Report on the New York County Criminal Court

Student Monitors from the
John Jay College of Criminal Justice

2004

It is desirable that the trial of causes of action should take place under the public eye, not because the controversies of one citizen with another are of public concern, but because it is of the highest moment that those who administer justice should always act under the sense of public responsibility, and that every citizen should be able to satisfy himself with his own eyes as to the mode in which a public duty is performed.

Justice Oliver Wendell Homes
Cowley v. Pulsifer
137 Mass. 392, 294 (Mass. 1884)

The Fund for Modern Courts is a private, nonprofit, nonpartisan organization dedicated to improving the administration of justice in New York. Founded in 1955, and led by concerned citizens, prominent lawyers, and leaders of the business community, Modern Courts works to make the court system more accessible, efficient, and user-friendly for all New Yorkers.

The centerpiece of Modern Courts' efforts is our groundbreaking citizen court monitoring program, which gives citizens a powerful voice in how their court system is run. Our monitors, who now number more than 600 in over a dozen counties throughout New York State, have succeeded in obtaining numerous tangible improvements in the state's courts.

This report details the findings of student monitors from the City University of New York's John Jay College of Criminal Justice regarding the New York County Criminal Court. We hope their recommendations will help to obtain improvements for the residents of New York County that the court serves.

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TABLE OF CONTENTS

I. THE PROJECT 1
Court Monitoring in New York State 1
John Jay College of Criminal Justice Partnership 2

II. THE CRIMINAL COURT OF THE CITY OF NEW YORK 3
New York County Branch 3
Caseload 4
Appeals Process 5
Criminal Court Judges 5

III. JUDGES 7
Hon. A. Kirke Bartley, Jr. 7
Hon. Gregory Carro 8
Hon. Ellen M. Coin 9
Hon. Matthew F. Cooper 10
Hon. William M. Harrington 11
Hon. Gerald Harris 12
Hon. Barbara Jaffe 13
Hon. Deborah Kaplan 14
Hon. Eileen Koretz 15
Hon. Suzanne M. Mondo 16
Hon. Laura A. Ward 17
Hon. Richard M. Weinberg 18

IV. ATTORNEYS 20

V. COURT PERSONNEL 23

VI. COURT FACILITIES 26

VII. RECOMMENDATIONS 30

ACKNOWLEDGMENTS 33

MONITORS 34

I. THE PROJECT

Court Monitoring in New York State

The Fund for Modern Courts is a private, nonprofit, nonpartisan organization dedicated to improving the administration of justice in New York State. Since 1975, Modern Courts has sponsored court monitoring programs around the state, through which ordinary citizens observe and evaluate their courts, report their findings, and issue public recommendations for improvement. Today, groups of court monitors are active in 16 counties.

For over twenty-five years, court monitoring has been highly successful at achieving numerous public-interest objectives, including:

- publicizing problems that exist in the courts;
- successfully urging those responsible for the courts to make improvements, particularly in how the courts serve the public and how their personnel treat the public; and
- educating citizens about the daily functions and operation of their courts; thereby creating a constituency of citizens who understand the problems facing the courts and who are supportive of the courts' efforts to function efficiently and effectively.

Monitors are non-lawyer volunteers who have a sincere interest in the efficient operation of their local courts. They look at the courts from an outsider's viewpoint, thereby providing a fresh, common-sense perspective on how the courts can be improved. During the monitoring project, these volunteers observe proceedings in a particular court for a period of several months, and complete forms designed to help them to evaluate all aspects of the court's performance, ranging from the demeanor of the judges to the physical conditions under which the court operates. Modern Courts then publishes the monitors' findings in a detailed report, which is sent to the judges and court personnel observed, the administrators of the state court system, state and local legislators, the news media, and other interested parties.

Modern Courts' citizen court monitoring program has been influential in solving many of the problems that ordinary citizens face in the courts. Monitors' comments:

- have aided in the establishment of in-court child care facilities in numerous courthouses across the State.
- led to the implementation of a "staggered" calendar, modeled directly on monitors' recommendations, which has drastically reduced both waiting time and overcrowding.
- have led to a renewed commitment to courthouse upkeep by local governments.

Monitors' findings were also influential in the State Office of Court Administration's decision to introduce a mandatory "civility training" program for all non-judicial court personnel.

On a larger scale, monitors' reports were instrumental in encouraging the State legislature to pass the Court Facilities Act of 1987, which has led to construction of desperately needed new court facilities around the State. In the Third Judicial District, for example, the county converted an old jail facility into a new courthouse for the Rensselaer County Family Court. The court opened in 1998, replacing a deplorable facility that had been criticized by monitors in several reports. Other new courthouses are scheduled for construction over the next several years. Monitors' reports also influenced recent reforms to make jury service less burdensome.

Overall, citizen court monitoring has improved communication between citizens and the judiciary, heightened the court system's sensitivity to public needs, and helped to ensure that those needs are met.

John Jay College of Criminal Justice Partnership

This monitoring project marked the second collaboration between the City University of New York (CUNY), the Office of Court Administration, and Modern Courts. Modern Courts expanded its pool of citizen court monitors by designing a program whereby students from two court administration and processes courses served as court monitors as a fieldwork component of their coursework. As part of this partnership, the Office of Court Administration supplemented the student's fieldwork with a series of regularly scheduled lectures by judges and court personnel. This project, involving students from the John Jay College of Criminal Justice, was conducted during the spring 2002 semester. As part of their coursework, each student made four observations during the semester of the Criminal Court proceedings. The students added a young and diverse voice to the court monitors, and presented a perspective on the court that is too seldom heard.

This report is based on a total of 138 observations made by 37 student monitors between March, 2002 and May, 2002.

II. THE CRIMINAL COURT OF THE CITY OF NEW YORK

In all five counties (or boroughs), the Criminal Court of the City of New York has jurisdiction over all misdemeanors and violations, as well as the preliminary stages of felony cases. Each county has its own branch of the Criminal Court.

In the early 1990s, the Criminal Court experienced a substantial increase in its caseload. In 1993, Criminal Court in all five branches filings totaled 276,401. By 1998, there were 394,428 total filings in the Criminal Court. Thus, filings jumped an astonishing 42% in five years. In recent years, the total number of filings has slowly declined with 324,679 filings in 2002 and 321,959 filings in 2003.

The New York County Branch

The New York County Branch of the Criminal Court of the City of New York is divided into multiple parts. There are seven "arraignment parts," in which defendants are informed of the charges against them. One of these is located at the Midtown Community Court. There is also one "Desk Appearance Ticket Part" (DAT part). A police officer who charges a defendant with a violation may give the defendant a "desk appearance ticket," which specifies the date and time that the defendant is to appear in court. These cases are routed to the DAT part.

After arraignment, felony cases are sent to the Criminal Branch of the Supreme Court. Cases in which the defendants are accused of misdemeanors remain in the Criminal Court, and if a "not guilty" plea is entered at arraignment, they are usually sent to one of the court's "all-purpose" (AP) parts. There are also "hearing parts," where pre-trial matters, such as pleas, discovery, and motions, are heard.

