

State of Our Judiciary 2019
Chief Judge Janet M. DiFiore, New York Court of Appeals
Message to judges and lawmakers
February 26, 2019, at Bronx County Supreme Court, The Bronx, NY

I. Introduction

Every day, in over 300 courthouses throughout the state, our trial and appellate judges and court staff are working diligently to deliver fair and timely justice while searching for new ways to speed the litigation process, eliminate delays and backlogs in our courts and promote excellence in judicial decision-making and in the quality of the justice services we provide to the public. I am grateful to each and every one of them for the dedication and professionalism with which they handle the three million-plus matters filed in our trial and appellate courts each year.

The cases filed in our state courts have profound consequences not only for the parties in a given litigation but for the well-being of our communities: whether someone goes to jail for committing a crime; whether a family is evicted from its home; whether an at-risk child is removed from her home; which parent gets custody of the children; whether someone can collect damages after suffering a personal injury; determining shareholder rights within a corporation; settling the estate of a loved one; appointing a guardian to protect the interests of an incapacitated person; and so many more.

Thanks to the hard work and competence of the judges and court staff who strive to fairly and efficiently adjudicate these millions of cases every year, I am pleased to report that the State of Our Judiciary is growing stronger with each passing day.

You may recall that two years ago, in a departure from tradition, I delivered the first State of Our Judiciary Address in the Bronx County Hall of Justice, instead of in Court of Appeals Hall, in Albany. Why? Because I wanted to make a point. Our Bronx courts were not keeping pace with expectations and had become – and I used some very direct language – “an epicenter for many of the worst delays and backlogs plaguing our justice system.” But we made a commitment to the people of Bronx County that day – that we would work tirelessly to fix what was broken and to give our judges and staff the support they needed to get things right in our Bronx courts.

We are pleased to be back here in this county today to report on the significant progress that our jurists and their staff have made to improve the delivery of justice – not only in the Bronx but all around the state.

And what more impressive setting in which to lay our record bare and account to the people we serve than the central hall of this iconic courthouse, one of the largest and busiest in the state, home not only to Borough Hall but to the Bronx County Supreme Court, Civil Term, and the Bronx County branch of the New York City Civil Court.

To be candid, we have surely benefitted from the recent decline in misdemeanor filings, especially in New York City, which has given us the breathing room we needed to make important operational changes and to focus on resolving our oldest cases. But the bottom line is

that the progress we have made is due to the heightened focus of our judges and our staff, and the commitment and the sense of urgency that comes from knowing what is at stake.

Delays in adjudicating misdemeanor cases cause real harm in people's lives. Defendants who are forced to return to court again and again experience the frustration of unproductive appearances and wasteful adjournments and find themselves losing pay, struggling with child-care problems and facing family disruption. We have the power and the responsibility to minimize these consequences.

Here, in the Bronx, I want to thank Supervising Judge George Grasso, District Attorney Darcel Clark and the Bronx Bar, and throughout New York City: Supervising Judges Kevin McGrath, Michael Yavinsky and Michelle Johnson; Chief Clerk Justin Barry; and District Attorneys Cyrus Vance, Eric Gonzalez, Richard Brown and Michael McMahon; and, of course, the entire Defense Bar citywide. The New York City Criminal Court is striving to become a model of efficiency and all stakeholders are pulling in the same direction in pursuit of our shared vision of achieving just dispositions with all deliberate speed.

B. FELONY CASES

Regarding our felony cases, we are laser-focused on fostering a more just and efficient criminal justice system, and key to that commitment is timeliness. When cases linger and there is a lack of urgency in our courts, everyone suffers harm: defendants, presumed innocent under the law, languish in jail without a trial or final disposition; prosecutors are unable to properly do their jobs as witnesses become unavailable, memories fade and evidence grows stale; and crime victims and their families, people dragged unwillingly into the criminal justice system, end up feeling re-victimized as they are forced to wait – and wait – for justice to be done. Unacceptable on every level.

We are pleased with the response outside New York City, where the number of felony cases pending over our six-month standards and goals benchmark has been cut by 61% since the start of the Excellence Initiative, highlighted by spectacular reductions of 90% in the Ninth Judicial District; 82% in the Seventh Judicial District; 75% in Suffolk County; and 54% in the Eighth District. The jurists and staff in those Districts – led by Administrative Judges Kathie Davidson, Craig Doran, Randy Hinrichs and Paula Feroletto – are proactively managing their felony caseloads and finding ways to move these serious cases with careful, thoughtful and deliberate speed. And, of course, the District Attorneys and the Bar have recognized and responded to this imperative.

In New York City, we have made progress, but we know that we must do better. A bright spot has been the Bronx, where our Supreme Court, Criminal Term, led by Administrative Judge Robert Torres, has reduced the number of felonies one year and older by 45% since the start of the Excellence Initiative. In addition to our intensive focus on caseload data analysis, many changes have been made, including strategically reassigning judges to key parts, securing the DA's commitment to assign assistants who have immediate authority to resolve cases to the parts, and working collaboratively with the Department of Correction to facilitate efficient production of incarcerated defendants in our courtrooms.

