

Research,  
education, and  
citizen court  
monitoring  
to improve the  
courts of  
New York State

THE  
FUND  
FOR

# MODERN COURTS

## Report on the CRIMINAL COURT

The Kings County Court Monitors

2000

*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 Holmes  
*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 16 counties throughout New York State, have succeeded in obtaining numerous tangible improvements in the state's courts. This report details the findings of our citizen court monitors regarding the Kings County branch of the Criminal Court of the City of New York. We hope their recommendations will help to obtain improvements for the Kings County residents that the court serves.

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# 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. Since 1975, Modern Courts has sponsored court monitoring projects 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.

Over the last twenty-five years, court monitoring has proven to be highly successful at achieving numerous public-interest objectives, including:

- publicizing problems that exist in the courts;
- safeguarding the public's interest in the courts;
- educating citizens about the daily functions and operation of their courts;
- creating and maintaining an ongoing, meaningful exchange between citizens and their judiciary;
- making the courts more accountable and more sensitive to the needs of the communities they serve;
- successfully urging those responsible for the courts (including court administrators, state legislators, local government officials, and others) to make improvements, particularly in how the courts serve the public and how their personnel treat the public; and
- creating a constituency of citizens who understand the problems facing courts and who are supportive of the courts' efforts to function efficiently and effectively.

Monitors come from all walks of life, and many have no prior experience with the legal system. They are asked to look at the court from an outsider's viewpoint, which provides a fresh, common-sense perspective on how the courts can be improved. During the course of a 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, 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 other personnel observed, state court administrators, state and local legislators, the news media, and other interested parties.

Modern Courts' citizen court monitoring program has been influential in solving many problems faced by ordinary citizens in the courts. For example, monitors' comments about litigants with young children in the Family Court have help lead to the establishment of in-court child care facilities in numerous courthouses across the state. In other courts, the implementation of a "staggered" calendar, modeled directly on monitors' recommendations, has drastically reduced both waiting time and overcrowding. Monitors' repeated calls for decent housekeeping

and maintenance in the state's courthouses have led to a renewed commitment to courthouse upkeep by local governments, and to major improvements in recent years. Monitors were also helpful in persuading the State Office of Court Administration 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 led to construction of desperately-needed new court facilities around the state. Monitors' reports also influenced recent reforms that have made 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.

### **The Kings County Court Monitors**

In 1998, the Kings County Court Monitors evaluated proceedings in their branch of the Criminal Court of the City of New York. The New York City Criminal Court hears a huge and rapidly growing caseload of misdemeanors and violations, as well as the preliminary stages of felony cases. By monitoring the Criminal Court, the volunteers provided the public with an opportunity to assess how this court handles its huge caseload with limited resources.

In March, 1998, Modern Courts held an orientation session for volunteers at the Brooklyn Borough Hall. At this meeting, Hon. William Miller, Supervising Judge of the Kings County and Richmond County Branches of the New York City Criminal Court, familiarized the volunteers with court procedures and the types of proceedings that they would observe. Modern Courts' staff explained the monitoring process and distributed materials for the project, including Modern Courts' *Criminal Court Monitoring Handbook*.

From March to December, 1998, 13 monitors made 233 observations of the court. These observations gave the monitors insight into the Criminal Court's operations and its ability to serve the public. The monitors found that judges, lawyers, court personnel, and those accused of crimes all have been affected by the growth of the Criminal Court's caseload, growth that has not been accompanied by increased resources. They also found that the poor condition of the Kings County Criminal Court building hindered the court's ability to serve the public.

## II. THE CRIMINAL COURT OF THE CITY OF NEW YORK

In all five counties of the City of New York, the Criminal Court 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.

The Kings County Branch of the Criminal Court of the City of New York is divided into multiple parts. There are four “arraignment parts,” two with day sessions and two with night sessions. In addition to the arraignment parts, there is a “Desk Appearance Ticket Part (DAT Part),” which handles the first phase of cases in which, after being arrested, a defendant is given an appearance ticket by the police instead of being detained.

After arraignment, felony cases are sent to the Supreme Court, Criminal Branch. 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 the court’s “all-purpose parts.” Most of these “AP” parts hear pre-trial matters, such as pleas, discovery, motions, etc.

In addition to the general AP parts, there are specialized AP parts. There are two “felony waiver parts,” which handle felony cases in which defendants waive their right to be indicted by a grand jury. Instead of being transferred to Supreme Court, these cases are heard by Criminal Court Judges Jerome M. Kay and Sheryl L. Parker, who have been designated “Acting Supreme Court Justices” for this purpose.

In addition, Judges Thomas Farber and Kathryn Smith preside over two AP parts that specialize in cases involving sex crimes and crimes against children. These judges handle the cases from their initial stages to final disposition, and hold trials, if needed.