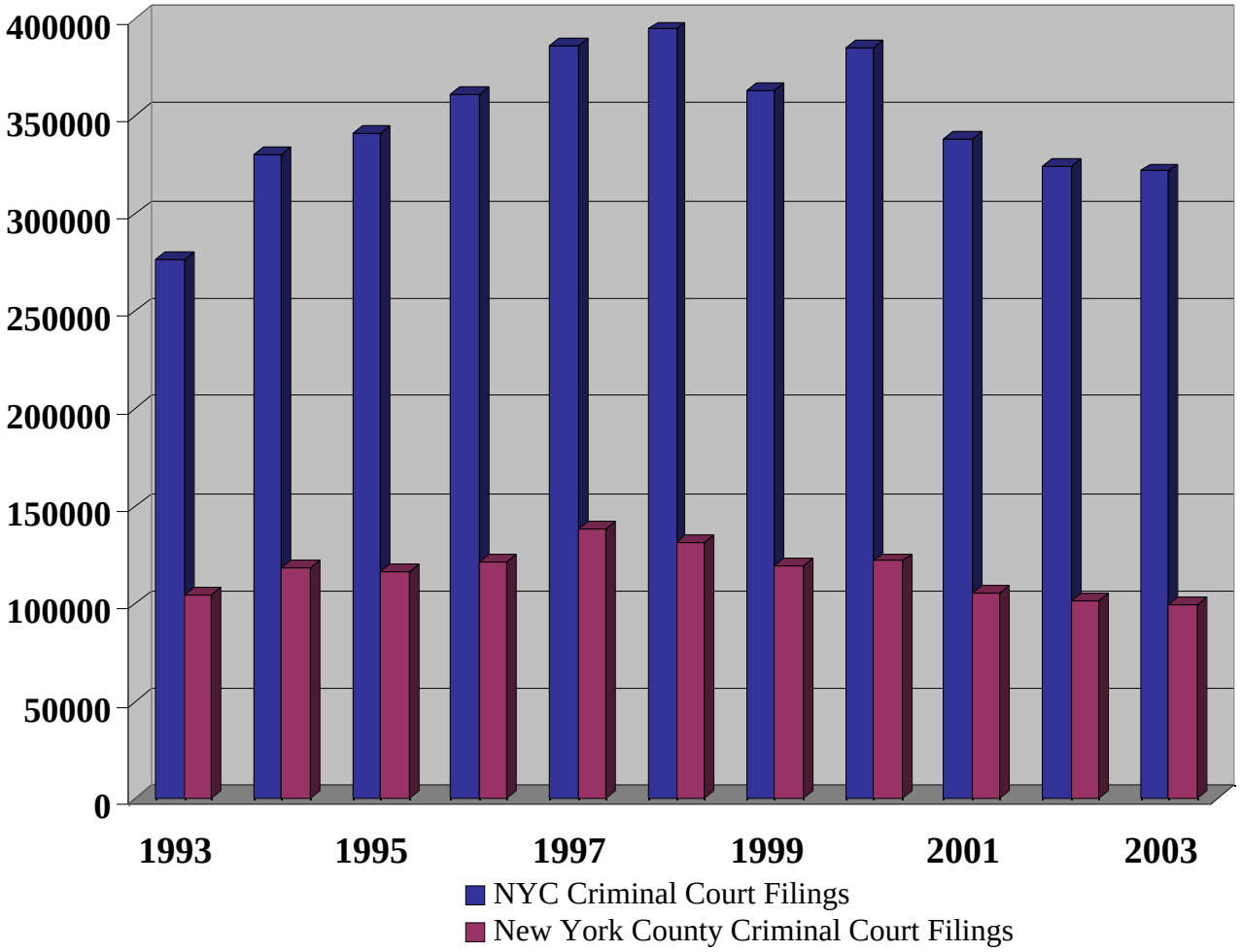
In the Criminal Court, most cases are settled before trial, either by negotiated pleas or by dismissal. Cases that are not resolved in the AP parts are sent to one of the trial parts. One of these trial parts has been dedicated to hearing domestic violence cases. In 1998, a post-judgment compliance part was also established to monitor defendants' adherence to the conditions of their sentences in domestic violence cases. There is also has a misdemeanor drug treatment court that provides post-plea supervised treatment to non-violent offenders.

Midtown Community Court

The Midtown Community Court was launched in 1993 to target quality-of-life offenses, such as prostitution, illegal vending, graffiti, shoplifting, fare-beating and vandalism. The Midtown Community Court sentences low-level offenders to community service while at the same time offering them help with problems such as drug addiction and lack of employment. Residents, businesses and social service agencies collaborate with the court by supervising community service projects and by providing on-site social services, including drug treatment, health care and job training. In 1999, the court began to hear small claims cases.

Caseload

Total Filings in the Criminal Court of New York City and the New York County Branch (1993-2003)



The Criminal Court's caseload exploded in the early 1990s; the caseload of the New York County Branch mirrored the city-wide trend. In 1993, a total of 104,390 cases were filed in the New York County Branch. By 1998, that number of filings stood at 131,692, representing an increase of 26 percent from 1993. In 2002, the year that the monitoring occurred, filings in New York County declined to 101,330; in 2003, that number remained relatively steady at 99,889 filings.

Appeals Process

Appeals from the Criminal Court are heard in the Appellate Term of Supreme Court. (The Appellate Term has been established by the Appellate Division of Supreme Court to hear appeals from the First and Second Departments only.) Appeals from the Appellate Term are heard by the Appellate Division. Further appeals are brought before the Court of Appeals, New York's court of last resort.

Criminal Court Judges

Eligibility: To be eligible for a Criminal Court judgeship, one must be a member of the bar for at least ten years, and must be a resident of the City of New York.

Method of Selection: The Mayor of the City of New York appoints the Criminal Court of the City of New York judges.

Since 1978, New York City Mayors have adhered voluntarily to a "merit selection" process for the appointment of Criminal Court judges, Family Court judges, and interim Civil Court judges in New York City. This merit-based appointment process was established by executive order, which can be altered at will by the mayor. The executive order also created the Mayor's Advisory Committee on the Judiciary, which screens judicial candidates. The mayor appoints the Committee's members, ten of whom are appointed based upon the recommendations of the Presiding Justices of the First and Second Departments and the deans of two New York City law schools. However, the mayor retains the right to veto their selections. For each vacant judgeship, the Committee nominates the three most qualified candidates; before the names are sent to the mayor, the Committee on the Judiciary of the Association of the Bar of the City of New York evaluates the candidates and rates them "approved" or "not approved," which the mayor may take into consideration in making his selection. The mayor then appoints one of the three candidates approved by his Advisory Committee.

Mayor Michael Bloomberg's merit appointment executive order -- modeled on those issued by Mayors Koch, Dinkins and Giuliani - adheres to the process described above. His Executive Order provides that the Mayor will not appoint anyone to the bench who is not recommended by the Mayor's Advisory Committee on the Judiciary. The current executive order stipulates that a minority of the committee's members are named by the mayor while the remaining members are appointed by the Chief Judge, the two presiding justices in New York City, and two law school deans who are selected on a rotating basis.

Thus far, all of the judges appointed and reappointed, during the Bloomberg administration, have also been found qualified by the Judiciary Committee of the Association of the Bar of the City of New York, and were approved by Deputy Mayor for Legal Affairs Carol Robles-Román, Corporation Counsel Michael Cardozo and Criminal Justice Coordinator John Feinblatt.

Salaries and Tenure: New York City Criminal Court judges currently earn an annual salary of $125,600. They are appointed to ten-year terms, and may serve until the mandatory retirement age of 70. When a judge, for any reason, leaves office before completing his or her term, the Mayor appoints an interim judge to serve the remainder of that term.

Assignment of Judges**:** The New York City Criminal Court Act statutorily restricts the number of Criminal Court judges to 107. However, nearly half of the judges appointed to the Criminal Court actually serve as "Acting Supreme Court Justices."

New York State law limits the number of Supreme Court justices to one per every 50,000 people. However, in New York City, the Criminal Branch of Supreme Court handles a heavy felony caseload, which requires the services of more justices than allotted by current state law. Thus, many judges of the Criminal Court are commonly designated "Acting Supreme Court justices" to hear felony cases. During this monitoring project, fewer than half of the 107 judges appointed to the Criminal Court were actually serving in the Criminal Court and several Civil Court Judges were assigned to the Criminal Court to compensate for the "loss" of those Criminal Court judges transferred to Supreme Court.

III. JUDGES

Following are the student monitors' evaluations of judges that they observed on five or more opportunities during their monitoring project of the Criminal Court of the City of New York in New York County.

