

**JOINT LEGISLATIVE HEARING ON THE 2023-24 JUDICIARY BUDGET**

**REMARKS OF ACTING CHIEF ADMINISTRATIVE JUDGE TAMIKO AMAKER**

**February 7, 2023**

Good morning Chairpersons Krueger, Weinstein, Hoylman-Sigal and Lavine, and good morning to all the other committee members participating today. I am Tamiko Amaker, Acting Chief Administrative Judge of the New York State Unified Court System. I am pleased to appear this morning to discuss the Judiciary’s budget submission for the 2023-24 State Fiscal Year.

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I begin with a brief summary of our budget. Once approved, this budget will enable the courts to continue to fulfill their mission of providing justice to the people of New York. The budget calls for \$3.3 billion in State operating spending, including \$2.47 billion for court operations and local assistance needs as well as \$836.4 million for required fringe benefit obligations of the Judiciary. Among its principal purposes, this budget will permit the Unified Court System to fund the 20 new Supreme and Family Court judgeships authorized by the Legislature last session, as well as a boost in the number of retired Supreme Court Justices certificated for continued judicial service by the Administrative Board of the Courts. The increase also will enable the courts to fill a net of 800 nonjudicial positions to restore our workforce to pre-pandemic levels to support trial court operations; and the payment of benefits negotiated by represented nonjudicial employees for Fiscal Year 2024. Finally, the increase includes a three percent cost-of-living adjustment for civil legal services providers.

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Let me speak for a moment about the Judiciary's priorities for Fiscal Year 2024:

**I. *Court Workload & Backlogs.*** Comprehensive data reflecting the number of case filings and dispositions in New York's courts, including multi-year comparisons, can be found in the Chief Administrative Judge's annual report, published every March and available on-line at the court system's public website ([www.nycourts.gov](http://www.nycourts.gov)).

I'd like to add a word or two about this data and about the Judiciary's efforts to keep abreast of its caseload. In making these efforts, we remain committed to adjudicating cases fairly and expeditiously, as part of a comprehensive project instituted seven years ago throughout the Unified Court System.

Before the Covid-19 pandemic arrived in 2020, this project had shown great progress in reducing backlogs in civil, criminal, and Family Court case calendars. During the pandemic, however, case processing times, as measured by the number of cases over our Standards and Goals metrics increased, undoing some of the progress made. This was so even though both criminal and civil case filings decreased during the pandemic. Courts, specifically their trial capacities, were significantly impacted and we were unable to reduce case inventories in any meaningful manner. As calendared cases grew older without resolution, their number over Standards and Goals simply increased.

As the pandemic has receded, and as the courts have resumed full trial operations, we have begun, once again, to make progress in reducing case backlogs. While the number of cases over Standards and Goals in civil parts of Supreme Court, in felony courts, and in the New York City Family Court remains high and above pre-pandemic 2019 levels, most of these numbers are now trending downward; and, based on the past success of our intensive case management project, and the lessons we learned in its application, we expect that this downward trend will

continue. As for the New York City Criminal Court and many local courts that handle misdemeanor cases outside the City, they are almost all at their very low pre-pandemic Standards and Goals levels. Family Courts outside the City, too, have seen significant progress toward returning to their 2019 levels.

**II. Restoring full court operations.** A. Nonjudicial resources. Beginning with the 2010 State fiscal crisis, the Judiciary has sustained a steady loss in its number of nonjudicial court employees. This erosion was greatly exacerbated during the Covid-19 pandemic, beginning in 2020, when hundreds of employees retired or left Judiciary service for other reasons. In 2020 and 2021, this employee exodus was accompanied by a yearlong hiring freeze. We had to impose this hiring freeze as part of government's effort to meet the budgetary shortfall that hit New York in the pandemic's wake. Together, the loss of so many employees and a curb on our ability to hire to replace them left us with a seriously diminished workforce and real challenges to maintaining necessary court operations. In fact, at its low point at the end of 2021, the Judiciary's nonjudicial staffing level dropped to just under 14,250 employees, representing a loss of almost 2,900 employees, or around 17 percent of our staffing, over the preceding 13 years.