There are also three AP parts that constitute the Kings County Criminal Court’s “Domestic Violence Complex.” In these parts, first-time offenders who qualify are assigned to a three-to-six month “Alternatives to Violence” Program. These defendants are sent to the “Kings County Domestic Violence Compliance Part,” over which Hon. Caesar Quiñones presides. Judge Quiñones, a judicial hearing officer who divides his time between the Kings County and Queens County branches of the Criminal Court, oversees these cases closely, requiring defendants to report for regular reviews of their progress. If the defendants fail to comply with their assigned programs, their cases are eventually returned to other parts for further action.

In Criminal Court, most cases are settled before trial: Either the defendant pleads guilty to the charges or to reduced charges, or the charges are dismissed by the District Attorney’s office because of a lack of evidence or a failure to meet procedural deadlines. The latter occurs when the prosecuting attorneys are unable to proceed with their case within 90 days of the arraignment, thus violating Section 30.30 of New York State’s Criminal Procedure Law.

Cases that are not resolved in the AP parts are sent to trial parts. First, they go to Jury Part 1 (JP1), over which Kings County Criminal Court Supervising Judge William Miller

presides. Judge Miller attempts to resolve the case before trial. If the cases are not resolved in JP1, they go to Jury Part 2 (JP2), for a jury trial, or to Bench Trial Part 1 (BTP1), where a judge decides the verdict if the defendant waives his or her right to a trial by jury.

### ***Caseload.***

In the past six years, there has been a huge increase in the Criminal Court's caseload. In 1993, the five branches of the court heard a total of 281,431 cases. In 1998, 394,428 cases were filed in the Criminal Court, a 40 percent increase since 1993. Prior to 1993, the caseload had gradually declined. However, the increase of arrests in New York City for quality-of-life crimes in the past six years has led to a huge growth in the number of cases being heard in the Criminal Court. In 1994, for example, the caseload exploded by a staggering 17 percent, to 330,198 cases.

The caseload in the Kings County Branch of the Criminal Court has followed city-wide trends. For example, in 1998, the court heard 103,025 cases, up more than eight percent from 1995, when it heard 95,097 cases.

Although the number of judges assigned to Kings County's Criminal Court has remained stable, the judges disposed of 106,296 cases in 1998, a 15 percent jump from 1995. However, the amount of time it takes to dispose of a case in Kings County is rising. In 1995, an average of 52 days elapsed from arraignment to disposition; in 1998, it took an average of 67 days.

## **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 a resident of the City of New York.

***Method of Selection:*** The Mayor of the City of New York appoints all Criminal Court 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. 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 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, but 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.

However, upon taking office, Mayor Giuliani made several changes to the executive order. First, under the current executive order, the mayor is not required to appoint one of the Committee's initial nominees; he may request that the Committee submit the names of three additional candidates. Second, Mayor Giuliani instituted changes that have affected the composition of the Advisory Committee. Previously, the Committee consisted of 27 members, who were chosen, under the terms of the 1978 executive order, "with due consideration for broad community representation. The membership shall include men and women, lawyers and non-lawyers, and members of minority and other groups who are qualified to perform the functions of the Committee." Mayor Giuliani's changes to the executive order have reduced the Committee's membership to 19, and have removed this "diversity clause."

In addition, Mayor Giuliani has asserted a right to veto the Committee's recommendations regarding reappointment of sitting judges when their terms expire. On a number of occasions, he has reappointed Criminal and Family Court judges for abbreviated terms, or has replaced them altogether, despite his Committee's assessment that they had performed their duties satisfactorily.

***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 leaves office for any reason before completing his or her term, the Mayor appoints an interim judge to serve the remainder of that term.

***Assignment of Judges.*** There are 107 judges appointed to the New York City Criminal Court. 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. In New York City, the Criminal Term of the Supreme Court handles a heavy felony caseload, which requires more justices than prescribed by the current state law. Therefore, many judges of the "inferior courts" – the Criminal Court and the Civil Court of the City of New York – are designated "Acting Supreme Court Justices" to compensate for the shortage of Supreme Court justices.

Consequently, less than half of the 107 judges appointed to the Criminal Court actually serve in the Criminal Court. They are joined by Civil Court judges and Family Court judges who have been assigned to the Criminal Court.

### **III. JUDGES**

Following are the monitors' observations of the judicial personnel in the Kings County Branch of the Criminal Court of the City of New York. In addition to the judges, monitors observed two judicial hearing officers (JHOs), Hon. Cornelius Matthews and Hon. Cesar Quiñones, who are retired judges employed by the court system to hear certain types of cases, but who do not have power to sentence defendants. The monitors did not evaluate the judges' legal knowledge or decisions. Rather, they focused on the judges' demeanor; on their attitude towards litigants, attorneys, and court personnel; and on their maintenance of control during the proceedings.