Please note that the monitors did not evaluate the judges' decisions or legal knowledge. Rather, they focused on their overall demeanor, including their treatment of defendants, attorneys, and jurors; their professionalism including their clarity of explanations, efficiency, and thoroughness; their ability to maintain control of the courtroom; and their audibility.

This section is a summary of the monitors' findings. The Criminal Court judges observed by the students during this project are listed alphabetically by last name.

Hon. A. Kirke Bartley, Jr.

Hon. A. Kirke Bartley is a graduate of John Jay College of Criminal Justice and St. John's University School of Law. From 1978 to 1979, he was an associate at the office of Edward J. Ledogar. He served as an Assistant District Attorney for Queens County from 1980 to 1997. In 1997, he was appointed to the Criminal Court of the City of New York by Mayor Rudolph W. Giuliani.

Five different monitors made five observations of Judge Bartley during this project.

Demeanor and Professionalism

Monitors described Judge Bartley as a "patient" and "fair" judge and generally praised his handling of both attorneys and jurors. One monitor noted, "When he spoke to the attorneys, he spoke to them very professionally" and allowed "the assistant district attorneys to present their cases" without interruption. Another praised his explanation of the trial process to the jurors: "Before the jury went out to their break, he explained to them why they were there and what was their purpose in the trial."

One monitor praised the judge for not allowing an unnecessary delay during the trial that the monitor observed. This monitor stated, "The judge did not want further delays" because the jury had already expressed their "displeasure with the constant delays."

Command of Courtroom

Several monitors observed Judge Bartley in a jury part and felt that "he was able to maintain control of the courtroom."

One monitor observed him in an arraignment part and felt that "he had no control over the courtroom including the court personnel." This monitor felt that "There was no consideration [shown] for defendants and guest[s] of the courts when he allowed the noise to continue." The monitor added, "He should make it clear that noise is not tolerated [and] there is no cell phone use in the courtroom."

Audibility

Monitors found that Judge Bartley spoke softly but could usually be heard. One monitor observed, “Judge Bartley’s audibility was fine. He was clear but not that loud.” Another observer noted that his voice was "very low despite the fact that he was using a microphone."

Hon. Gregory Carro

Hon. Gregory Carro is a graduate of Buffalo State College and Rutgers School of Law. From 1985 to 1998, he was an Assistant District Attorney for New York County. In 1998, he received an appointment to the Criminal Court of the City of New York from Mayor Rudolph W. Giuliani.

Six different monitors made six observations of Judge Carro during this project.

Demeanor

Monitors generally praised Judge Carro's demeanor on the bench. One monitor commented, “He looked like he wanted to be there, like he enjoys his job” This monitor noted, “He even smiled, on occasion as he passed entering and leaving the room. He seemed to be trying to make people comfortable.”

Judge Carro specifically received praise for his attentiveness. One monitor noted, “He didn’t busy himself with things on the bench but listened attentively.” Another observer noted, "The judge kept eye contact with defendants and the lawyers present.”

One monitor recounted an incident where Judge Carro "exercised a lot of patience with a mentally ill defendant who was exhibiting inappropriate behavior in the courtroom." The monitor observed, at first, "the judge seemed not to pay much attention to her although she was screaming out over his voice while he was conducting proceedings in other cases. After about 25 minutes of everyone having to listen to this apparently mentally ill woman the judge looked over to where she was sitting. He then calmly listened to her and told her that he would call her case as soon as he could. All in all he was very patient with her and treated her with courtesy, dignity and professionalism, even though she had been disrupting the courtroom during the arraignments of other cases."

Professionalism

One monitor praised Judge Carro's for the thoroughness of his explanations: “He didn’t speed through his rulings. He made them, repeated them and also asked more than once if the defendant understood his decision and if they needed him to be clearer.”

One monitor reported that "the judge was very late, and he did not explain why."

Command of Courtroom

Monitors generally found that Judge Carro had "fairly good control of the courtroom." One monitor stated, "He seemed to have control of the courtroom because there was a lot of speaking and he just looked at the court officer and he quieted [the courtroom] down."

Audibility

Monitors generally described Judge Carro as "audible."

Hon. Ellen M. Coin

Hon. Eileen Coin is a graduate of the University of Pennsylvania and New York University School of Law. From 1972 to 1977, she was an assistant district attorney in the Kings County District Attorney’s Office. From 1977 to 1980, she served as a Special Attorney for the United States Department of Justice’s Organized Crime Strike Force for the Eastern District of New York. From 1980 to 1986, she was first an associate and then a partner at Shapiro & Schwartz. She served as a partner at the law firm of Graubard Mollen & Miller from 1989 to 1997. In May, 1998, she received an interim appointment from Mayor Rudolph W. Giuliani to the Civil Court of the City of New York, and was subsequently assigned to the Criminal Court of the City of New York.

Four monitors made nine observations of Judge Coin during this project.

Demeanor

Monitors described Judge Coin as "polite" and "patient." Monitors found that "her presence was not intimidating like some judges" and that Judge Coin "was more patient than I expected.”

Judge Coin received praise from the monitors for her treatment of those in her courtroom including defendants. The monitors noted that "Judge Coin [showed] a lot of respect for others in

the court" and that "when dealing with defendants she at times seemed sympathetic." One monitor praised her because "she offered the defendants the time to speak and actually seemed like she was listening when they did say something." Another noted that she was "sure to ask the defendants if there was anything she said which they did not understand."

Professionalism

Monitors generally felt that "Judge Coin conducted herself professionally." They found that "all rulings and proceedings were explained" and "clear [and] concise and straight to the point." In addition to making clear explanations, "Judge Coin made sure [that] the defendant understood the ruling very clearly.

Command of the Courtroom

Monitors felt that Judge Coin did not attempt to maintain control of the courtroom. One monitor observed, ”There seemed to be no control over the courtroom when others [including] court employees were speaking while proceedings took place.” Another monitor noted that "there were people talking in the [courtroom]" but attributed this to the fact that "the judge was too busy to hear or intervene."

Audibility

Monitors found that Judge Coin "spoke loudly and clearly."

Hon. Matthew F. Cooper

Judge Cooper did not respond to Modern Courts’ request for biographical information. Seven monitors made eight observations of Judge Cooper during this project.

Demeanor

Monitors repeatedly referred to Judge Cooper as "patient." One monitor commented, “He was patient; he let counsel explain their points without interruption.”

Several monitors also noted that Judge Cooper was "very respectful to others" in the courtroom.

Several observers also commented on Judge Cooper's jovial disposition on several occasions. One monitor noted, "He seemed to be in a good mood;" another observed him “making jokes with other court personnel” while waiting for cases to be called. However, on occasion, monitors felt that “the judge looked like he was tired” or "bored" usually during delays in the proceedings.

Professionalism

Several monitors stated that Judge Cooper “conducted himself professionally." Particularly notable to the monitors were his "thorough and clear" explanations.

Command of the Courtroom

Several monitors felt that Judge Cooper did not consistently maintain control of the courtroom. One monitor found, "In the courtroom, there was lot of noise. There were cell phones ringing and radios of the [court] officers that [appeared] to disturb the judge. After about the fifth interruption the judge raised his voice and said, 'turn all phones off.' Another monitor made a similar observation: "I do think that he could have had better control of the courtroom. I think that he should [have] told those in the court[room] to be more quiet. When I first sat down I was in the back and it was very hard for me to hear [the proceedings] I moved up to the third row."

Audibility

Monitors generally found that Judge Cooper was audible. One monitor reported, “The judge had a clear voice.” Another found, “his audibility was good. I could [hear] him all the way in the back of the courtroom.” However, one monitor felt that “the judge spoke softly at the start of the court session" but noted that "after a few calendar calls his audibility improved.”

Hon. William M. Harrington

Hon. William Harrington is a graduate of Tufts University and George Washington University Law School. From 1989 to 1996, he was a prosecutor in the Kings County District Attorney’s Office. He served as law clerk to the Hon. Albert Tomei. In 2001, he received an interim appointment to the Criminal Court from Mayor Rudolph W. Giuliani, and was reappointed to a full term by Mayor Michael R. Bloomberg in 2002.