Our hiring freeze was lifted in April, 2021. Since then, every effort has been made to fill vacancies and, at a minimum, to return to pre-pandemic employment levels. Funding in our budget submission for more than 800 nonjudicial positions, including 270 new positions necessitated by the establishment of 34 new judgeships in the past two years, builds on this effort – by recognizing that, especially following the pandemic's outbreak, demands on our nonjudicial staffing have increased significantly with the enactment of new statutes imposing greater operational responsibilities upon the trial courts.

B. Judicial resources. Obviously, having a sufficient number of judges will best position the courts to meet their caseload demands. The Judiciary budget request does not call for establishment of additional judgeships, however. At a cost of more than \$1 million per new judgeship, we are reluctant to ask for such judgeships – especially where we believe that, with the judgeships added by the Legislature in the past two years, and the filling of vacancies in existing judicial positions, the courts now have sufficient judicial resources to meet their needs. This said, we will always welcome new judges, especially for the Family Court, although we strongly encourage the Legislature, when it next considers a new judgeship package, to consult with us as to just where any new judges can best be deployed.

**III. *Collective Bargaining.*** Within the past several months, the Judiciary has reached collective bargaining agreements with public employee unions negotiating on behalf of more than 13,000 court employees. These agreements, which are very similar to those negotiated by the Executive Branch with its represented employees and thereafter approved by the Legislature at the end of the last legislative session, provide salary increases and other benefits for the period from April 1, 2021 through March 31, 2026.

This past January, the Judiciary submitted to the Legislature a proposal to codify these collective bargaining agreements. A week ago, this proposal was signed into law as chapter 1 of the Laws of 2023. I take this opportunity to thank both houses and the Governor for their prompt action in introducing and moving this proposal to enactment. Chapter 1 will permit the Comptroller to implement the collective bargaining agreements before April first and the start of the new Fiscal Year. Not only will this ensure that employees begin receiving their benefits at the earliest possible time, but it also will permit the retroactive expense of these benefits to be

charged against the Judiciary's 2023 available cash instead of having to add that \$130 million expense to the 2024 cash projection presented in our budget submission.

**IV. *Civil Legal services.*** In 2023, the Judiciary will continue its strong support for the State funding of civil legal services. Our budget requests \$116 million for this purpose. This amount includes funding for both the civil legal services program long administered by the Unified Court System and for suballocation to the Interest on Lawyer Account Fund (the "IOLA Fund").

Today, the Unified Court System program supports 82 providers across the State. Over the past two fiscal years, these providers have seen a staffing increase of nearly 40% and a 12% growth in their caseload. That caseload encompasses a broad spectrum of services to meet the litigation and legal assistance needs of persons of limited means, including tenants, workers, immigrants and refugees, domestic violence victims, the physically disabled, and families. Recognizing the vital role this program has come to have for the community, our budget request incorporates a three percent increase in funding over last year to account for inflation and the State's growing commitment to the legal needs of indigent persons.

**V. *Court System of the Future.*** Long before the Covid-19 pandemic struck New York in early 2020, the Judiciary began expanding its technological resources in order to help streamline and otherwise improve the delivery and quality of justice services in the courts. As early as 1993 – thirty years ago – we promoted enactment of legislation permitting appearance by participants in certain proceedings in a criminal court remotely by audio-visual technology. Then, beginning in 1999 and continuing over succeeding years, we sought and were granted increasing authority to permit the e-filing of papers in the courts in civil, criminal, Family Court, and Surrogate's Court cases. Today, e-filing has become a regular part of the practice of law in

our major civil trial courts. It is also being introduced in Family Court where, in the next fiscal year, we aim to build upon and expand e-filing pilot programs that have been established in counties both inside and outside New York City.