#### **Hon. Bert A. Bunyan**

Hon. Bert A. Bunyan is a graduate of Virginia State University and the University of Virginia School of Law. From 1974 to 1981, he worked as an attorney for the National Labor Relations Board, and from 1981 to 1986, he worked as an attorney for the Equal Employment Opportunity Commission. From 1986 to 1994, he served as an Administrative Law Judge for New York State's Workers' Compensation Board. He was elected to the Civil Court of the City of New York in 1995 as a Democrat. Judge Bunyan serves in the Criminal Court of the City of New York in Kings County.

Judge Bunyan was observed by eight monitors on 12 different days.

Monitors described Judge Bunyan as "patient" and "considerate," with a "fair and moderate temperament." Several noted that he seemed to relate well to his courtroom personnel, who in return were "cooperative." One monitor concluded, "He is really a pleasant judge who seems kind and has a great deal of patience."

Judge Bunyan showed respect for everyone in his courtroom. One monitor praised him for "not rushing anyone." This monitor reported that he listened attentively and was "understanding" and "compassionate" to defendants, especially younger defendants. Another noted that he "took time to hear out the defendant." Yet another applauded him for "sitting back and giving attorneys plenty of time to explain the charges against the defendants." Judge Bunyan also was flexible with attorneys when scheduling new dates for adjourned cases.

Monitors generally felt that Judge Bunyan performed his duties in a "self-controlled fashion." One monitor reported that he "never got angry," enabling all proceedings to be "conducted with dignity." This monitor observed that, when a foreign-language interpreter was two hours late, the judge reprimanded her, informing her that her tardiness was unfair to all parties involved. Nonetheless, after she completed her translation, "he thanked her for her help."

Several monitors noted that Judge Bunyan, with his “low-key” demeanor, spoke too softly to be heard by the public. Several also reported that he did not announce or explain delays in proceedings. To one observer, Judge Bunyan “appeared to be utterly bored with the proceedings.”

However, several monitors found that Judge Bunyan made an effort to obtain missing information. One monitor reported that he “made several phone calls to learn first-hand” about a discrepancy in a defendant’s record. Another felt that “[h]e did a good job of questioning a defendant who had asked for Legal Aid, and learned that the defendant did not qualify because he had a \$200 a week job, \$1,600 in the bank, and had just received \$18,000 on a claim in a car accident.”

### **Hon. Alex M. Calabrese**

Hon. Alex M. Calabrese is a graduate of the University of Notre Dame and Fordham University Law School. From 1979 to 1986, he worked as an attorney for Legal Aid Society, Criminal Defense Division. From 1986 to 1997, he served as law assistant to Hon. Leslie Crocker Snyder. In 1997, he was appointed by Mayor Rudolph W. Giuliani to the Criminal Court of the City of New York. Judge Calabrese currently serves as the presiding judge of the Red Hook Community Justice Center.

Judge Calabrese was observed by six monitors on 11 different days.

Monitors found that Judge Calabrese had an “informal” and “even-tempered” demeanor, and at times displayed a good sense of humor. They also reported that he possessed an “unusually patient temperament,” treated all parties in the courtroom with respect, and “conduct[ed] proceedings with dignity.”

Monitors particularly praised the manner in which Judge Calabrese interacted with young defendants. Monitors observed that, to ensure that defendants understood their rights, the judge often began his sessions by “standing up and explaining to the courtroom, including many defendants waiting for their cases to be heard, the implications of pleading guilty or not guilty.” When defendants were before him, one monitor noted, he “spoke to them directly,” unlike some of the other judges, who, the monitor felt, seemed to direct all of their comments to the attorneys. Monitors also felt that he showed “deep concern for their futures,” listened to the defendants “with obvious patience and consideration,” and “appeared compassionate.” For example, one monitor noted that when defendants were sentenced to drug programs, he “clearly explained to them the possible consequences if they should fail to complete the programs.”

Judge Calabrese was “firm, when necessary.” One observer described him as “strict, strong, and seldom willing to be swayed once his mind is set.” Another reported that he rightly “reprimanded one assistant district attorney for failing to follow through on a case.” Still another described him as “efficient and very stern.”

Monitors also found that Judge Calabrese seemed “very well-informed about the cases before him.” They reported that he “took time to read every paper in every case” and “went through all the documents again prior to his final decisions.” One monitor felt that he explained his rulings “very, very carefully.”

In general, monitors agreed that Judge Calabrese “spoke very clearly” and was relatively audible, considering the poor acoustics and the lack of microphones in the courtrooms. They also reported that he often reminded attorneys and others to speak more audibly.