Another bright spot has been Queens, where the number of felony cases over two years old has declined by 76% since the start of the Excellence Initiative. And this effort has been led from the

top by Administrative Judge Joseph Zayas, with the active participation of District Attorney Richard Brown and, of course, the dedicated lawyers who provide defense services in Queens County.

But we still have a long way to go. I am reminded of that reality every time I review our weekly statistics. And I know the public is reminded every time another news story is published revealing the circumstances of defendants housed on Rikers Island while awaiting or standing trial in cases pending for three or four years or sometimes even longer. I have a fair amount of experience in the criminal justice system, and I understand well the factors that cause delay, but with that said it is wholly unacceptable to allow cases to languish for so long. It is our responsibility to manage our litigation, to lead in our courtrooms and to do our part to reduce incarceration levels on Rikers Island by creating an efficient and responsible court process that moves cases with all deliberate speed and avoids prolonged pre-trial detention.

That is why, on January 2nd, here in the Bronx, we launched our Special Term Additional Resources Team, or our START Program, targeting the 100 oldest felony cases involving jailed defendants, all of whom had been incarcerated in City jails for at least two years. We selected four outstanding trial judges known for their ability to move cases. Judge Barry Warhit, the Supervising Judge of the Criminal Courts for the Ninth Judicial District, has led our START Team, supported by Judges Fernando Camacho, John Carter and James McCarty. The START Team has done a fantastic job. In just eight weeks, they resolved the 100-case backlog (except for a small number of cases where trials are underway or firm trial dates have been set) and are now taking on and resolving additional older felony cases.

These jurists are determined to use their authority, experience, skill – and developed sense of justice and fair play – to ensure that excuses and unnecessary delays no longer prevent resolution of cases that can and should be finalized by negotiated plea or immediate trial. The Program has been so successful that we are assembling a new START Team in the coming weeks to tackle the oldest felony cases in Manhattan.

Achieving excellence requires constant and sometimes uncomfortable self-examination. When we find ourselves falling short of expectations, we take ownership of our deficiencies, identify the obstacles to progress and take corrective measures, including realigning our human resources and making significant changes in our modus operandi. I want to thank the four START judges for stepping up to the plate, Judge Torres for overseeing the program's successful implementation, and our trial judges and court staff for their excellent support, especially our superstar clerk in the START Program, Jessica Negrón.

C. CIVIL MATTERS

On the civil side of our house, over 1.3 million cases were filed in the Supreme Court last year: personal injury, foreclosure, matrimonial, contract, complex commercial, medical malpractice, guardianship, and so many more.

The timely adjudication of civil matters is of the highest importance. Litigants who bring their disputes to our courts often do so as a last resort, after everything else has failed. They want closure and resolution, so they can move forward with their lives, their businesses and their families. They don't expect or deserve protracted delays, unnecessary expense or the uncertainty and frustration of inefficiencies generated or tolerated by our court system.

When that happens not only is it wrong and unjust for the individual, but it causes the public to lose trust and confidence in our legal system, something we cannot afford, particularly in this time when the rule of law and our democratic institutions are under attack on so many fronts. We in the judicial branch know that the prompt and fair adjudication of every matter that comes before us is what fosters public confidence in our justice system and the rule of law, which form the bedrock of our democratic society.

In every corner of our state, under the banner of the Excellence Initiative, we are managing our civil dockets more proactively and efficiently; making operational, technological and management changes to frame a smarter system within which our judges and staff can be more productive and effective; assigning our judicial and nonjudicial resources as flexibly and creatively as we can to maximize our talent within the limitations of our constitutional structure; creating a culture of accountability; and experimenting with new approaches and techniques to improve our performance and services.

Starting outside New York City, the percentage of our pending cases that are over standards and goals has been cut almost in half since the Excellence Initiative began, highlighted by major reductions in the Fourth Judicial District (74%); the Third Judicial District (71%), led by Administrative Judge Thomas Breslin; the Seventh District (64%); and the Fifth District (55%), led by Administrative Judge James Torney.

In New York City, the Civil Term of Bronx Supreme Court is making impressive progress. Last year alone, jury trials in this county were up by 42% and the number of days on trial grew by 37%, notable increases that go against the national trend of the disappearing jury trial. It used to be that you couldn't get a trial in the Bronx. Now cases are being called in the Conference Part and sent out for immediate trial. For the second year in a row, the court decided about 5,000 more motions than were filed, and late-decided motions were down by 37% – two critical steps toward cutting backlogs and achieving prompt dispositions, because one thing we know for sure is that you can't move cases unless you decide the motions. In fact, the number of cases on the calendar awaiting trial in the Bronx was reduced by 24% last year alone.

Again, the credit rightly belongs, first and foremost, to our Bronx jurists and court staff. Credit also goes to George Silver, our Deputy Chief Administrative Judge for the New York City Courts, who spent last year doing double duty as the acting Administrative Judge of Bronx Supreme Civil. Judge Silver's relentless focus on improving court operations and case management, combined with his experience, energy and enthusiasm, have been nothing short of contagious. On January 1st, he handed the reins over to Judge Doris Gonzalez, our new Administrative Judge of Bronx Supreme Civil, who is fully committed to building upon on the advances we have made to provide timely and affordable justice to the residents of Bronx County.