Our commitment to use of modern technology in court operations doesn't end with e-filing. The pandemic presented us with an unprecedented challenge: how to keep the courts open and functioning during a public health crisis that dictated physical separation to reduce contagion. One response to this challenge was to introduce use of virtual court proceedings – *i.e.*, proceedings that might be conducted with participants at locations remote from one another and from the courthouse. As we gained experience with such use, we saw clearly that virtual proceedings could actually yield benefits beyond protecting public health. We realized that, when applied in appropriate settings, virtual court proceedings could facilitate greater access to justice, expedite disposition of court caseloads, and reduce litigation costs. And, so, even while the pandemic began to wind down and courts resumed normal operations, we continued to explore ways in which we could use virtual court proceedings.

A product of this effort is our Court Modernization Initiative – a project actually begun in 2019, before the pandemic began. This Initiative aims to outfit courtrooms across the State with cameras, monitors, and other equipment needed to permit them to host virtual, hybrid, and in-person court proceedings. In the past year, we have equipped over 200 courtrooms with tools to provide varying video capabilities. Our goal is to complete this project by equipping 1,800 courtrooms with such tools by the end of March, 2026.

Today, as a result of the Court Modernization Initiative, virtual court proceedings are used, where appropriate, in criminal cases, *e.g.*, where in-person appearance of a defendant is not required. In civil proceedings, virtual court proceedings are regularly used in all but trials. In

Family Court cases, virtual court proceedings are used in certain types of cases such as custody and visitation matters.

As we look to the future, we anticipate even greater use of technology in streamlining our courts and their operations, and in facilitating greater access to justice. We are restructuring our Division of Technology and Court Research to permit broader focus upon long-term goals. We also will follow up on the recommendations of the Commission to Reimagine the Future of the New York Courts and its various working groups. The Commission has been charged with conducting a system-wide examination of the Judiciary with special attention to finding ways in which the courts can enhance their use of technology and on-line platforms in order to better discharge their mission.

**VI. *Family Court.*** In Family Court, especially in New York City, we have taken many significant steps during the past fiscal year to improve court services. I'll mention only the highlights here.

Several of these steps involve expanded use of technology. Among them, we have introduced the use of e-filing in the court for custody, visitation, guardianship, support, paternity, and parentage petitions in pilot programs begun in New York and Richmond Counties. Over the past two decades, e-filing has become a vital part of practice in the civil courts. We are confident that, with its introduction as a voluntary program in Family Court, e-filing will be no less valuable there, and that its availability should improve access to justice in the court by making it easier and less expensive for litigants to file their papers. This should be of particular benefit to low-income litigants who, by e-filing, can be spared trips to the courthouse, in the process saving the cost of missing work and of day care for their children.

Our hope is that, in the year ahead, we can expand this program to Family Court in other counties, both within and outside New York City. Outside the City, we already have set up e-filing pilot programs in Fulton, Saratoga, and Suffolk Counties.

We also have worked to expand our Court Modernization Initiative in Family Court. Prior to 2022, nine courtrooms in New York City had been furnished with an enhanced set of cameras and monitors that permit the court to host virtual and hybrid proceedings in which the participants can easily view documents in evidence and see each other along with testifying witnesses. In the past year, we similarly outfitted another seven courtrooms in the City, including two each in the Bronx and Kings, and one in each of the other boroughs. Although not retrofitted with all of this enhanced technology, all of the remaining New York City Family Court courtrooms now have the capacity to conduct virtual proceedings. Outside the City, many, if not most, of the Family Court courtrooms likewise have access to the technical equipment needed to conduct virtual proceedings. As with the introduction of e-filing into Family Court, the availability of hybrid and virtual courtrooms in the court can reduce the strain and cost of appearing in court proceedings for many people.