On two separate days, monitors observed Judge Calabrese addressing visiting classes of students in the fourth, fifth, and sixth grades. One monitor described the judge’s interaction with the students as “very impressive.” This monitor added that he was “not pedantic, but down-to-earth,” and excelled at “engaging the students, and getting the students to react and ask questions.” Another found him to be “charming with children. He makes a great speech to them and holds a question-and-answer session, and I’m sure leaves a lasting impression on the consequences of crime.”

### **Hon. Ferdinand Camacho**

Judge Camacho did not respond to Modern Courts’ request for biographical data.

Judge Camacho was observed by six monitors on 11 different days.

Monitors described Judge Camacho as a “very dignified” judge who presents “an aura of order and authority,” while “radiating respect for all parties.” He seemed “genuine in his concern.”

Monitors praised Judge Camacho’s treatment of parties in his courtroom. One monitor noted that he “listened well and seldom lost his patience.” Others reported that he “smiled a lot,” and “handled difficult situations with diplomacy.” They also found that he explained defendants’ rights in great detail, and was “very patient toward attorneys and defendants.”

Monitors reported that Judge Camacho was very firm, “accepting no nonsense.” One monitor observed that when a file was missing, the judge’s response was that it was “not acceptable.” Another reported that, when an assistant district attorney was missing files on a case, the judge asserted, “You must have the files; I want the name of someone who is responsible for producing that file.” A monitor concluded that he “had the courage to draw the line and be firm with deadlines,” letting the assistant district attorneys know that cases would be dismissed if deadlines were not met.

As one monitor observed, while he was usually “patient and considerate,” when people “deliberately tried his patience, he would take control and remind them [that] he is the judge.” In one case, a monitor observed a display of his firmness when he denied an extension of a defendant’s deadline to pay a fine. “He keeps coming back here, so he obviously has money for

crack,” the judge said. However, one monitor was critical of Judge Camacho for failing to reprimand defendants who arrived late for scheduled court appearances.

Overall, monitors were impressed by Judge Camacho’s performance. They reported that he was “prepared,” “alert,” and “aware of everything going on around him.” One monitor noted that he “ensured that proceedings could be heard even in the back of the courtroom” by speaking clearly and maintaining order. Others found that he was very involved in proceedings, asking straightforward questions of attorneys and defendants, and “explaining rulings in a crystal-clear manner.”

### **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.

Judge Carro was observed by five monitors on 10 different days.

Monitors described Judge Carro as a “firm” and “efficient” judge who displayed compassion and patience, and was “pleasant and respectful toward those before him.” They also reported that he “listened well and allowed adequate time for all parties,” and that his rulings were “clearly explained.”

Monitors felt that he showed “great consideration and respect” toward defendants, and “listened with patience and concern.” One monitor observed, “His compassion paid off,” describing several cases in which Judge Carro’s interactions with defendants resulted in a “serious, emotional ‘guilty’ plea,” or the revelation of “some vital information.”

Judge Carro was not only respectful of others, but monitors found that he “expected others to display that same respect for the court.” On one occasion, a monitor observed, “a man who was already incarcerated appeared in the presence of the judge for sentencing, and began to threaten his attorney and the judge. His sentence was increased from four months to a year.”

One monitor praised him for rarely raising his voice, instead speaking “in a subdued voice and not rushing anybody.” Another reported that he spoke clearly and was “capable of being heard without a microphone.”

Several monitors reported that delays were not announced or explained to the public.

In general, monitors agreed that Judge Carro “maintained a relaxed atmosphere while making an effort to deal with all the waiting cases on his busy calendars.” Indeed, one monitor described Judge Carro as “one of the best judges at maintaining a rapport with the defendants.”

## Hon. Lee Cross

Hon. Lee Cross graduated from Swarthmore College and Harvard Law School. In 1969, she was in private practice, and from 1969 to 1971, she served as a staff attorney for the National Committee for the Reform of Federal Criminal Law. From 1970 to 1976, she served as an Assistant United States Attorney for the District of Columbia. She returned to private practice until 1990, when she was appointed by Mayor David N. Dinkins to the New York City Criminal Court. After a brief and sudden illness, Judge Cross passed away on Aug. 5, 1999.

Judge Cross was observed by seven monitors on nine different days.

Monitors described Judge Cross as “firm,” “patient,” “considerate,” and “concerned for all.” They also found that she was “pleasant to those around her” and “had a sense of humor.” In addition, monitors commended her because she used “every moment constructively,” “spoke clearly and audibly,” and “maintained order and control.”

Judge Cross “was not only informed” about her cases, “but her investigative nature kept her probing for more information.” Monitors reported that she appeared “fair,” allowing adequate time for all parties to present their stories, and treating everyone with respect; yet, she was “unafraid to question people or to speak her mind.”

