supervising Judge overseeing the Justice Courts.

These Supervising Judges serve a wide variety of functions, from advising local Justices and Clerks on operational issues, to resolving issues that arise between the courts and government agencies that work in or with the courts. They also work with the courts to assure that indigent defendants have counsel, serve as a conduit for information between the local courts and the Office of Court Administration (OCA), and coordinate the support and resources provided under the Action Plan. In deference to the long-standing independence of the Justice Courts (a principle with deep roots in the State Constitution), the role of Supervising Judge of the Justice Courts is somewhat more limited than the executive role of Administrative or Supervising Judge of the so-called "State-paid" courts, but these Supervising Judges have nonetheless played a critical, daily and "hands on" role in the success of the Action Plan.

RECORDING COURT PROCEEDINGS

JUSTICE COURTS ARE THE ONLY COURTS THAT ARE NOT COURTS OF RECORD UNDER STATE LAW. While some courts nonetheless either employed court reporters or recorded proceedings electronically, prior to the Action Plan the vast majority of Justice Court proceedings were not on the record. In those cases, the Justice would make hand-written notes, and would have to reconstruct the record when necessary for an appeal or other reason.

The Action Plan set forth two initiatives to address this issue. First, the Chief Judge promulgated a rule requiring all Justice Court proceedings to be recorded. (*Rule 30.1 of the Rules of the*

Chief Judge.) Second, the Office of Court Administration has provided, at no cost to the localities, modern digital recording devices as well as training for the Justices and clerks in their use.¹

Requiring, and then providing the means for, the recording of Justice Court proceedings is one of the most significant achievements of the Action Plan. In myriad individual cases the availability of an accurate verbatim recording will help ensure an effective appellate review of Justice Court proceedings, and thereby help to protect litigants' substantive rights. More intangible, but no less real, is the significance of this achievement for the Justice Court system as a whole – the recording of all Justice Court proceedings communicates to every participant in the proceeding the seriousness and importance of what happens in these tribunals.

ASSUMING RESPONSIBILITY FOR AUTOMATION

PRIOR TO THE IMPLEMENTATION OF THE ACTION PLAN, THE JUSTICE COURTS VARIED WIDELY IN THEIR USE OF TECHNOLOGY. To narrow this technology gap and, because, especially in this day and age, it is essential that every court take full advantage of modern technology, the Action Plan announced that OCA would assume direct responsibility for providing technology in the Justice Courts, at no cost to the courts or their sponsoring localities. The goal was to integrate the Justice Courts into the State Judiciary information technology infrastructure and to treat the Justice Courts just like the State-paid courts with respect to the provision and support of automation.

The large number of courts and their geographic dispersion, together with the wide range of technological sophistication among the courts, made this prong of the Action Plan a logistical and planning challenge. However, much has been accomplished to date.

Provision of equipment Since the Action Plan was announced, more than \$3.5 million in automation equipment was provided to the Justice Courts, including 1715 laptop computers, 1457 desktop computers, and 1563 printers.

Assignment of staff Technology staff has been assigned to support the direct provision of automation equipment and services to the Justice Courts. In addition, a 24/7 automation help desk for the Justice Courts has been established, to ensure that local Justices and clerks receive prompt assistance with automation-related questions or problems.

Inclusion in the UCS email system All Justices and non-judicial staff of the Justice Courts have been incorporated into the State Judiciary email system, facilitating communication among the Justice Courts as well as between the State Judiciary and the Justice Courts. This step has transformed communications with the Justice Courts, enabling us, for the first time, to communicate easily, quickly and effectively with the vast number of Justice Courts and their Justices. Much of the Action Plan is about bringing the Justice Courts into the fabric of the State Judiciary, and this greatly improved means of communication is a key part of the integration effort. In addition, to facilitate communication among the Justice Courts and other government and non-government entities that interact with these courts, we have given access to this email group to the Office of the State Comptroller, the New York State Division of Criminal Justice Services, and the State Magistrates Association.

¹ As of the date of this Report, recording devices (or court reporters) are in operation in all but three of the more than 1250 Justice Courts statewide. The operational issues that have delayed compliance with the Chief Judge's Rule in that handful of courts are being addressed and the recording of proceedings in these courts will begin shortly.

REDESIGNING THE JUSTICE COURT WEB SITE

THE JUSTICE COURT WEB SITE ([HTTP://WWW.NYCOURTS.GOV/COURTS/TOWNANDVILLAGE/](http://www.nycourts.gov/courts/townandvillage/)) CONTAINS A WEALTH OF INFORMATION ABOUT ALL ASPECTS OF THE LOCAL COURTS. (The site is available to the public, with additional information available, through password-protected access, only to Justices and court clerks.) However, over time, the sheer volume of information on the site obstructed easy access. The site has now been completely redesigned: all content has been reviewed, updated and expanded, and the navigation of the site has been significantly improved with the addition of such features as a topic search, a Google word search capacity, and a most-requested listing.