D. FAMILY COURT

No report on the court system's progress would be complete without addressing the important issues heard in Family Court – foster care, child abuse and neglect, custody, visitation and support, juvenile delinquency, domestic violence – which account for about 600,000 new filings each year, nearly a fifth of our overall docket.

A sense of urgency pervades the work of Family Court, because we know that what happens there has a powerful impact on families and children, and that delays in justice can prolong trauma and increase harm. This is a unique court in which our judges and staff strive constantly to balance best interests, safety and timeliness in the pursuit of outcomes that will improve the well-being of children and families. And given that out-sized responsibility, our jurists and court staff have performed admirably.

Outside New York City, the Family Court is one of our timeliest tribunals, with the percentage of cases over standards and goals holding steady at only 4%. In New York City, including here in the Bronx, our judges and staff have managed to hold their own despite a surge in neglect and abuse filings, among the most difficult and complex cases handled in Family Court.

Administrative Judge Jeanette Ruiz and her judges and staff have taken concrete steps to improve operations and service, including:

- “Appointment Express,” which allows litigants to make appointments online to meet with clerks to file court petitions, reducing long wait times and overcrowding;
- child support cases with custodial parents on public assistance are now being heard in all five boroughs instead of Manhattan only;
- court-sponsored mediation is now offered in the evenings for custody and visitation matters;
- and the “Strong Starts” program providing clinical services to the youngest children in abuse and neglect cases was recently expanded to Staten Island.

It is often hard to define what makes a disposition in Family Court a positive outcome, but make no mistake, timeliness and finality are important factors in that calculation. And on that score, the Family Court is doing well.

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Our Chief Administrative Judge, Lawrence Marks, does an extraordinary job of using statistical data to command and guide improvement of our statewide operations. I encourage you to review our Excellence Initiative Year Three Report, which provides a comprehensive statistical picture of the progress we are making to speed the litigation process in our trial courts across the state.

But let me emphasize one very important point: our work and progress under the Excellence Initiative go well beyond what is reflected in the numbers. The Excellence Initiative is a sophisticated, nuanced, modern and muscular approach to achieving justice for the benefit of the people we are privileged to serve. We are cognizant of the many ways in which improvements in court operations and case management enhance the quality of judicial decision-making and court services – and these improvements are continuing, expanding and being recalibrated every day.

And notwithstanding our all-consuming focus on foundational issues of court operations, we remain intent on adopting forward-looking initiatives to address emerging challenges.

III. Criminal Justice

A. OPIOID TREATMENT COURTS

Our country is in the midst of a devastating epidemic of opioid dependency. Over 70,000 Americans died from drug overdoses in 2017, with two-thirds of those deaths caused by opioids. Last year, I highlighted the first-in-the-nation Opioid Treatment Intervention Court, opened in the Buffalo City Court. That court is now the model for how to stabilize and help save the lives of high-risk drug offenders through immediate intervention and referral to evidence-based treatment; close case management and judicial supervision; and deferral of prosecution pending successful completion of treatment.

Last year, we began to replicate that model, and the Bronx County Criminal Court followed suit. With the Buffalo and Bronx experiences under our belt, we have moved across the state to institutionalize this new approach to achieve better outcomes and, hopefully, help save the lives of people caught up in the frightening, deadly cycle of addiction.

In total, we have opened 11 opioid courts and will open 10 more this year. Our goal is to operate an opioid court in every county of New York City, and at least one in every Judicial District in the state, with each court tailored to local resources and conditions. As Judge Sherry Klein Heitler, our Chief of Policy and Planning will tell you, all of these courts share one vital goal: transforming and saving lives. That is what feeds the energy in Judge Heitler's shop, where talented staff are working hard with the support of the Center for Court Innovation to secure millions of dollars in state and federal funding to open these cutting-edge courts and put in place the clinicians and recovery advocates necessary to implement this updated, enlightened and difference-making model.

Our long experience and credibility in creating specialized drug treatment, domestic violence, veterans, mental health and human trafficking courts have enabled us to quickly develop the national opioid court model, and our policy and operational guidelines, training curricula and instructional materials are spreading across the country as the model replicates.

Meanwhile, our institutional commitment to problem-solving justice remains strong, with ongoing expansion of veterans treatment, mental health and human trafficking intervention courts to underserved upstate areas, such as Ithaca, Syracuse and the Capital District. I want to recognize the important role that Greg Berman and the Center for Court Innovation has played as our research and development partner in reengineering how our courts respond to the unique needs of our litigants.

B. BAIL REFORM

The urgent need for criminal justice reform in our state pervades the work of our judicial branch of government on every level: from the fairness and accuracy of our court processes and decision-making, to the elimination of delay, to the movement of pre-trial detainees off Rikers Island.

We are committed to working with our partners in government and the entire criminal justice community to achieve a more equitable and effective system that balances due process and fairness with accountability and public safety. We look forward to supporting and working with Governor Cuomo; the leadership and members of the State Legislature; District Attorneys; and the Defense Bar on common sense reforms, especially with regard to bail, discovery, speedy trial and, of course, minimizing the possibility of wrongful convictions.