Also in New York City in 2022, we hired much-needed new staff, including 16 court attorney referees, 7 support magistrates (with 5 more to be hired imminently), and an ADR coordinator. At the same time, the Legislature authorized establishment of four very-much needed new Family Court judgeships for the City, as well as two additional judgeships outside the City, in Saratoga and Nassau Counties. These resources are critical to Family Court's ability to keep abreast of its caseload.

Beyond supplementing the court's staffing, we have taken steps to make courtrooms ADA compliant for the hard-of-hearing (*note:* in New York City, Assisted Listening Devices



have been provided in all 147 courtrooms). We also are working with New York City to move along needed repairs in Family Court courthouses.

**VII. Diversity/Racial Bias.** Today, the Judiciary continues to implement the recommendations of the 2020 Jeh Johnson report, with our constant goal being to provide the people of New York with a court system that is free of bias and discrimination.

In the more than two years since Secretary Johnson’s report was received, we have taken many steps toward achievement of this goal. Among these many steps, we have instituted a statewide mandatory bias education and training program for all judges and court staff. We have enhanced the function and effectiveness of the office of our Inspector General for Bias Complaints. We have acted to promote greater diversity and inclusion in the recruitment and hiring of court personnel. We have taken steps to make juries more bias free as well as more representative of the communities in which they serve. And we have established Local Equal Justice Committees to enable the greater involvement of local communities in efforts to improve their courts.

Going forward, we remain firmly committed to a policy of zero tolerance for any form of discrimination and bias in the Judiciary. Such a policy demands the constant reexamination of all of our institutions and our practices to ensure that they are well-suited to the public need. This is the task we have set for ourselves, and we will continue to report to you on the steps we take, the problems we encounter, and the reforms – both statutory and regulatory – that we believe necessary to give New Yorkers a court system that is truly fair and accessible to all.

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I would like briefly to mention several other matters in which the courts are actively involved.

**VIII. *Housing Initiatives.*** Despite significant operational changes implemented by the Judiciary prior to the pandemic to address housing court backlogs and delays, and to assist *pro se* litigants, pandemic moratoria and stays pursuant to the Emergency Rental Assistance Program have caused significant delays in the processing of housing cases and increased case backlogs which the courts continue to work through.

The problem is particularly acute in New York City. Complicating matters in the City, *pro se* litigants there face the limited availability of counsel under the City’s Right to Counsel Program, which aspires to provide low-income tenants with attorneys. Given the statutory requirements for timely processing properly filed housing court matters, we have responded by adopting a variety of practices to ensure that *pro se* litigants receive needed assistance in these matters. Specifically, prior to first appearance in a housing case, *pro se* litigants must attend a resolution part where they meet with on-site providers who can advise them and make referrals to counsel. In addition, the Administrative Judge for the New York City Civil Court currently leads a Housing Court Working Group – which includes representatives of various legal service providers, the New York City Office of Civil Justice, and New York City – to address and resolve concerns related to the high demand for counsel. And we have renewed our contract with Housing Court Answers (HCA), which provides both in-person and remote information and assistance to unrepresented litigants in the areas of court procedure and enforcement of legal rights, as well as explanation of legal documents. HCA also helps unrepresented tenants and small homeowners fill out answers, orders to show cause, and nonpayment petitions.

We are optimistic that these steps will help alleviate the existing backlog and delays, while providing tenants and landlords with the necessary assistance to facilitate informed resolutions of their cases. At the same time, we will continue to work with housing stakeholders

across the State to ensure that litigation in housing court, wherever located, can be resolved in the fairest, most expeditious manner possible.

**IX. *Gun Initiative.*** In an effort to do their part to help stem gun violence in New York City, the courts have rolled out procedures to prioritize and expedite the resolution of gun cases in the City. We have established dedicated gun parts in Supreme Court in each borough to handle cases in which the top count charged is Criminal Possession of a Weapon in the Second Degree. These parts are presided over by designated teams of Supreme Court Justices. In these parts, special procedures regulating discovery, plea offers, conferencing, adjournments, and the scheduling of pre-trial hearings and trials are observed. The aim of these parts is to help the criminal justice system – in collaboration with the Mayor, prosecutors across the City, and law enforcement – attack a very large backlog of gun cases while staying abreast of the new gun offense caseload.