Over recent months, there have been more than 15,000 monthly visits to the Justice Court web site.

FACILITATING COURT INTERPRETING

THE CRITICAL TASK OF ENSURING EQUAL ACCESS TO THE COURTS FOR PERSONS WITH HEARING IMPEDIMENTS OR LANGUAGE BARRIERS IN NEW YORK, WITH ITS UNPARALLELED LINGUISTIC DIVERSITY, IS PERHAPS MORE CHALLENGING THAN FOR ANY OTHER JUDICIARY. The task is particularly challenging for the Justice Courts, in light of the distances and number of sites involved.

According to a survey of the Justice Courts, the courts vary widely both in their need for interpreting services and their abilities to meet that need. Some courts reported very rare need for interpreters, while others experience a regular and high demand. Some courts report great difficulty in obtaining these services, while others have arranged for qualified interpreters to be available as needed.

To assist the Justice Courts in obtaining the services of qualified interpreters, OCA has provided these courts with a list of qualified interpreters available for per diem assignment, arranged by language and by counties in which the interpreter is available. (The list is also available to Justice and court staff on the secure section of the Town and Village Court web site.) Each interpreter on this list has passed all language proficiency examinations required by OCA, and has also completed OCA court interpreter training, which includes such topics as the ethics of court interpreting (e.g., the proper role of the interpreter in court proceedings).

In addition, a remote interpreting pilot program has been initiated in selected Justice Courts. Under this pilot program, State Judiciary staff interpreters provide interpreting services by telephone. This technique has been successfully used in the State-paid courts under certain circumstances, and the pilot project will allow for an evaluation of its feasibility and usefulness in the Justice Courts.

REFORMING EDUCATION AND TRAINING

THE JUSTICE COURT EDUCATION AND TRAINING PROGRAM HAS BEEN COMPLETELY RETHOUGHT AND REDESIGNED. The program has also been placed within the ambit of the New York State Judicial Institute, which is responsible for judicial education within the State-paid system. The changes

implemented by the Judicial Institute cover all aspects of training, from the material covered and the instructional techniques used, to the methods by which the programs are delivered. New faculty has been recruited and new training materials developed.

The broad range of matters that come before the Town and Village Courts, and the high percentage of Justices who not attorneys pose significant challenges. With these challenges in mind, training for Town and Village Justices was completely redesigned.

Changes to the training of new non-attorney Justices are particularly dramatic. In contrast to the single week of instruction prior to the Action Plan, newly elected non-attorney Justices now receive seven weeks of pre-bench training, consisting of alternating periods of at-home assignments (a total of five weeks) and classroom training (a total of two weeks). Significant time is spent devoted to the most sensitive decisions facing a new Justice, such the right to counsel and determining bail. Instruction is provided initially by lecture for many topics, but is followed by mock proceedings where the Justices actually have to make difficult decisions based on "real" facts. The new Justices also receive two days of training after they have been on the bench for two to three months. New Justices report that these sessions at such an early point in their career on the bench have been particularly helpful.

In addition, the process of assessing non-attorney Justices has been redesigned. Assessment is used as a training tool to identify areas where the Justices need additional help. As required, mentors are assigned to work with newly elected Justices to assist with particular areas of concern. Examinations are given at multiple points of the training and re-training is provided based on the Justice's answers to the examination. The instructors are no longer permitted to review the examination in advance of the training and target their training to the examination.

The Judicial Institute has greatly expanded the use of distance learning as a format for delivering training to the Town and Village Justices. Through the use of a Satellite Broadcast, a two hour, live, television style, moderated discussion can be delivered simultaneously to hundreds of Justices across the state. The audience can participate by e-mail, fax or by calling in questions which can be answered on the air in "real time." This type of delivery encourages Justices to participate by permitting them to attend locally, with limited travel from their home.

Programs are now delivered through the intranet in a county courthouse in each county outside of New York City. Six hundred Justices, clerks, and probation staff attended a program in June of 2008 at fifty-five courthouses. In 2008, three programs were offered. Four are planned for 2009, each on a different weeknight to accommodate court calendars. On-line registration and program evaluation have been implemented. Additionally, Justices and clerks are now being afforded the opportunity to submit questions in advance of the broadcast.

In addition, online learning modules are being developed in conjunction with Columbia Law School's Lawyering in the Digital Age Clinic to further enhance the Judicial Institute's use of Distant Learning. These modules will enable a Justice or clerk to take a course online at any time of the day or night. The participant's progress with the course will be automatically monitored with periodic questions that the participant must answer correctly before continuing with the course and before credit is given.