In this regard, the New York Justice Task Force, which includes representatives of the main stakeholders in the criminal justice system, recently reached a consensus on bail reform. Far too many defendants, presumed innocent under the law, are being detained prior to trial, not because of the risks they pose, but due to their inability to pay the amount of bail set in their cases. This is inequitable and contrary to our long-held belief that pre-trial detention should be a carefully limited exception to the norm of liberty.

After conducting a 21-month in-depth study of New York's bail system, the Task Force recommends that courts operate upon the presumption that defendants facing misdemeanor and certain non-violent felony charges – the vast majority of our criminal cases – be released either on their own recognizance or with the least restrictive non-monetary conditions necessary to ensure their presence in court. The presumption is rebuttable where there is a significant risk the defendant will not return to court or the court determines there is a credible threat to the safety of an identifiable person or group of persons. In those cases, and in others where no presumption applies, courts would be required to consider enumerated statutory factors in assessing the determination of bail, as is done presently. Even then, the court must determine whether it would be reasonable to release the defendant on his or her own recognizance or with the last restrictive conditions.

The Justice Task Force also urges that supervised release and robust pre-trial services be included in bail reform, with necessary funding provided to implement the goal of practical alternatives to pre-trial detention. Moreover, study and development of unbiased, effective and transparent risk-assessment tools are necessary to enable courts to assess a defendant's risk of failure to appear. In the event that public safety and threat of harm to specific persons becomes a legal consideration, the appropriate procedures to provide defendants with due process must be enacted.

I want to thank the Co-Chairs, former Court of Appeals Judge Carmen Ciparick and Judge Mark Dwyer, Angela Burgess and her pro bono associates at Davis Polk & Wardwell, as well as the voting and advisory members of the Task Force for once again laying the foundation for the kind of sound, fair reform we so urgently need in New York State. The Task Force has accomplished something truly extraordinary: creating a space where true advocates have been able to come together to engage in open, honest and productive dialogue and round their edges to achieve consensus on the most important criminal justice issues of our day.

We are also grateful to the New York City Mayor's Office of Criminal Justice for working with representatives of the criminal justice community to create a comprehensive, updated pre-trial release assessment tool. One of the key purposes of this tool is to address disparate impacts on racial groups at this critical pre-trial stage. We look forward to implementing this highly-developed release assessment in the New York City courts in the coming months and believe it will enable our judges to make fair, accurate and responsible determinations to avoid unnecessary pre-trial detention.

C. ASSIGNED COUNSEL RATES

Our criminal justice system faces another serious challenge. The lawyers appointed by our courts to represent indigent criminal defendants as well as children and parents in our family courts

have not received an increase in their compensation since 2004, when rates were fixed at \$75 an hour for felonies and representation of children, and \$60 an hour for misdemeanors. Meanwhile, compensation paid to assigned counsel in the federal courts has been adjusted 11 different times since 2004 and is presently fixed at \$140 an hour. Failure to adequately compensate these lawyers obviously harms those individuals in need of representation, but it also impairs our ability to efficiently operate our criminal and family courts. For example, nearly a third of the lawyers serving on our attorney-for-the-child panels have dropped out of the program over the last five years, leading to more adjournments and delays in many of our family courts.

New York State has made great progress to strengthen its criminal indigent defense system thanks to the creation of the Office of Indigent Legal Services, headed by Bill Leahy, and to increased state funding support for county governments and public defenders. However, our state continues to rely on the hundreds of private attorneys or assigned counsel who provide legal representation to indigent criminal defendants and family court litigants in many areas of the state. Without fair and adequate compensation for these attorneys, a vital component of the system is at risk.

Today, I have transmitted a letter to Governor Cuomo and the leaders of the Legislature urging that action be taken to adjust the rates of compensation paid to attorneys for assigned counsel work in New York State. Such action is necessary to maintain the quality of justice in our criminal and family courts and the progress made to reduce systemic delays. Our policymaking branches of government have previously demonstrated their strong commitment to an effective and equitable indigent representation system. I am confident that they understand what is at stake and recognize the need for a substantial upward adjustment of New York's assigned counsel rates. We look forward to providing any assistance that may be needed to bring about this long-deserved and essential increase.

IV. Civil Justice

A. ALTERNATIVE DISPUTE RESOLUTION

Turning back to our civil dockets, one of the main ways to streamline litigation and make our courts more affordable is to increase opportunities for settlement through Alternative Dispute Resolution options such as mediation and arbitration. After we announced the Excellence Initiative, many practitioners and bar associations, as well as our own trial and administrative judges, suggested that our court system was not taking sufficient advantage of ADR compared to the federal courts and other state court systems. They pointed out that mediation and arbitration have a proven track record of resolving a high percentage of civil cases, and of narrowing disputed issues, thereby reducing litigation cost and delay.