Monitors also found that Judge Cross “moved swiftly” through her large caseload. One monitor observed her conferencing with the assistant district attorneys before the session began, to determine which cases they were ready to address first. This practice seemed to reduce the need to call cases repeatedly, and made the calendar flow more productively.

On several days, monitors observed Judge Cross handling cases involving defendants who were reporting their progress in domestic violence education programs or drug treatment programs. The monitors applauded her treatment of these defendants: She “congratulated” defendants who had finished rehabilitation programs, and encouraged defendants who were reporting for parole, drug testing, and drug counseling sessions.

Monitors also praised Judge Cross for taking an active role in the proceedings. One monitor noted, “The judge focused on the crime committed, often taking the time to question the defendant, asking, ‘What did you do on this day?’ or ‘What did you have in your possession?’ This was very effective in obtaining admissions of guilt and getting defendants to fully acknowledge their problems.” The judge also “showed concern and compassion, encouraging better behavior,” according to another. Yet another monitor, who observed the sentencing of the mother of a small child, noted that Judge Cross had the child removed from the courtroom, on the grounds that “[t]his is not a good example for a child to hear.”

Judge Cross thoroughly explained her rulings. One monitor observed her “calmly explaining to [defendants] the need to complete counseling and other programs and explaining the possibility of a jail sentence if they fail to do as they are told.” When issuing orders of protection, “she would explain what this meant to each defendant and clarify that they are not to harass or intimidate the complainant. She was extremely thorough in explaining the consequences of violating the order,” another observer noted.

Some monitors, however, were critical of Judge Cross’s interactions with defendants and other parties in the courtroom. “She speaks mechanically to the defendants,” one monitor reported. Another observed, “The judge used many terms in court that were [unfamiliar] to a lay person. It must make it hard for relatives and others concerned about the defendant to understand what’s going on.” Yet another noted, “She was mostly emotionless, dead-pan, and gave no appearance of any humor or any exchanges with court staff. She appeared somewhat distant and uninvolved. She pretty much treated all cases alike in a rote, routine fashion.” One monitor also criticized the judge for fostering a “too-relaxed atmosphere, with officers not shouting for ‘silence’ or ‘no newspaper reading’ or ‘hats off’ – unlike in other courtrooms.”

However, several monitors praised Judge Cross’s sense of fairness. She questioned attorneys thoroughly on their charges before issuing orders of protection, and in one case, she questioned an assistant district attorney on whether what the judge appeared to think was a minor offense merited the one-year sentence the ADA sought.

In general, monitors were pleased with her performance. As one monitor concluded, her “no-nonsense approach and fair tactics raised the level of respect and dignity in the courtroom.”

### **Hon. John J. Delury**

Judge Delury did not respond to Modern Courts’ request for biographical data.

Judge Delury was observed by eight monitors on 14 different days.

Judge Delury was described as “dedicated” and “efficient,” with a “sincere and deep compassion” for those who came before him. Monitors also praised him for speaking “clearly and audibly.”

Several monitors were impressed by Judge Delury’s affable demeanor on the bench. They described him as a “refreshing” and “down-to-earth” judge who “listened attentively and often smiled.” One monitor observed that he “captured the attention of the attorneys and the entire audience with witty remarks.”

Monitors praised Judge Delury’s treatment of defendants. They reported that he “displayed a human approach to dispensing justice,” “showed respect to all parties, while requesting the same,” and “talked directly to the defendants.” In one case, a monitor observed he displayed “a considerable amount of compassion for a man with a cocaine problem. He took

time to listen to the defendant and recommended, ‘Sometimes, you need help.’ He then assigned him to a rehabilitation program.” This monitor also praised him for often advising defendants to “stay off drugs.” However, while he “bent over backward to be compassionate and concerned,” monitors noted that Judge Delury “became irritated when the defendants failed to heed his warnings and advice.”

One monitor recounted an occasion when Judge Delury appeared “harried and overwhelmed.” “He was caustic and brusque to attorneys and defendants; seemed hostile, impatient, and unpleasant; and showed little respect or consideration,” this monitor commented. “He generally listened, but then made statements like, ‘What do you want me do?’, ‘What can I do in that situation?’, or ‘Why do you think the court can help?’ He moved cases quickly, without any sensitive questions or deliberations.” On another day, this monitor “got a much better impression of Judge Delury. He was more subdued, more appropriate, less distracted, and showed no hostility this time. He was clear and open in explaining rulings, addressed and questioned some defendants as well as attorneys, seemed less rushed and more patient, and allowed more time for all parties.” Another monitor felt that the judge was “a bit impatient,” but noted that there were many “behavioral problems” in the courtroom that day, which may have affected the judge.