EXPANDING THE TOWN AND VILLAGE COURT RESOURCE CENTER

IN 1991, RECOGNIZING THAT FEW, IF ANY, LOCALITIES CAN AFFORD TO EMPLOY COURT ATTORNEYS TO TOWN AND VILLAGE COURT JUSTICES, OCA established the Town and Village Court Resource Center. Resource Center attorneys (some of whom are themselves Town or Village Court Justices) provide confidential legal advice to local Justices on all aspects of criminal and civil law, both procedural and substantive. The attorneys are available 365 days a year, during the day as well as at night, when most Justice Courts convene, and can be reached by fax, toll-free telephone or email.

Since the Action Plan was issued to wide publicity in 2006, the number of inquiries to the Resource Center has grown significantly. Last year, the Resource Center responded to more than 24,000 questions from local Justice Courts. To handle this increased demand, two attorneys have been added to the staff of the Town and Village Resource Center.

The Resource Center staff has also been augmented by additional non-attorneys who have significant experience as Town and Village Court Clerks and who provide advice to local Justices and clerks on operational and administrative issues, including the numerous recordkeeping obligations imposed on Justice Courts, the proper handling of funds collected, public access to court records, and day-to-day issues that often arise between the local courts and other branches and levels of government. These Resource Center staff also travel to local courts when on-site consultation is warranted.

ENHANCING LAW LIBRARY SUPPORT

IN ADDITION TO EXPANDING BOTH JUSTICE COURT TRAINING AND THE CAPACITY OF THE TOWN AND VILLAGE COURT RESOURCE CENTER TO PROVIDE COUNSEL TO JUSTICES, OCA has enhanced the legal resources available to the Justices in each courthouse. First, in each of its agreements with online legal research companies such as Lexis and Westlaw, OCA has included Town and Village Justices, giving these Justices free access to a wealth of online legal databases. In addition, to ensure that Justices have ready access to legal materials that are used extensively in the Justice Courts, OCA has provided, again at no cost to the local courts or government, a bench collection of print materials (titles include Rose's New York Vehicle and Traffic Law, and the "Graybook" on New York Criminal Law).

UPGRADING COURT FACILITIES AND SECURITY

A WIDER DISPARITY EXISTS AMONG THE JUSTICE COURTS REGARDING QUALITY OF FACILITIES AND THE LEVEL OF SECURITY than there is among the State-paid courts. Too many Justice Courts exist in facilities that fail to meet even the minimal standards of dignity, access and decorum appropriate for any judicial tribunal. Too many Justice Courts also lack the basic security safeguards appropriate for courts that arraign the most serious felonies, try other crimes, handle domestic violence cases, and hear civil cases that often involve highly emotional matters.

The following steps have been taken to address these serious concerns.

Expanded Justice Court Assistance Fund The physical and security conditions under which many Justice Courts function often reflect local fiscal limitations, as well as the fact that in many communities the courts preside in multi-purpose spaces that double as the town or village board room and space for other functions having nothing to do with the court. Retrofitting Justice Courts can be costly relative to tight budgets, and the co-location of Justice Courts with other local functions further complicates plans to upgrade and secure the court space. Given these realities, the Action Plan determined that the best solution would be to increase financial assistance to encourage upgrades and leave local governments the flexibility to see them through.

Since 1999, the Justice Court Assistance Program, or JCAP, has invited towns and villages to apply for small grants to fund basic Justice Court expenses such as computers and fax machines. As noted above, under the Action Plan, these basic expenses have become direct OCA responsibilities, so that JCAP funds would be available for other purposes, in particular security and facility upgrades. OCA also significantly increased the amount of JCAP funding available. In Fiscal Year 2007-2008, and again in Fiscal Year 2008-2009, OCA requested and the Legislature approved \$5 million in JCAP funding each year. (This represents a ten-fold increase in annual funding since JCAP's inception in 1999, when a total of \$500,000 in grants was provided.) In addition, in light of the cost of security and physical changes, the Legislature, at OCA's request, raised the JCAP grant cap from \$20,000 to \$30,000 per locality per year.

For the 2007-2008 cycle, approximately half of the Justice Courts (632) submitted applications – the highest number of courts ever seeking JCAP funds. The largest categories of requests were for construction (more than \$2 million) and security equipment (\$1.6 million). In many courts, the JCAP funds permitted, for the first time, the construction of a proper Justice's bench, enhancing both the dignity and security of the courtroom. Funds were also granted for a variety of projects designed to eliminate barriers and ensure access to the courts by persons with disabilities. Other projects funded included construction of jury boxes and clerk's counters, and purchase of spectator seating and other furniture, as well as office equipment. Security-related grants included funding for the purchase of magnetometers and hand-scanners, improved lighting, and redesigned entrances to accommodate screening or to provide a separate secure entry for the Justices and court staff.