Twelve monitors made thirteen observations of Judge Harrington during this project.

Demeanor and Professionalism

Monitors described Judge Harrington as "polite," "patient," and “respectful towards everyone.” One monitor described his "demeanor as that of an experienced justice.” Another felt that “He was able to give defendants a sense of respect.”

Monitors praised Judge Harrington's interactions with defendants. One monitor felt that the "judge was fair [when he] lengthened the [period allowed] to pay a fine because the defendant’s wife just gave birth and he had to pay rent.” Another monitor noted, the “judge seemed very concerned about whether an offenders' plea was voluntary or not, and whether they

understood the nature of their crime." However, another monitor expressed concerns about the manner in which the judge read the sentence in one case. The monitor stated, "The judge read the sentence in a monotone fashion and quickly. I don't think that the defendant can absorb all that information."

Command of the Courtroom

The monitors generally reported that Judge Harrington did not maintain control of the courtroom. Monitors found that "the crowd was unruly and disrespectful" and the courtroom was "out of control because many people who were there to listen made too much noise." One monitor asserted, "The judge did not use his authority effectively in the courtroom. People were talking while he was, and he continued to talk without requesting that they be quiet. This made it extremely difficult for me to hear him." However, one monitor observed, "People coming into courtroom with headphones or bandanas and the judge of course told them to leave."

Audibility

Monitors found it difficult to hear Judge Harrington during the proceedings because "he spoke softly" and "he was speaking over the other …voices" including those of the court personnel.

Hon. Gerald Harris

Hon. Gerald Harris is a graduate of the City College of the City University of New York and New York University School of law. From 1962 to 1964, he was an Assistant District Attorney for New York County, and from 1966 to 1967, he served as General Counsel for the New York City Department of Buildings. Judge Harris was in private practice from 1967 to 1974 and from 1977 to 1995. From 1974 to 1977, he was the County Attorney for Westchester County. Prior to taking the bench, he was Executive Director of the Commission to Combat Police Corruption from 1995 to 1996 and, from1996 to 2000, served as the Deputy Commissioner of the Administration for Children's Services. In 2000, he received an appointment to the Criminal Court of the City of New York from Mayor Rudolph W. Giuliani.

Nine different monitors made nine observations of Judge Harris during this project.

Demeanor

Monitors described Judge Harris as an "experienced" and "calm" judge. One monitor was particularly "impressed by his humanistic attitude" after observing that "he spoke to the defendant himself about getting help in a program with the court's help or own his own."

Professionalism

Several monitors noted that Judge Harris “explained to the defendant’s their rights and the consequences of their pleas fully.” As one monitor put it, “there was a clear explanations as to what was going on with the defendant and what would happen right after there was a decision.”

Several monitors found that proceedings in Judge Harris' courtroom were somewhat routine in nature. This monitor stated, "I felt that this judge has been on the bench for a few years and feels he doesn't have to impress anyone. After he made his decision, it was on to the next case." Another agreed noting that Judge Harris "did not show any signs that he was in a rush" but was "dragging" through each case.

Command of the Courtroom

The monitors reported that Judge Harris “did not demonstrate any signs of control of the courtroom.” One monitor observed, “Court officers were joking in front of him and nothing was said.” Another monitor commented, “I also found it odd that judge did not demand that his staff act in a professional manner.” Yet another monitor felt, “He was very passive despite the fact that the majority of the noise that was being [made] came from the two desks that were near the judges' bench and attorneys that were using their cell phones in the courtroom.”

Audibility

Although monitors generally found that Judge Harris spoke "clearly,” “there was way too much noise in the courtroom whether it was someone using the stapler or folding their newspaper over it was virtually impossible to hear the judge.”

Hon. Barbara Jaffe

Hon. Barbara Jaffe is a graduate of Syracuse University and Brooklyn Law School. From 1984 to 1986, she was an Associate Appellate Counsel for the Legal Aid Society’s Criminal Appeals Bureau. From 1986 to 1993, he was the Principal Court Attorney to the Hon. Jay Gold, and, from 1993 to 2002, she was the Principal Court Attorney to the Hon. Marcy Kahn. From 1990 to 2002, she also served as an arbitrator in the Small Claims Part of the Civil Court of New York. In 2002, she was elected to the Civil Court of the City Of New York and subsequently assigned to the Criminal Court of the City of New York.

Ten monitors made eleven observations of Judge Jaffe during this project.

Demeanor

Monitors described Judge Jaffe as "enthusiastic" and "very thorough." One monitor noted that “she looked interested” in the proceedings. Another noted that “she had a dignified

demeanor and all of the officers treated her accordingly." Yet another monitor noted, "She wasn't disrespectful" to defendants "the judge wished them good luck after the arraignment ended for their individual cases."

Monitors felt that Judge Jaffe has "a very fair attitude" and "took time with each case to ensure the defendant was fairly treated." For instance, she "allow[ed] defendants time to decide whether to take the plea offer" and "was patient in waiting for their answers."

Monitors also noted that Judge Jaffe was fair to attorneys. One monitor observed, "She always wanted to know if the defense attorneys or the prosecutor had anything to add." Another noted, "She consults with counsel to ensure that she has a proper understanding of their position."

Professionalism

Monitors described Judge Jaffe as "professional." She received praise because "she explained the rulings and procedures clearly to the defendants." For instance, when she issued an order of protection, "she thoroughly explained to defendants exactly what was required from the defendant."

Command of the Courtroom

In general, the monitors found that Judge Jaffe had "good control" of the courtroom but one monitor felt that Judge Jaffe "needed to keep the courtroom quiet." One monitor disapprovingly noted, "She allowed the officers to eat and drink in her courtroom."

Audibility

Monitors generally felt that Judge Jaffe "needed to be more audible" because she had a "low voice." However, one monitor observed that "the judge was not very audible in the beginning but as the evening progressed I was able to hear her much clearer."

Hon. Deborah Kaplan

Hon. Deborah Kaplan is a graduate of the State University of New York at Albany and St. John's University School of Law. From 1986 to 1997, she was an attorney in the Criminal Defense Division of the Legal Aid Society in Kings County. From 1997 to 2000, she served as Principal Court Attorney for the Hon. Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives. She later was the Chief Management Analyst and Project Counsel for the Hon. Joseph J. Traficanti, Jr., Deputy Chief Administrative Judge for the State of New York. She was also an arbitrator for the Small Claims Part of the Civil Court of New York from 1993 to 2002. In November 2001, she was elected to the Civil Court of the City of New York and subsequently assigned to the Criminal Court.

Nine monitors made ten observations of Judge Kaplan during this project.

Demeanor

Monitors described Judge Kaplan as a "very patient" judge who was "respectful" to defendants. One monitor noted, "The judge was extremely patient. She took time in evaluating cases and allowed the defendants and lawyers time" to discuss their cases. Another monitor praised, "She gave people options" thereby allowing them to choose one that "best suited" their situation.

One monitor specifically praised Judge Kaplan's patient explanation of the proceedings to a defendant who was a recent immigrant "who did not know the American legal system." The monitor observed that "the defendant was crying and felt overwhelmed by the court" and "the judge advised the defendant that she had rights…throughout the court process."

Professionalism

According to the monitors, Judge Kaplan's "professionalism was very apparent" in her "efficient" and "very prepared" handling of her caseload. One monitor noted that Judge Kaplan "explained what was happening so that not only the defendant could understand but also the spectators in the courtroom."

Command of Courtroom

Monitors found that Judge Kaplan generally "had control of the courtroom." One monitor observed, "the courtroom was crowded with defendants and spectators as well as counsel but the court officers were strict in controlling the noise level."