Last April, we responded by creating an ADR Advisory Committee populated with leading judges, practitioners, ADR professionals and academics who volunteered to serve under the very able leadership of John Kiernan, an experienced litigator and immediate past-president of the New York City Bar Association. The Committee got to work and now urges our court system to adopt presumptive early mediation as a standard component of our case management process for identified types of disputes known to be promising candidates for mediation. We are embracing that concept and will move toward a system in which, unless appropriate exceptions apply, most

civil cases will be automatically presumed eligible for early referral to court-sponsored mediation.

Through our Office of ADR Programs, and guided by the Committee's expertise, our Administrative Judges will work hand-in-hand with local bar associations to expand the number of mediation programs in the New York State courts. At the same time, we will develop statewide rules to guide local program implementation, provide training for judges, attorneys and neutrals and appoint local ADR coordinators in our courts.

Our past experience with court-sponsored ADR programs has been positive, featuring high settlement rates and strong user satisfaction levels among participating litigants and lawyers:

In New York County Supreme Court, a pilot program requiring early mediation of contract disputes under \$500,000 has achieved a 60% settlement rate.

In Erie County, former Court of Appeals Judge, Eugene Pigott, upon his return to the Supreme Court trial bench, started an early mediation program using court-approved volunteers which achieved a 65% settlement rate in 800 referred civil, tort and estate matters in 2018.

Our upstate child permanency mediation program has achieved a 73% resolution rate, and a similar program for custody and visitation cases in the New York City Family Court has a 70% resolution rate.

Our Community Dispute Resolution Centers, operating in all 62 counties, mediate about 30,000 cases a year, including landlord-tenant, small claims and child custody and visitation matters, with a 74% settlement rate, averaging 25 days from first contact to settlement.

The time is right to provide litigants and lawyers with a broader range of options to resolve disputes without the high monetary and emotional costs of conventional litigation. We consider this vision of ADR to be an integral part of our Excellence Initiative, and we are excited to work with the Bar to make it a reality.

B. COMMERCIAL DIVISION

Recognizing that New York State is the commercial and financial capital of the world, we have long been committed to resolving complex business disputes in a world-class forum -- the Commercial Division of our Supreme Court. Last September, Judge Marks and I both addressed the Standing International Forum of Commercial Courts, a group of 100 judicial leaders from 35 countries who came to New York City to exchange ideas and learn from our state and federal judiciaries how they can promote the just and efficient resolution of commercial disputes in their home countries.

The Commercial Division has been a leader in adopting new procedures to streamline discovery and reduce litigation costs, which led me to ask our Advisory Committee on Civil Practice to evaluate the reforms implemented in the Commercial Division and recommend which of them should be adopted more broadly in our civil courts. The Committee recommended a range of procedural and discovery reforms which were posted for public comment, and the Administrative Board of the Courts, which I chair with our four Presiding Justices, is reviewing the commentary. We will be making decisions on the proposals this Spring.

Finally, in recognition of the economic resurgence taking place in the Bronx, reflected in the number of commercial cases filed in Bronx Supreme Civil, we will be expanding the Commercial Division to Bronx County, effective April 1, 2019.

C. MATRIMONIAL MATTERS

Our commitment to excellence extends to matrimonial matters, which so often involve the best interests of children. We are focused on achieving better outcomes in these sensitive cases and speeding their disposition in order to minimize the financial and emotional toll on families and children. Last July, in pursuit of these vital goals, we appointed Judge Jeffrey Sunshine as our Statewide Coordinating Judge for Matrimonial Cases. Working with our Administrative Judges and the matrimonial bench and bar, Judge Sunshine is leading our efforts to streamline practice and improve the quality of justice. Among the many reform efforts underway: bringing the efficiency and convenience of e-filing to matrimonial actions; piloting matrimonial mediation in Suffolk, Kings and Monroe Counties; authorizing mandatory referral of parents to education programs in seven counties to provide information about the impact of parental breakup and conflict on children; and simplifying our uncontested divorce packet to make it easier for ordinary people to complete and file. Judge Sunshine's appointment will ensure that there is an ongoing focus on the management and adjudication of these important cases.

D. SURROGATE'S COURT

Last June, with the assistance of a statewide committee of Surrogates, we adopted for the first time standards and goals for Surrogate's Court proceedings. Recently provided with new case management technology, our Surrogate's Courts have been conducting a detailed review of case inventories to identify the oldest cases in need of attention and to close out inactive cases. While this is a labor-intensive process, the results are worth the effort. The Nassau County Surrogate's Court alone closed out over 34,000 cases that had been abandoned or previously resolved. By enabling these courts to purge their dockets of lingering cases we now can apply the new standards and goals benchmarks with confidence, knowing that they will provide an accurate measure of the performance of every court. On a parallel track, we are working with the Surrogates' committee on the next phase of reform, developing effective case management practices designed to expedite and improve the delivery of justice in this vital court.

V. Family Justice

A. COMMISSION ON PARENTAL LEGAL REPRESENTATION

As someone who had the privilege of being assigned to Family Court at the beginning of my judicial career, I experienced first-hand how effective legal representation of all parties enables judges to render timely, well-informed decisions that lead to better outcomes for families and children in crisis. In child welfare cases, effective representation is especially important to protect parental rights, expedite appropriate placement of children who need safety and permanence, speed family reunification and enable judges to order necessary and appropriate services for children and their family members.