Funds for the 2007-2008 program were distributed to local governments in early 2008. Applications for 2008-2009 grants were due in early September, and are currently being reviewed. Awards for the 2008-2009 program are expected to be announced in October 2008.

Best Practices for Justice Court Security While, as noted above, the Justice Courts face many of the same security risks seen in the State's other courts, the local character and limited dockets of the Town and Village Courts do not require the same panoply of security measures employed in the State-paid courts. Recognizing both unique security needs of the Justice Courts and the need to give the courts and their sponsoring governments some guidance on appropriate security measures, OCA issued, at the time of the release of the Action Plan, the Best Practices for Justice Court Security.

Security Assessments and Architectural Assistance The Best Practices for Justice Court Security provides general guidance on a range of common-sense steps that local governments and courts

can take to improve security. These guidelines inform, but cannot substitute for a site-specific plan that is tailored to a particular facility and operation. Therefore, specially-trained members of the State court system's security force are in the process of conducting on-site security assessments of every Justice Court. Members of the assessment team tour facilities and meet with the court, its staff, and local officials to evaluate the risks and devise a plan of action. To date, approximately 400 audits have been completed, with written assessments provided to the local courts and governments. In addition, OCA staff architects are available to the Justice Courts, at no cost, to assist in developing plans to modify facilities to address these security concerns, as well as to assist local courts in developing JCAP applications seeking funds for facility projects.

STRENGTHENING FINANCIAL PRACTICES AND CONTROL

THE IMPORTANCE OF FINANCIAL PRACTICES AND CONTROL IN JUSTICE COURTS CANNOT BE OVERSTATED—the Justice Courts collect over \$210 million per year in fines and fees. These funds are important for both local and state budgets, and thus must be carefully managed. We are working to address this area on a number of fronts.

First, all Justice Courts will accept credit card payments for fines and fees. This change will dramatically improve local cash flow by increasing payments while reducing local costs associated with generating payment reminders. At the same time, this change will make local courts more secure both physically and financially by reducing the amount of cash collected in Justice Courts. Many Justice Courts had indicated a strong interest in credit cards, but noted that the local government refused to pay the transaction fees. For that reason, the State Judiciary worked with the Office of the State Comptroller and the Governor's Office to make credit card services available in the Justice Courts at no cost to either the local government or the court users.

Prior to the Action Plan, less than 15 percent of Justice Courts accepted credit cards. Today, credit card payments are accepted in more than half of the Justice Courts, and full acceptance statewide will be achieved by early 2009.

Second, OCA has expanded its auditing of the Justice Courts. Prior to the Action Plan, OCA's Office of Internal Audits audited Justice Courts from time to time, usually in response to a request or other special circumstances. These courts are now included in the regular audit cycle. In light of the large number of Justice Courts and the substantial amount of monies collected by these courts, OCA has significantly expanded the staff dedicated to Justice Courts audits.

Third, OCA has begun to monitor compliance of the State law requirement that local courts open their records for inspection by the sponsoring locality and that the locality conduct an annual review of those records. Each year since the release of the Action Plan, the Chief Administrative Judge has requested that the chief financial officer of each locality submit copies of any audits, reports or other materials relating to the local government's annual review of court records, and the court system in turn has provided the Office of the State Comptroller, which has primary jurisdiction over the financial affairs of the Justice Courts, with a list of those localities that have not complied with the State law requirement.

LEGISLATION

WHILE THE THRUST OF THE ACTION PLAN WAS TO PROVIDE IMMEDIATE INCREASED STATE SUPPORT AND RESOURCES TO THE JUSTICE COURTS WITHIN THE EXISTING LEGAL FRAMEWORK, there were a few legislative proposals intended to maximize this support and to fully implement the Action Plan's collaborative approach to improving the Justice Courts. As noted above, the Legislature, at OCA's request, has substantially increased the funding for the JCAP program, and also raised the annual cap on grants from \$20,000 to \$30,000. Also at OCA's request, the Legislature simplified and clarified various State law provisions governing the temporary assignment of a Justice from one locality to another, by authorizing the Chief Administrative Judge, in the event of illness, death of other unavailability of a Justice, to temporarily assign another Justice or a City Court Judge from the county or an adjoining county, with all expenses paid by the State Judiciary. Other proposals, dealing with residency of Justices and accountability and training of court staff, were not enacted, and will continue as part of the State Judiciary's legislative agenda.

CONCLUSION

SIGNIFICANT PROGRESS HAS BEEN MADE ON ALL ASPECTS OF THE ACTION PLAN'S AMBITIOUS AGENDA, and the impact can already be felt in the courts. However, the Action Plan promised a long-term commitment, and there is more to be done. The State Judiciary looks forward to building on early successes achieved under the Action Plan and to continuing to work with our partners in various levels and branches of government to ensure that the Justice Courts are fully prepared to fulfill their important role in our justice system.