Audibility

The monitors found it difficult to hear Judge Kaplan. One monitor found, "Judge Kaplan was [for] the most part inaudible." Another stated, "I could not hear Judge Kaplan because the police officers, court officers and [other] court staff was talking louder than the judge. I would recommend that the judges use the microphone to project their voices." Another monitor added, "I think that Judge Kaplan could have spoken a bit louder."

Hon. Eileen Koretz

Hon. Eileen Koretz is a graduate of the University of Wisconsin and the University of Baltimore School of Law. She was an assistant district attorney in Bronx County from 1976 to 1995. In December, 1995, she was appointed to the Criminal Court of the City of New York by Mayor Rudolph W. Giuliani. Judge Koretz presides in the Midtown Community Court.

Eight monitors made ten observations of Judge Koretz during this project**.**

Demeanor

Monitors described Judge Koretz as "very patient" but "very focused" judge. One monitor noted, she got "straight to the point" when dealing with defendants and others in the courtroom. Another observed, "Judge Koretz had a lot of sympathy for some defendants especially in the last case [involving] a cocaine addict" who "Judge Koretz warned that if she doesn't reach out for help she is hurting her child." However, the monitor also noted that "she did tell the defendant that if she violates rehab [guidelines] she must serve a minimum of 6 months in prison." Another monitor also observed that "she clearly warned [other] defendants if they violated the proposed sentence they would serve a prison sentence."

Monitors repeatedly commented on how "patient" Judge Koretz was when necessary. One monitor reported, "She was patient with the attorneys when they would confer with their clients." Another observer recounted another example of Judge Koretz's patience. "There was a defendant who was screaming about not wanting to go back to prison. The judge was very patient in dealing with the defendant. Judge Koretz allowed the defendant to speak even though he was babbling. The judge was calm and appeared interested in what she was hearing from the defendant."

One monitor found that "she would help the attorneys by explaining alternate routes for them to go to help their clients."

Professionalism

Monitors praised Judge Koretz's professionalism. They found that "the judge presented herself very professionally" and "showed a great deal of professionalism while proceedings were in session." She "made sure the defendants understood their sentence before they were dismissed even when she had to explain it …twice" and "she [still] moved the cases along."

Command of Courtroom

Monitors found that "the judge had total control of the courtroom with the assistance of the court officers." One monitor observed, when Judge Koretz sat down it immediately became quiet." Another observer noted, "Judge Koretz did come down on the defendants if they spoke out of turn."

Audibility

The monitors agreed that "Judge Koretz spoke clear and loud" and had a "loud and clear" voice. As one monitor put it, "You could hear her from all seats throughout the courtroom.

Hon. Suzanne M. Mondo

Judge Mondo did not respond to Modern Courts' request for biographical information. Eight monitors made eight observations of Judge Mondo during this project.

Demeanor

Judge Mondo was described as a "thoughtful" and "considerate" judge who "showed respect for everyone in the courtroom." One monitor praised, "The judge has clearly been on the bench for awhile. She is strictly professional and truly comfortable on the bench."

However, one monitor who observed Judge Mondo felt that she "was a little snappy when talking to attorneys" one day which led the monitor to conclude that "It just seemed as if today was not a good day."

Professionalism

Monitors generally praised Judge Mondo's explanations as "very clear." One monitor was particularly impressed that she "gave this one guy [who hadn't appeared for his arraignment] a good explanation of why he doesn't have an attorney."

Command of Courtroom

Several of the monitors felt that Judge Mondo "did not have much control over the courtroom." One monitor "was however shocked that the judge didn't demand order in the courtroom. I do acknowledge that the judge is sitting on the bench day in and day out but still if you don't stop bad behavior it will just snowball."

Audibility

Although the majority of the monitors found that Judge Mondo was audible, several felt that they could not hear Judge Mondo clearly. One monitor suggested, "Everyone especially the judge should speak up. I felt that I was watching everything on mute."

Hon. Laura A. Ward

Hon. Laura A. Ward is a graduate of Vassar College and Fordham University School of Law. From 1978 to 1983, she was an associate at Skadden, Arps, Slate, Meagher & Flom, LLP. From 1983 to 1988, she was a special assistant for the Organized Crime and Racketeering Section for the U.S. Attorney's Office for the Eastern District of New York, and she served as Chief of the Investor Protection and Security Bureau of the New York State Attorney General's Office from 1988 to 1989. From 1989 to 1997, she was an Assistant U.S. Attorney, assigned to the Organized Crime and Racketeering Section in the United States Attorney's Office for the

Eastern District of New York. In May, 1997, she was appointed to the Criminal Court bench by Mayor Rudolph W. Giuliani.

Five monitors made seven observations of Judge Ward in the drug court that she presided over during this project.

Demeanor

Monitors found that Judge Ward was "patient," "very knowledgeable," "very involved," and "seemed concerned about [defendants] and their status." One monitor noted that Judge Ward "scheduled numerous case updates" which the monitor felt "illustrated her concern." Another monitor noted, "She was encouraging to defendants by congratulating them on their achievements" in their drug treatment programs. Another monitor observed: "She would smile when she address each defendant respectfully as she spoke about their positive progress. She would call the person up to the bench and would shake their hand [while] giving them a certificate for having completed a certain amount of time in a program."

Professionalism

Monitors described Judge Ward as "very professional" and "well prepared." One monitor praised, "Judge Ward was very clear when explaining to the defendants their rights and their progress in their treatment programs." Another observer noted, "Judge Ward was very efficient in moving cases along – sentenced some to drug treatment programs, asked some clients about their last use to ensure that the program was right for him/her."

Command of the Courtroom

Monitors found that Judge Ward "maintained control of the courtroom" even "when an outburst occurred." One monitor praised, Judge Ward "controlled the court by asking those present in the court to be quiet when she needed to talk or it was too noisy."

Audibility

Monitors generally found that "Judge Ward was audible and clear."

Hon. Richard M. Weinberg

Hon. Richard M. Weinberg is a graduate of the University of Wisconsin and George Washington University Law School. From 1975 to 1977, he served as a law clerk for United States District Court Judge, Hon. Henry Bramwell, Eastern District of New York. He also received a LLM from New York University in 1978. From 1981 to 1989, he served as an Assistant Attorney General for New York State. From 1989 to 2001, he served as General Counsel and Counsel to the

Speaker of the New York City Council. In December, 2001, he was appointed to the Criminal Court bench by Mayor Rudolph W. Giuliani.

Five monitors made five observations of Judge Weinberg during this project.

Demeanor

Monitors described Judge Weinberg as a "very relaxed" judge. One monitor stated that he "surprised me by being so relaxed." Another judge noted that he "was different from other judges I observed in the past. He was polite, and smiled a lot."

One monitor felt, "He was patient - making sure that the clients/defendants understood everything before he moved on even when he was in disagree[ment] with [their] behavior …he [would] still smile [when] relaying his point." However, another monitor felt, "The judge did not have too much patience at times; at times he seemed rushed."

Professionalism

Monitors felt that Judge Weinberg generally "acted in a professional manner" and that he conducted proceedings in a "clear and straightforward" manner. One monitor noted, His "explanations of rulings were very clear" and sometimes he "repeated them for a second time."

Command of the Courtroom

Monitors found that Judge Weinberg generally did not have control of the courtroom. One monitor reported, "The judge barely had control over the courtroom. All the personnel from counsel to officers were very disrespectful." Another monitor observed, "The judge called for silence two times and on the third try he banged on the bench." One monitor concluded, after sitting through a session in Judge Weinberg's courtroom, "The judge needed to take full control of the courtroom."

Audibility

Judge Weinberg was generally audible, according to the monitors. One monitor praised, "Judge Weinberg spoke loud enough for me to hear. I was surprised that I could hear him [because] usually when I visit arraignments I'm not able to hear." However, another monitor found that although "the judge was audible in the beginning but [he] became inaudible" later in the proceedings.