For these reasons, and consistent with the Excellence Initiative's focus on improving the quality of adjudication, I appointed the Commission on Parental Legal Representation, consisting of

Family Court Judges, practitioners and a broad range of stakeholders, and led by Karen Peters, a former Family Court Judge and former Presiding Justice of the Appellate Division, Third Department. After conducting an extensive study and holding public hearings across the state, the Commission has issued an interim report concluding that our parental legal representation system is overwhelmed and underfunded, often resulting in inadequate legal services with harmful consequences for children and families and, ultimately, the communities we all live in and call home.

The Commission's recommendations are smart, informed and have the potential to be transformative. We agree with the recommendation to create an Office of Family Representation to bring statewide organization and oversight to the delivery of parental representation services, and we believe it would make perfect sense to establish such an office as an arm of the State Office of Indigent Legal Services, which not only performs similar functions on the criminal side but has successfully upgraded New York's criminal indigent defense system.

In total, the Commission's recommendations – transferring to the state fiscal responsibility for representation in child welfare matters; increasing assigned counsel rates; and adopting caseload caps for attorneys in this area – will not be an easy lift, but we are fully committed to seeing them through. We will carefully evaluate the complex policy and fiscal implications of the Commission's recommendations and develop a preliminary plan for how we can work with our partners in government, the attorneys who practice in this area and all essential stakeholders to implement these critically important recommendations and overhaul our failing parental representation system. We thank the Commission for its excellent work thus far.

B. RAISE THE AGE LEGISLATION

This coming October 1st, the second phase of the new "Raise the Age" legislation will take effect, setting the age of criminal responsibility in New York State at 18. Once the new law is fully implemented, 16- and 17-year-olds charged with misdemeanors will be treated as juvenile delinquents in Family Court, while certain "Adolescent Offenders" charged with felonies will be eligible to have their cases removed to Family Court. We are grateful to Deputy Chief Administrative Judges Edwina Mendelson and Michael Cocomma for heading an internal committee that developed a statewide plan and worked collaboratively with our partner agencies and stakeholders to achieve the smooth implementation of this historic reform, which will provide our young people with age-appropriate rehabilitative options and services in a humane setting where they are much more likely to get back on the path to productive, law-abiding lives.

C. NEW YORK STATE MENTORING PROGRAM

Children aging out of the foster care system face enormous challenges and disadvantages. A year ago, I announced a partnership with the New York State Mentoring Program, founded by Matilda Raffa Cuomo, to match these young people with adult mentors committed to helping them set goals, build self-esteem and make healthy choices for the future. The first semester of this program ended last December, and the report cards were glowing: Omar received his GED; Guillermo scored a full-time job at Century 21; Jesselyn made straight As for the semester; and Clairice realized that she needs to go to mentoring instead of going back to her old neighborhood where she gets in trouble.

I want to thank Administrative Judge Jeanette Ruiz and the many organizations that collaborated with us to create a model program for the New York City Family Court, especially the professionals and attorneys from Marsh & McLennan and Willkie Farr & Gallagher who served as mentors, and Judge Andra Ackerman for planting the seed through her work with young people in the Cohoes City Court. We are very pleased with the Mentoring Program and look forward to expanding its impact in the future.

VI. Appellate Justice

Of course, no address on the State of Our Judiciary would be complete without reviewing the work of the Appellate Division of our New York State Supreme Court. Our four Presiding Justices – Rolando Acosta, Alan Scheinkman, Elizabeth Garry and Gerald Whalen – have been pursuing excellence in their respective Departments and implementing significant changes to appellate practice across the state, including the introduction of e-filing in all four Departments, and new statewide rules harmonizing key practice issues, such as the deadline for perfecting an appeal, which is now six months instead of nine in all four Departments.

The Presiding Justices have also taken important steps internally to improve operations and the quality of justice in their courts:

The First Department perfected its unique calendar system so appellants can schedule and argue appeals during the same term and still receive a decision within four to five weeks;

In order to reduce its backlog, the Second Department increased the number of appeals on its daily calendars, began deciding certain appeals on written submissions, and recruited over 70 volunteer experienced lawyers and retired jurists to create a promising post-perfection mediation program.

The Third Department responded to an emerging challenge by creating new attorney-for-the-child contract offices to address the shrinking pool of assigned counsel upstate; and

The Fourth Department identified efficiency gains that reduced the average time for disposition of an appeal by a full two months.

The Presiding Justices also serve as invaluable partners on the Administrative Board of the Courts, developing and implementing statewide policy for our judicial system.

VII. Access to Justice

We have a long and proud tradition in this state of working to ensure that every litigant has access to meaningful legal assistance where the essentials of life are at stake – in housing; family matters; access to healthcare; education; and subsistence income. Our Permanent Commission on Access to Justice, chaired by Helaine Barnett, continues to lead our efforts and to demonstrate through its public hearings and annual reports how investing public dollars in civil legal services redounds to New York's benefit by reducing social service costs, attracting federal dollars to the state economy and strengthening the fabric of our families and communities.