Monitors found that this “super-productive” judge was concerned about efficiency in his courtroom; thus, he was firm with attorneys who were unprepared or disruptive. “He had a low tolerance for unprepared attorneys,” one monitor reported. He “ma[de] statements such as: ‘Please have a file ready next court date, counselor; I have better things to do.’” He “seemed amazed when attorneys evaded important issues, more than once saying, ‘I have to start getting answers,’” this monitor added. Another monitor noted that Judge Delury “demanded order in his courtroom and constantly reminded everyone that he was in control.” Yet another observed him “telling attorneys who were waiting for their cases to quiet down so he could hear, and ordering everyone to sit still and be quiet.”

On the whole, monitors were impressed by Judge Delury’s performance. In particular, they praised his treatment of defendants, his “pleasant” manner, and his “great sense of humor.”

### **Hon. Patricia M. DiMango**

Hon. Patricia DiMango is a graduate of Brooklyn College and St. John’s University School of Law. From 1980 to 1986, she served as an Assistant District Attorney in New York County. From 1986 to 1990, she was the principal law assistant to then-Acting Supreme Court Justice Steven W. Fisher; from October, 1990 to December, 1991, she was principal law assistant to Acting Supreme Court Justice Luigi R. Marano. From 1992 to 1995, she served as law secretary to Reinaldo Rivera. Since 1992, she has served as an Associate Adjunct Professor at St. John’s University. In 1995, she was appointed a New York City Criminal Court Judge by Mayor Rudolph W. Giuliani. In 1998, she was designated an Acting Supreme Court Justice by Chief Administrative Judge Jonathan Lippman.

Judge DiMango was observed by three monitors on five different days.

Monitors described Judge DiMango as “concerned” and “respectful.” She was “well-informed” about her cases and spoke clearly and audibly. She explained her rulings clearly, “going over each detail to make certain the parties understood them clearly.”

Monitors were particularly impressed by Judge DiMango’s interactions with jurors. They reported that “she was very lively and personable, displaying patience and consideration to the jury, [and she] gave a well-read list of charges to the jury.” She also provided comprehensive definitions of many legal terms for the jurors. However, one monitor felt that her charge seemed “too long.”

Appropriately “stern at times,” monitors reported that Judge DiMango made it clear to defendants that they had to attend rehabilitation programs if sentenced to do so, or “go to jail.” However, one monitor felt that judge was at times “too understanding” of attorneys who were late for court or who came unprepared. Another agreed that “she allowed too much time for them and was too understanding of their excuses.”

One observer felt that Judge DiMango “seemed automatic and rushed through her calendar.”

Nonetheless, monitors reported that Judge DiMango related well to courtroom personnel and maintained order and control. Monitors also applauded her for “conducting proceedings with dignity.”

### **Hon. Thomas Farber**

Judge Farber did not respond to Modern Courts’ request for biographical data.

Judge Farber was observed by four monitors on four different days.

Monitors described him as “considerate,” “compassionate,” “good-humored,” “competent,” and “well-prepared.”

While “sympathetic” and “respectful of all parties,” Judge Farber was firm, when appropriate. In one case, “he refused [to allow] probation after carefully looking at and reading the records on the defendant. He said he could not envision that probation would work for this man.” In another case, a monitor noted, “he showed no compassion for a man accused of a sex crime, which seemed appropriate, under the circumstances.” When another defendant was given a date to return to court, yet another monitor observed, the judge “firmly warned the man that he could go to jail if he did not show up again.”

One monitor reported that Judge Farber did not speak directly to defendants, but only to their attorneys. This monitor felt that an appearance before a judge should be an opportunity to

convince the defendant to change his or her behavior, and that this opportunity was lost when the judge did not speak directly to the defendants.

According to the monitors, Judge Farber generally “appeared informed about most cases,” “listened well,” and was “active and observant.” He also seemed very concerned that defendants understand their rights, “gave full warnings about what could happen when defendants pleaded ‘not guilty,’” and “asked pertinent questions.”

### **Hon. Lila P. Gold**

Hon. Lila P. Gold is a graduate of Brooklyn College and Brooklyn Law School. From 1969 to 1976, she was an Assistant District Attorney for Kings County. From 1984 to 1985, and from 1988 to 1993, she served as an Administrative Law Judge for the New York State Department of Motor Vehicles. From 1985 to 1988, she served as a hearing examiner in the New York City Family Court. In 1993, she was elected to the Civil Court of the City of New York.

Judge Gold was observed by five monitors on 15 different days.

Judge Gold was described by monitors as “alert,” “informed,” and “considerate.” One monitor praised her “extremely professional” demeanor.