IV. ATTORNEYS

During their observations of the Criminal Court, the student monitors observed assistant district attorneys (ADAs) from the New York County District Attorney's Office, who were responsible for prosecuting cases in the Criminal Court. In addition, monitors observed Legal Aid Society attorneys, other assigned counsel such as 18-b attorneys, and privately retained attorneys, who represented the defendants. The monitors commented on their conduct including the adequacy of their representation, level of preparation, and audibility in the courtroom.

Quality of Representation

Some attorneys, particularly defense attorneys, received praise from the monitors for their ardent presentation of their cases. One monitor commented, "I felt that the attorneys from the Legal Aid Society worked arduously and effectively to handle the defendants' cases and get good plea bargains." Another monitor found that the attorneys from Legal Aid that the monitor observed were "very into the clients that they were defending. They were prepared and talked to their clients about what they want[ed] to do and what will be more comfortable for them." A third monitor agreed with this assessment: "The attorneys from Legal Aid … even [though] they have so many cases, they do their best to make sure their clients have a say in court." One monitored wrote, "I had the pleasure" of watching two legal Aid Lawyers, Deborah Wright and Jim Harris "in action." The monitor described, "Deborah Wright was very professional and methodical" and "Jim Harris was a boisterous" advocate.

Some monitors also praised the ADAs. One monitor noted that some "showed a great deal of passion towards doing [their] job."

Treatment of Defendants

Defense attorneys generally received praise for their treatment of defendants and others in the courtroom. Monitor noted that defense attorneys "seemed concerned." One monitor observed, "The attorneys [legal aid and 18-b] took time to speak with their clients right before representing them as well as speaking with the [client's] family members or friends who came to support them." Another monitor praised, "There was one defense attorney who stood out from everyone else. He seemed to care about the individuals he was defending." Another monitor made a similar observation, noting, "One woman [attorney who] seemed to care and was trying to [relate] on a personal level with her client so she could help him." One monitor even witnessed, "One [defense attorney] even gave his client a token to get home with."

One monitor expressed concern about public nature of communications between lawyers and defendants: "I believe [that] they could have been more discrete in the way they spoke to the defendants and families in front of the public."

Investment in the Proceedings

Monitors also observed attorneys who appeared tired or disinterested in the proceedings. One monitor noted, "Legal Aid attorneys looked tired but they were communicating fairly [well] with their clients, I still think that they needed more enthusiasm." Another observer agreed with this assessment, noting, "there was not a serious adversarial behavior exhibited by the Legal Aid lawyers or the Assistant District Attorneys. The lawyers were talking among themselves or they were talking on the phone [or] drinking from [their] water bottle." Another student monitor observed, one "attorney [who] did her job in such a mundane way [that it] seemed liked such a boring" job. Another monitor commented, "When it came close to the end of the cases that were going to be heard, the lawyers on both sides were ready to get out of there."

Preparedness

Monitors were troubled by the lack of preparation by many attorneys before they appeared in the Criminal Court. One monitor was critical of one defense attorney who simply "did not know the cases." As one monitor observed, "Most of the attorneys present were not well prepared. When it was time to represent their clients, the attorneys were either outside or helping other clients in other courtrooms." Another reported, "Both ADAs and Legal Aid lawyer were not prepared. Any information [needed] should have been obtained before the court appearance, if information was not submitted, [this] should have been told to the judge prior to the appearance. I was disappointed in their [lack of] professionalism."

Several monitors attributed the lack of preparation by some attorneys to their heavy caseloads. One noted, "The defense attorneys from Legal Aid had a very busy caseload with several clients all at once in different courtrooms." Another observed, "Defense attorneys [were] seldom prepared because of too many cases. I observed an attorney stand in front of the judge for about thirty - to forty minutes trying to get rid of the cases. He also had cases in another part." "It was clear that [defense attorneys] did not know their clients personally. They act as if they are on an assembly line. [And] since they didn't know most of their clients on a personal level a lot of the time was taken [up] to speak to them while they were in front of the judge."

In some cases, attorneys were assigned clients in the courtroom; these attorneys had no time for preparation prior to the commencement of the proceedings. For instance, one monitor observed, an 18-b attorney who "seemed to be a bit unprepared because he was assigned to the defendant on the spot. [However], the attorney was very friendly towards the defendant." In other cases, attorneys offered to represent defendants whose attorneys did not show up or were late. One monitor reported, "There were many lawyers who were not present [when their case was called]. The Legal Aid attorney [who was] present was very helpful and asked constantly if she could represent the defendants without attorneys."

Monitors found that some ADAs were unprepared due to misplaced files or inexperience. One monitor described, "The state's attorneys' [the ADAs] preparation was poor. Although there

were two of them at one point, they didn't have the defendant's case file." Another monitor observed cases being delayed because "some papers were out of place" that the ADAs needed. One monitor noted, "The prosecutor was young and wasn't well prepared in some cases [leading] the judge to call him to the stand [to] question him [on the] facts of the case."

When attorneys were not prepared, regardless of the reason, monitors found that the attorneys "had to speak to their clients which took up a significant amount of time." This delayed the proceedings.

Although monitors were generally dissatisfied with the level of preparation by many attorneys, some individual attorneys were praised for their preparedness. For instance, one monitor found, "The defense [attorney] was surprisingly prepared. He spoke clearly and was effective with his time." One monitor described one 18-b attorney that he observed as "audible" and "prepared" and noted that the attorney "took time before once case to speak with a defendant about his priors." The monitor praised, "He cover[ed] all grounds."

Absent or Late Attorneys

Proceedings were also delayed by the non-appearance or late arrival of some attorneys. As one monitor observed, "Many attorneys were not present when [their] cases was called and their clients had to wait until they arrived." Another monitor incredulously stated, "The attorneys were actually late, especially the defense attorneys." This monitor felt, "They should be encouraged to be more punctual."

Audibility

Monitors found that "It was quite difficult to hear what the attorneys were saying." One monitor noted, "Most of the prosecutors I viewed before did not speak loud enough for the audience to hear." Another observed, Sometimes the defense attorneys were speaking too softly." Another monitor stated, "The only recommendation is that the judge, the [assistant] district attorneys, and the defense attorneys ... speak up and [speak] more clearly because it is hard for the public to hear."

Many monitors attributed the inaudibility to the noise generated by "lawyers using cell phones" and "having side conversations." One monitor suggested, court officers should tell the attorneys that are waiting for their cases to be quiet."

V. COURT PERSONNEL

Defendants, victims, witnesses, family members, and prospective jurors spend a great deal of time outside and inside of the courtroom, dealing with court clerks, court officers and other court personnel. Non-judicial court personnel have an enormous impact on the public's perception of the court and how fairly and efficiently it operates.

Throughout their monitoring of the Criminal Court, student monitors observed court personnel who were "helpful" and "polite" and who "knew what their job was" and "did it." However, the unpleasant demeanor of some court personnel and the lack of professionalism displayed by other court personnel troubled many of the monitors. One monitor observed, "Some of the court personnel was helpful, while others seemed irritated" by inquiries from the public. Another monitor commented, "While most of the court personnel were efficient …and had control of the court, others were just standing there talking to other court personnel."

Treatment of Defendants and the General Public

Monitors found that the court personnel generally answered inquiries and provided assistance to defendants and others. One monitor praised, "One clerk was very polite. She spoke politely to the defendants that were released and answered several questions posed to her." Another monitor reported, "There was an incident when a defendant was unsure what was going to happen to her. The court officer was very attentive and helped to calm her down." Yet another monitor noted, "A court officer at the information desk was very polite in instructing me where the courtroom I was looking for was."

Sometimes the court personnel, particularly the court officers, were "cold" or "impolite" when dealing with inquiries or otherwise discourteous. One monitor stated, "I wouldn't say they were too polite or even welcoming but they did answer my questions." Another monitor felt that "the officers were cold to anyone that they didn't recognize." Another monitor felt strongly that the court officer were discourteous to defendants, noting, "The court officers looked at the [defendants] as though they were beneath them. I expected a professional setting . . . what I saw was quite the opposite."