Since April 25, 2022, this gun initiative has brought 2,651 cases to disposition either by plea, dismissal, or trial. Over the same time period, the inventory of gun cases pending across the City has dropped from 2,939 cases last April to 2,020 cases, or by almost one-third, as January came to an end. This drop has occurred even while 1,781 new gun cases were added to court calendars over the same time period.

Building on the success of this initiative, we have expanded it to include certain robbery cases involving guns. Also, we plan, in the coming weeks, to implement new procedures and judicial assignments to prioritize efforts to dispose of criminal cases – of all kinds, and not just gun cases – where they involve defendants who have been awaiting trial for the longest period.

**X. *Judicial Security Act.*** In 2023, we will renew our call for legislation to improve the safety and security of judges and their immediate family members. Recent events have reminded

us that judges are particularly at risk of becoming targets of assault or worse. These events include the 2020 killing of a Federal Judge's son at her New Jersey home and a threat last year on the life of Supreme Court Justice Brett Kavanaugh at his home. Accordingly, we are again submitting legislation that would help shield the private information of judges, including their addresses and other personally-identifying data, from public display thereby depriving would-be assailants of any easy means by which to locate them. This legislation should also reduce the likelihood that judges can become victims of identity theft.

**XI. 18-B reform.** Finally, I would like to remind the members of this panel of the Judiciary's continuing advocacy for an increase in the statutory rates of compensation for attorneys providing legal services as County Law Article 18-B panel attorneys and as attorneys for the child in Family Court. These attorneys are appointed by the courts to represent indigent defendants in criminal court and children and parents in Supreme and Family Courts. Paid at an hourly rate of compensation by localities under 18-B or by the State under the Family Court Act, these attorneys have gone without any increase in their rate of compensation since 2004 when that rate was fixed at \$75/hour for representation in felony cases and as attorney for the child, and \$60/hour for representation in misdemeanor cases. The sad result of this is that the number of attorneys now willing to take on these critical assignments has seen a dramatic decline. This threatens the health of our criminal justice and Family Court systems, and the welfare of children and indigent adults who are in the courts.

While those attorneys who serve in New York City have recently gotten an increase to \$158/hour through litigation, to match the compensation of Federal Assigned Counsel, attorneys serving outside the City continue to be bound to the \$75 and \$60 rates established 19 years ago.

And while there is litigation to provide these attorneys outside the City with an increase as well, that litigation remains in the courts with its outcome yet to be determined.

Even if this litigation ultimately produces a rate increase for the upstate attorneys, neither it nor its New York City predecessor can guarantee that, in the future, there will not be another long period between rate adjustments to meet inflation. While the courts can direct the Legislature to consider enacting a COLA provision to foreclose such an end, as did the court in the New York City rate challenge litigation, they cannot order such an enactment. And while the Governor, in her budget just announced, does propose a statutory rate increase, her proposal makes no provision for a COLA. Accordingly, we add our voices to those calling for that COLA enactment so that, going forward, compensation rates for 18-B attorneys and attorneys for the child will always be at levels necessary to ensure a sufficient pool of these attorneys.

Insofar as the changes we seek would impact the court system's budget, our 2024 budget submission includes a request for an additional \$46.3 million to cover their cost to the attorney for the child program once the changes are enacted. There is no request for an 18-B funding increase as that funding is the responsibility of local governments.

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**Conclusion.** I close by emphasizing that the courts remain committed to assuring the fair and prompt administration of justice. The budget we have submitted, if approved, will enable us to meet that commitment.

Thank you for your attention this morning. I'm more than happy to answer questions you may have.