Monitors also described Judge Gold as “very firm.” She “had little patience for attorneys who tried to drag things out,” one monitor observed. This monitor added, “Her priority seemed to be the entire picture, rather than being bogged down with petty, insignificant details.” Another commented that she ran a “business-like operation” and was “clear [when] explaining all the consequences of failure to comply” with her rulings. She was “extremely strict regarding payment when a defendant has [a source of] income, seldom allowing any further time other than the next court date,” this monitor noted

Several monitors reported that “it was difficult for her to maintain order and control in the courtroom.” One monitor observed that her requests for order in the courtroom “didn’t carry much weight with the court officers.” Another noted that Judge Gold “explained [that] there would be no reading of books [and] newspapers, but did not emphasize ‘no talking.’” However, several monitors disagreed, reporting that she “maintained order and control.”

On several occasions, monitors noted that Judge Gold “was late in arriving to court.” Several of these monitors also reported that “no explanation was given” to those waiting in the courtroom. However, on one occasion, a monitor learned, “Judge Gold was covering two courts.”

One monitor described Judge Gold as “among the most informed judges” that the monitor observed. “She goes through each document in each file, and often finds information [that] the attorneys had missed,” the monitor noted. In one case, “she found a forged document

and caught the defendant in a lie.” On two occasions, she recalled that addresses involved in the cases were drug trafficking houses. “She seemed almost impossible to fool,” the same monitor concluded.

### **Hon. Charles J. Heffernan, Jr.**

Hon. Charles J. Heffernan, Jr., is a graduate of Boston College and Fordham University School of Law. From 1972 to 1986, he served as an Assistant District Attorney for New York County, and from 1986 to 1989, he served as Deputy Criminal Justice Coordinator for the City of New York. In 1989, he served as General Counsel of New York City’s Department of Investigation. In 1990, Mayor Edward I. Koch appointed him to the New York City Criminal Court.

Judge Heffernan was observed by six monitors on five different days.

Monitors described Judge Heffernan as “very professional” and “very informed about the cases.” They also applauded his “calmness,” “attentiveness,” and ability to “conduct all proceedings with dignity.”

Monitors specifically praised Judge Heffernan’s interactions with defendants. Several noted that he treated them with respect, “listening to them attentively and patiently,” and “speaking directly to the defendants and reading them their rights.” Similarly, with attorneys, monitors found that he “did not lose his temper or look annoyed,” even in a situation in which he “had to repeatedly censure the defendant’s attorney.” He calmly asked the jury to step outside so that the jury would not observe the censure.

Monitors also applauded Judge Heffernan’s treatment of the jury. While conducting jury selection, he used prospective jurors’ time efficiently. He required the use of juror questionnaires to obtain basic information on each juror, and he did not allow the lawyers to repeat themselves when questioning the jurors. One monitor felt that the judge’s “open and encouraging communication with the jury prior to the questioning” set a positive tone for the jurors. This monitor added, “Everyone was not only willing, but looked very pleased and serious.” Another observed that Judge Heffernan “was patient and considerate with the jury” during a trial, explaining to them what was occurring. One day, when two jurors arrived late, “he firmly addressed the entire group, so as to get his point across without singling anyone out.”

Overall, the monitors were impressed by Judge Heffernan and his rapport with defendants and others in his courtroom.

### **Hon. Muriel Shaff Hubsher**

Hon. Muriel Shaff Hubsher graduated from New York University and Brooklyn Law School. From 1973 to 1974, she was an associate at the law firm of Dryer & Traub, and from

1974 to 1977, she was an associate at the Law Offices of Raoul Lionel Felder. From 1977 to 1983, she served as law secretary to Hon. Arthur S. Hirsch, and from 1983 to 1986, she served as law secretary to Hon. Vincent Pizzuto. In May, 1986, she was appointed interim New York City Civil Court Judge by Mayor Edward I. Koch, and in 1991, she was appointed to the Criminal Court by Mayor David N. Dinkins.

Judge Hubsher was observed by five monitors on six different days.

Monitors described Judge Hubsher as a “great judge” who was “sincerely compassionate,” “patient,” and “considerate.” They reported that she “spoke clearly,” was “efficient,” seemed “very smart,” and appeared “well-informed” about her cases. She also “conducted the proceedings with dignity,” according to several monitors.

Judge Hubscher was “firm,” when necessary. As one monitor observed, although she “smiled and greeted attorneys,” she also “challenged attorneys for clear answers, challenged probation officers, and requested extended full investigations when all documents were not present.” She was in “total control” of the courtroom, “demanding quiet and removing anyone who made a disturbance.” However, one monitor noted that, “while silence was enforced, people reading newspapers were not stopped.”