Monitors found that the court officers that they encountered in the Midtown Community Court were particularly discourteous. One monitor referred to the officers as "no –nonsense types." Another recounted an incident where two officers were "rude" when the monitor asked a question: "When I entered the courtroom I went up to a court officer to ask him when the court session would start. He did not even look at me and walked away. I then went to another officer to ask the same question and he too was rude to me." The hostile treatment that one student monitor received from court officers at the Midtown Community Court led her to "suggest that the court officers be more friendly. Even though the courtroom is small you can't impede or dissuade people from sitting in the courtroom." The monitor added, "I went there for the morning session and I was told by the court officer to go 100 Centre Street. The morning session was so packed that they forced the

defendants out on [to] the street. When I got there for the afternoon session, I was recognized immediately and [got] the impressions the court officer…didn't want me there."

Professionalism

The monitors generally found that the court personnel particularly in the courtroom did not behave professionally. Monitors observed court officers "eating in the courtroom," "reading newspapers," "using [their] cell phones on the side of the courtroom, where the judge could not see" them and even giving each other massages. One monitor reported, "The behavior of the court officers was very unprofessional. They seemed and acted very relaxed. They showed no respect towards the defendants and their attorneys because they would talk and joke around with each other loudly as the case was being heard." Another monitor noted, "They were flicking rubber bands and talking aloud." One sympathetic monitor stated, "I do understand that the court personnel see virtually the same [type of proceedings] day in and day out but I do believe that they could act a little more professional."

After observing proceedings in the Criminal Court, one monitor concluded, "the only thing that needs improvement is the behavior of the courtroom personnel. They should be more professional, talk less and seem more interested in what is happening in the courtroom." Another monitor asserted, "I believe that court clerks and court officers should be trained and re-trained every 18 months. They should be trained on how and what is appropriate behavior in the courtroom."

Maintenance of Order

Monitors found that the maintenance of order in the courtroom by the court personnel, specifically the court officers, was inconsistent from courtroom to courtroom. In some courtrooms, the court officers were described as "stern and serious," and "in complete control." In these courtrooms, court officers "tried to keep quiet in the courtroom" by telling "people to turn off their phones" or "telling the attorneys to take their conversations with clients outside." As one monitor put it, the "court officers maintained order very efficiently – they knew what they [had] to do and they did it"

However, in other courtrooms, particularly in arraignment parts, monitors found that court officers did not maintain order in the courtroom and sometimes were the source of the disorder in the courtroom. As one monitor noted, "The court officers did not intervene [to maintain] order in the court until the judge signaled them." Another monitor made a similar observation, noting that the court officers "seemed uninterested. The didn't attempt to quiet the courtroom until the judge did so."

Monitors also reported that some court personnel were disruptive. One monitor described the court personnel as "out of control" because "they refused to be quiet after the judge ordered silence at least three times." Another monitor observed, "Many of the court officers were

loud and rude. They contributed to the amount of noise …in the courtroom and this made it very difficult to hear.”

Interpreters

Foreign language and American Sign Language interpreters are sometimes utilized to translate court proceedings in the Criminal Court. The Criminal Court employs full time interpreters in Spanish, Mandarin Chinese, and Russian, among other languages. Temporary per diem interpreters are arranged by the court for all languages for which there is not a staff interpreter. The court also employs a sign language interpreter.

Monitors found that on several occasions that interpreters were not available when needed. One monitor, who observed proceedings in an arraignment part, observed, "Many cases being called required an interpreter; many were not available …the cases were [delayed] until an interpreter was available." Another monitor found that an interpreter was not immediately available when one defendant's case was called and "the defendant needed to wait a long time until his case was called again" because all the cases requiring an interpreter were called later in the day at the same times. Another observed who witnessed multiple delays due to the dearth of available interpreters urged the Criminal Court to have "enough interpreters available [when needed] so caseloads can be done quickly."

VI. COURT FACILITIES

The New York County Branch of the New York City Criminal Court is headquartered in the Criminal Courts Building at 100 Centre Street in lower Manhattan. The Midtown Community Court, part of the Criminal Court that arraigns defendants arrested and charged with non-felony offenses in Times Square, Clinton and Chelsea areas, is located at 314 West 54th Street. In addition, several parts are housed in a city-owned building located at 346 Broadway.

100 Centre Street

The 17-floor Manhattan Criminal Courts Building, built in 1941 by New York City's Public Works Administration, houses the Criminal Court; the Supreme Court, Criminal Branch; some district attorneys' offices; the Department of Probation; and the Department of Corrections.

Prior to and during this monitoring project, some improvements to 100 Centre Street were made, such as the installation of new bathrooms on all floors, new benches in several courtrooms, new furniture in some courtrooms, the installation of a public address system in Arraignment Part 1, and improved access to the building for the disabled.

General Conditions

Despite the patchwork renovations, the student monitors were critical of the conditions in 100 Centre Street. The monitors were particularly dismayed by "fairly dark and gloomy" nature of the hallways and other public areas and the lack of signage for visitors to the court. One monitor commented, "The building is far from inviting: dark hallways and cracked paint is everywhere. Lighting is poor, the windows let in a draft and the courtrooms are very dusty." Another observer reiterated the need for "more lighting" and added that the facility needed "more signs to help guide individuals because the court set-up is very confusing." Another monitor agreed that having "more signs on the first floor to guide visitors would prevent them from getting lost." Yet another monitor suggested, "At the entrance of the court, they could post an information booth. This would [particularly] help on the days that the court is very crowded."

One monitor concluded, after a long day in the courthouse, "If the building was more modern looking, clean, well lit and inviting, people might have a greater respect for the Criminal Court of the County of New York." Another recommended, "Building more facilities [because] the present facilities are not capable of [handling] the flow of [cases]. Open up local courts, like the one on 54th and 9th[Midtown Community Court] to handle a limited [number] of cases in order to reduce the clogging of the downtown courts."

Elevators

Monitors also found the elevators to be problematic. They described the elevators as "old," "dirty" and "slow." One monitor recounted a particularly harrowing experience in an elevator: "When I was exiting the courthouse before . . . it made it to the first floor; the elevator got stuck and

took us (the people who were also riding it) to the sixteenth floor, not once but twice. This was scary because it couldn't open on the first floor." This experience led the monitor to suggest, "The elevator should be checked at least once every month."

Restrooms

Monitors repeatedly reported that the restrooms in 100 Centre Street were "dirty" and "needed to be cleaned." The condition of the restrooms led one outraged monitor to state, "The bathrooms were a disgrace. To say they were dirty would be an understatement, and the odor was also unpleasant." Other monitors noted the lack of supplies in the restrooms. One monitor, after discovering the lack of paper towel in the restrooms inquired, "What is the point of washing your hands?"

Waiting Areas

One monitor suggested that the courthouse could use a "waiting area" for jurors, witnesses, and others who could sometimes be found "right outside [the courtroom] in the hall making noise.

Access for People with Disabilities

Monitors also expressed concerns about the ease that disabled persons could access the building considering the scaffolding and physical barriers present outside the courthouse: "By law, the facilities must be accessible for people with disabilities but the [accommodations] weren't in plain view… that worried me because in case of an emergency, it would take someone who had to use these facilities [too] much time to get out."

Courtrooms

The courtrooms varied in cleanliness. Monitors described some courtrooms in 100 Centre Street as "clean" and others as "dirty." For every courtroom that the monitors found that had "the smell of pine in the air" and " floors [that] were swept and washed," there was another courtroom with "dirty" floors or "dingy" walls.