The Permanent Commission is also leading our efforts to develop a statewide strategic plan to ensure that we get the maximum value out of every taxpayer dollar and every hour of lawyer pro

bono generously dedicated to meeting the civil legal needs of low-income New Yorkers. The goal is to forge an efficient statewide delivery system that avoids waste and duplication and addresses gaps in services. To help us achieve that goal, we have established a pilot program in Suffolk County to serve as a model for how to build a community-based approach where comprehensive information and on-site legal services are available from legal service providers, volunteer lawyers and law students and nonprofits. The Suffolk County pilot, which is being led by Administrative Judge Randy Hinrichs, has been an eye-opener, demonstrating how motivated local stakeholders can collaborate with each other and leverage existing resources and services to make them more efficient and impactful with the community. A second pilot is underway in Monroe County, under the direction of Administrative Judge Craig Doran, and more are being planned.

We are expanding access to justice in many different ways. Last August, I had the privilege of presiding over the grand opening of our newest Legal Hand Centers in the Highbridge and East Tremont neighborhoods of the Bronx. A most promising access to justice innovation, Legal Hand is a first-of-its-kind program featuring neighborhood storefronts with specially trained non-lawyer volunteers who provide free information, assistance and referrals on a walk-in basis to local residents to help them resolve problems before they escalate and become legal actions that end up in our courts.

Our Deputy Chief Administrative Judge for Justice Initiatives, Edwina Mendelson, in addition to her Raise the Age responsibilities, is focused on the statewide coordination of court resources to support a broad range of initiatives, including our court-based volunteer attorney programs; courthouse Help Centers; our Court Navigators program to guide unrepresented litigants; and a wide range of web-based and informational services that promote access to justice and public confidence in our judicial system.

VIII. New York City Housing Court

One of the areas of greatest challenge in providing access to justice is our busy, overburdened New York City Housing Court where almost 240,000 new proceedings are filed each year and up to 3,000 matters may be heard on any given day. As recently as 2013, only 1% of tenants in that court were represented by counsel. Fortunately, this is rapidly changing for the better thanks to the state's approval of \$100 million in the Judiciary's budget for direct grants to civil legal service providers, and New York City's enactment of the Universal Access to Counsel Law. The completed roll-out of the Universal Access Law will soon provide legal services to all litigants facing eviction in the New York City Housing Court, while the recommendations of our Special Commission on the Future of the New York City Housing Court are improving daily operations and services.

The judges and lawyers who sit and practice in Housing Court report that having counsel on both sides of a case is creating a fairer court process leading to more equitable outcomes, increasing the level of civility and professionalism in a court until recently known for its chaotic culture and hallway negotiations, and making housing litigation more efficient in general.

Today we have issued our one-year progress report describing the many changes we have made to implement the Special Commission's recommendations: facilitating early assignment of

counsel; instituting preliminary conference orders and staggered calendars to reduce congestion and wait times; scheduling pre-trial conferences and expanding trial capacity; adding more human resources, including 20 new court attorneys; and making significant physical upgrades to our facilities, including eventual relocation of the Bronx Housing Court to larger, more suitable space here in this building at 851 Grand Concourse.

Our implementation group of judges and court managers, especially Judge Marks; New York City Civil Court Administrative Judge, Anthony Cannataro; Housing Court Supervising Judge, Jean Schneider; and Chief Clerk, Alia Razzaq have done extraordinary work to establish the necessary conditions for just and timely outcomes and high-quality justice services – exactly what the Excellence Initiative is all about. IX.

Pursuing Excellence

A. TECHNOLOGY AND E-FILING

In our day and age, no organization can achieve excellence without making effective use of modern technology. There is no better example of this than the dynamic case management “dashboard” technology we created as part of the Excellence Initiative to provide judges and court managers with real-time information about each trial court’s inventory of cases. Because the data is searchable and sortable in numerous ways, including by judge, case type and age of case, the dashboards have enabled us to manage our dockets more efficiently than ever before.

Equipping our courtrooms with the latest technology so that judges, lawyers, litigants, jurors and members of the public can fully engage in courtroom proceedings is one of the most visible ways in which the court system can demonstrate its commitment to excellence in the delivery of justice. However, reconfiguring and modernizing 1,400 courtrooms and hearing rooms around the state is a monumental task complicated by the fact that each courthouse is the responsibility of a local county or city government, and that many courthouses are historic landmarks dating back to the 19th century.

In light of these realities, we have developed a comprehensive six-year plan – our Courtroom Modernization Initiative – designed to achieve our goals in a flexible, cost-effective manner. The Initiative consists of two parts: first, ensuring that every courtroom in our state is equipped with basic functionalities, including electrical outlets in convenient locations in the courtroom; functioning sound systems and soundproofing; and high-speed WiFi. The second part will be the strategic rollout of mobile Evidence Presentation Systems, which feature large state-of-the-art, touch-screen monitors with a number of wirelessly connected components capable of supporting high-tech trials with complex digital evidence, remote video testimony, real-time court reporting and a wide array of functions that will expedite and enhance the trial process for all participants. These mobile systems, which I have personally tested in my own chambers, are relatively inexpensive, can be upgraded to keep pace with changing technology and can be moved from courtroom to courtroom.

E-filing has brought enormous cost-savings and convenience to lawyers and litigants in the New York State courts. We now have over 80,000 registered e-filing users and expect this year to surpass the milestone of two million matters e-filed in our courts. Our partners in the Legislature and the Bar have come to recognize and appreciate that universal e-filing is the future. We will

continue to head down that road and expand e-filing at an appropriate pace, with our sights set on introducing e-filing to our felony courts and the New York City Housing Court in the near future.

B. COURT OFFICER ACADEMY

The New York State courts hear millions of matters a year and receive tens of thousands of visitors every day. While our court system is among the busiest in the world, we also enjoy the distinction of being one of the safest. And for that distinction we owe a great debt of gratitude to the dedicated members of our Department of Public Safety who wear the uniform of New York State Court Officer. Our court system could not operate properly without their dedicated, professional and highly-skilled services.

Because we expect much from our Officers, we owe them much in return. Last December, we opened a new Court Officer Academy in Crown Heights, Brooklyn, dedicated to the memories of our three Court Officers who lost their lives on 9-11. The Academy is a state-of-the-art facility designed to provide the latest and best professional training and instruction on an ongoing basis. The new Academy has enabled us to expedite the recruitment, training and hiring of additional Court Officers. Indeed, just last week, we inaugurated the Academy with the largest class in our history – 240 new recruits. The total number of Officers hired since 2016 now stands at 830 – and will increase to 900 by July. Under the Excellence Initiative, staffing and training of Court Officers will always be a priority.

We thank Chief of the Department of Public Safety, Michael Magliano, and all of our Officers for their service and for the professional manner in which they keep our judges, staff, lawyers, litigants and members of the public safe and secure each day. No easy task.

C. NEW YORK GUIDE TO EVIDENCE

Our New York Evidence Committee, co-chaired by former Court of Appeals Judge Susan Read and retired Judge William Donnino, is hard at work on a definitive and comprehensive Guide to New York Evidence, which will prove to be a valuable resource for the Bench and the practicing Bar. It is a work in progress, now about 60% complete, and available on the court system's website <https://www.nycourts.gov/JUDGES/evidence/>.

X. Constitutional Modernization of the New York State Courts

Even to the casual observer, our judges and court staff have been working smarter and more efficiently toward our shared goal of quality, efficiency and accessibility. But we do remain both hampered and frustrated by the limitations imposed on us by our fragmented and long-outdated organizational structure of 9 separate trial courts – 11 if you care to count our town and village courts.

Time and again, we find ourselves unable to sensibly respond to identified problems by responsibly shifting or reallocating our staffing and resources – the way any other rational business organization would do. And while we are determined under the Excellence Initiative to keep achieving efficiencies and upgrading the quality of our decision-making and court services, our mind-boggling maze of different trial courts wastes resources, increases litigation costs and

does not serve the public well. Consider, for example, a divorcing couple with children who must get divorced in Supreme Court but then settle their custody, visitation and support issues in Family Court, in a different building, before a different judge unfamiliar with the family's unique history. Again, wasteful, inefficient, frustrating.

Amending our State Constitution to create a two-tiered trial court structure, consisting of a superior court and a district court, offers the best opportunity to achieve a modern judicial system fully capable of delivering efficient, affordable and high-quality services. That should be our goal.

And our parallel objective should be either to remove the Constitution's century-old population cap on the number of authorized Supreme Court Justices or adopt an updated formula that ensures a sufficient number of Supreme Court Justices commensurate with the greatly increased volume and complexity of litigation presented in a modern society.

The lawyers who practice in our courts are as frustrated by our outdated court structure as we are. And I want to thank the New York State Bar Association, and its President, Michael Miller, for their strong support of our Judiciary in general and court modernization in particular. In fact, the President-Elect, Hank Greenberg, chaired a State Bar Committee that issued a comprehensive report with excellent recommendations that closely parallel our own proposals.

Again, for all the obvious reasons – achieving greater operational efficiencies, lowering litigation costs, enhancing access, providing better court services and upgrading the quality of judicial decision-making – the time has come to modernize the structure of our judicial system and allow us to operate at our highest and best level.

I will be encouraging Governor Cuomo and the State Legislature to work with us to develop and give first and second passage to meaningful constitutional reforms that can be submitted to the voters for their approval on the 2021 ballot. This is a matter of the utmost concern, directly affecting our ability to meet our 21st century governance responsibilities and the justice needs of the people of the State of New York.

XI. Conclusion

The state of our Judiciary is growing stronger with each passing day. We are doing everything in our power to make our courts in the Bronx, and all around the state, timely and affordable. We know we have not yet achieved excellence throughout our entire court system. But I firmly believe that we have every good reason to be optimistic about our future. Our judges and court staff are not only working hard but employing new and different approaches to improve the delivery of justice. They are encouraging respect and trust in the Judiciary and sending a clear message that this independent branch of government can be counted on to do the people's business – without fear or favor and with all due process and speed.