Monitors felt that many courtrooms were in need of repairs or improvements. They observed that many courtrooms needed new benches due to the graffiti or gum or scratches that could be found all over the current benches. Other courtrooms "could use a paint job because "the white walls were now a shade of yellow." One monitor who sat in a courtroom with "wires hanging from the wood paneling on the wall" suggested that the "wires could be put in place." Another noted, "The flag behind the judge was dirty. [It] needed replacing." Yet another monitor observed proceedings in a courtroom with "numerous holes in the ceiling and water leak spots." This monitor felt that "the court should provide proper maintenance [and] upkeep of the courtroom. The reason [why the court facilities aren't better maintained] perhaps is that the public rarely attends court sessions and those who do don't care to mention or report it."

Midtown Community Court

The Midtown Community Court is located at 314 West 54th Street, in a 5–story building adjacent to the Midtown North police precinct station house. The building's one courtroom is located on the first floor; monitors described it as "small," "clean," and "well-lit."

Several monitors felt that the courtroom was too "small" and "very cluttered" with defendants but also with "equipment, boxes, and employees." One day the courthouse was " so packed that they forced the defendants out on [to] the street. One monitor, who described the facilities as "terrible," felt that there "was too much traffic in the courtroom." This monitor added that some of the traffic in the courtroom might be reduced if, after the judge sentences the defendant, the defendant was sent upstairs to the clerk's offices for payment of fines or scheduling."

One monitor noted, "The columns or pillars should not have been right in the middle of the courtroom. It was hard to see the front of the courtroom with them in the way."

One monitor commented, "The bathroom was small and dirty. A wheelchair could not have fit into the bathroom I used."

Upgrading the Criminal Court Facilities

Under the New York State Court Facilities Act of 1987, every locality that houses a state court must assess the suitability and sufficiency of existing courthouses, and must develop a plan for renovation or for construction of adequate facilities. The reports were to be submitted to the Chief Administrator of the Courts by August, 1989.

The Act was an effort to force localities to fulfill their responsibility to provide adequate courthouses. Prior to 1976, each city or county was responsible for all of the costs of the courts in its jurisdiction, including building and maintaining courthouses, paying the salaries of judges and court personnel, buying equipment and office supplies, and all other operational costs. In 1976, due to severe fiscal pressures on local governments, particularly on the City of New York, the state assumed all costs of the courts, with the exception of court facilities. The Court Facilities Act of 1987 was a response to the municipalities' failure to fulfill their lone remaining responsibility toward the courts: providing adequate courthouses.

In 1989, in an effort to comply with the Court Facilities Act, New York City launched a $2.8 billion plan to build and renovate courthouses throughout the five boroughs. The plan's primary objectives include consolidating and upgrading courthouses in New York County, where several courts operate in inadequate facilities.

Key components of the City's master plan include construction of a new courthouse at 101 Centre Street for the Supreme Court, Criminal Branch, which currently shares 100 Centre

Street with the Criminal Court, and renovation of the building at 100 Centre Street. In addition, the plan proposes to renovate 80 Centre Street to house court-related agencies, such as the Office of the District Attorney. Construction of the new Supreme Court building and relocation of certain agencies would make available a large amount of desperately-needed space at 100 Centre Street for the overcrowded Criminal Court. The monitors urge the City to re-examine implementation of this plan.

VII. RECOMMENDATIONS

1) The City of New York should improve housekeeping, maintenance and signage in the Criminal Court facilities.

The monitors were critical of the condition of the court's facilities. The unreliable elevators, dark and dingy hallways, courtrooms with hanging wires and graffiti covered benches, and deplorable conditions in the restrooms diminish the dignity of both the court and the people who must use it. Monitors believe that these deficiencies in essential maintenance and housekeeping create an environment for staff and litigants that is lacking in basic human dignity. The monitors urge the City and the Office of Court Administration to rectify the situation by providing the resources and staffing necessary to maintain the facilities in clean and functional condition.

Monitors also found 100 Centre Street difficult to navigate due to poor signage. The monitors urge the City and the Office of Court Administration to improve the signage so that the defendants and the general public can locate the courtroom and other facilities in a timely fashion.

2) The New York State Legislature should ensure that there is adequate funding for criminal legal services.

The student monitors observed the consequences of inadequate funding of criminal legal services in New York State: The Legal Aid attorneys and appointed counsel consistently observed appeared to be overextended. Monitors witnessed them running from courtroom to courtroom to cover their cases resulting in delays and adjournments. Worse, the lawyers' overwhelming caseloads seemed to result in inadequate preparation. Frequently, attorneys met their clients for the first time just before they appeared before a judge; while most lawyers did their best under the circumstances, monitors questioned whether a lawyer could be sufficiently familiar with a case with so little time for preparation.

New York State has shifted the bulk burden of its constitutional mandate to provide public defense services to localities. Localities such as New York City, facing budget shortfalls, struggle to provide quality legal services to indigent defendants.

While the Legislature and the Governor increased assigned counsel fees in 2003 to $60 per hour for misdemeanor representation and $75 for felony representation, it is troublesome and possibly disastrous that the state is not providing any funding for this mandate until 2005, although the increase is effective as of January of 2004 and that the revenue source is increased fees paid to the counties.

Thus, the monitors urge both the State of New York to share the costs of providing legal services to indigent defendants with localities by allocating additional funding and resources for criminal legal services.

3) The Criminal Court judges and other court personnel should maintain order in the courtrooms.

Monitors reported that confusion often reigns in the courtrooms. Lawyers talk among themselves or on their cell phones when their cases are not being heard. During proceedings, they continually walk in and out of the courtrooms and call out the names of clients. Meetings between defendants and lawyers are held in the courtrooms. Court officers talk among themselves or on their cell phones, or eat and drink in the courtroom. With all of these distractions, it is nearly impossible for the public, which often includes victims and defendants' family members, to hear the proceedings.

Monitors recommended that judges and court officers increase their efforts to maintain order in the courtrooms. If lawyers and others persist in talking during the proceedings, judges should have them removed from the courtroom, where appropriate.

Non-judicial court personnel have an enormous impact on the public's perception of the court and how fairly and efficiently it operates. The student monitors were shocked by the discourteous and unprofessional behavior of court personnel in the courtroom and felt that it reflected badly on the Criminal Court as a whole. As a remedy, monitors urge the Office of Court Administration to institute new and more comprehensive "civility" training for non-judicial court personnel.

4) Judges and other participants should take steps to ensure the public hears all proceedings.

Monitors found that it is often difficult for the public to hear the proceedings due to noise and distractions in the court or the judge or attorneys spoke to softly. For the proceedings to truly be public, monitors urged that judges speak audibly and clearly and that they be provided and then use microphones for amplification purposes at all times; they also urged that microphones be provided for lawyers and witnesses, and that judges encourage all participants to speak audibly. They also urge the judge to discourage those in the courtroom, including court personnel and attorneys, from talking and making other noises during the proceedings.

5) The New York State Legislature should introduce and pass New York State Unified Court System current court restructuring proposal.

Since 1997, New York State Court System, spearheaded by Chief Judge Judith Kaye, has proposed a constitutional amendment to restructure the state's court system. The amendment would replace the current maze of courts with a streamlined, less hierarchical structure. It would consolidate trial courts from the current nine major courts (which often have overlapping jurisdiction) into two courts: A Supreme Court and the Surrogate's Court. Judges formerly serving on those trial courts would become Supreme Court Justices thereby eliminating the need to co-opt Criminal Court judges to serve as "Acting" Supreme Court judges due to current statutory limitations on the number of Supreme Court justices. The removal of this statutory limitation would allow

the court administrators to more efficiently assign judges to efficiently handle the caseload of each court.

To the monitors, the need for restructuring is urgent considering the large caseloads in the Criminal Court that need to be addressed in order to eliminate the assembly line justice that some monitors witnessed.

As is the case with all proposed amendments to the state constitution, the court restructuring plan must be passed by two consecutive State Legislatures and signed by the Governor; it then must be ratified by the voters in a state-wide referendum. The Senate and the Assembly should introduce the New York State Unified Court System current court restructuring proposal in the coming legislative session.

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Modern Courts Director of Court Monitoring Kimyetta R. Robinson wrote this report.

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