Monitors praised Judge Hubsher for her concern for defendants. One monitor reported, “She took a little extra time to talk personally with each defendant; [and] addressed everyone’s individual situation. She told everyone entering a treatment program to put a sign on their wall stating, ‘I must complete and finish this program or go to jail for three to six years,’ to encourage them to complete the program. She would say, ‘Stick it out so you don’t have to go back to that hell hole.’” Another monitor added, “She has patience with defendants and explains clearly to them about their rights. She is very firm, telling them they will definitely be jailed” if they fail to show up for the counseling programs to which they are sentenced. “She talks directly to defendants, at times quite firmly, telling them to stay in school because they won’t get far with no education.” Judge Hubsher took time with each defendant, rarely seemed rushed, and often wished defendants good luck.

However, one monitor felt that although Judge Hubsher “tried to be considerate,” “her concern mostly translated to some lecturing and warnings, and not much compassion was really shown.” Another reported, “While the judge explained all rulings thoroughly, it was sometimes too fast for defendants, although she does repeat herself when necessary.”

Nevertheless, monitors were impressed that Judge Hubsher considered the unique circumstances of each defendant before ruling on his or her case. In one case, she helped a pregnant mother avoid a jail sentence, which the prosecutor sought, by sentencing her to a counseling program. “The judge explained to her how she was endangering her children and her unborn child, and warned her that she would be given a jail sentence of three to six years if the program was not completed.” In another case, Judge Hubscher “really went out of her way to help someone she thought was trying hard, commenting to the assistant district attorney that a heavy jail sentence was no way to reward someone for trying hard to turn his life around.”

On the whole, monitors found that Judge Hubsher “had a pleasant manner” and was “compassionate” but was “clearly in control of her courtroom.”

### **Hon. Martin G. Karopkin**

Hon. Martin G. Karopkin is a graduate of the State University of New York at Stony Brook and Brooklyn Law School. From 1972 to 1978, he served as an Assistant District Attorney for Kings County, and from 1978 to 1981, he was Inspector General for the New York City Parks Department. From 1981 to 1986, he served as Inspector General for the New York City Fire Department. In 1986, he was appointed to the Criminal Court bench by Mayor Edward I. Koch, and in 1994, he was re-appointed by Mayor Rudolph W. Giuliani, and was designated an Acting Supreme Court Justice.

Judge Karopkin, who is usually assigned to night court, was observed by three monitors on eight different days.

Monitors described Judge Karopkin as “alert,” “dignified,” and “considerate.” He also appeared to be a “patient” listener.

Judge Karopkin seemed concerned that defendants not repeat their offenses. In one case involving a homeless youth, a monitor noted that “the judge instructed him to get counseling before his next court date. His fear was that this young man would only be picked up again. Obviously, this situation had happened before and the judge wanted to see it end.” Judge Karopkin also “seemed very compassionate”; he frequently questioned the assistant district attorneys as to whether their bail requests were excessive, and sometimes lowered the bail.

Although some monitors commended Judge Karopkin for maintaining “order, control, and dignity” in the courtroom, other monitors believed that he should have done more to curtail the frequent conversations among court officers, lawyers, and defendants that contributed to the inaudibility of proceedings. One monitor noted, “He explained [that]there would be no reading of books or newspapers, but did not emphasize that there would be no talking.”

Judge Karopkin was “sharp”; he “notic[ed] things that others did not.” Monitors noted that he scolded some lawyers for lack of preparation or for failure to have files in order, “reminding them that the files would not be viewed otherwise.” One monitor recalled the judge “offering a chair to an elderly man when he noticed how frail he was,” while the court officers overlooked the man’s frailty.

In general, monitors were pleased with Judge Karopkin’s performance, particularly praising his alertness and his compassion.

## **Hon. Jerome M. Kay**

Judge Kay did not respond to Modern Courts' request for biographical data.

Judge Kay was observed by eight monitors on 13 different days.

Monitors described Judge Kay as an "efficient" judge who worked through his busy calendars rapidly, while "showing control over his courtroom." "Always ready," he appeared informed, and "asked many questions" to clarify the facts. Judge Kay generally arrived punctually, and on several occasions, he reprimanded attorneys for lateness.

Monitors praised Judge Kay for appearing "considerate" and "concerned." He listened carefully to those who spoke and addressed defendants directly. One monitor noted that he "allowed everyone time to state their cases, despite his heavy caseloads." Another reported that he explained his rulings thoroughly, "taking extra time to make sure the defendants understood." When defendants entered pleas, he was especially careful to ensure that they understood what their pleas meant.

Several monitors reported that Judge Kay appeared "firm": "He is often [un]-compromising. He may listen, but he is not easily swayed once a decision is ruled on." On one occasion, a monitor felt that Judge Kay was "overly argumentative": "He seemed to argue with everyone." Another believed that he was "hard on attorneys," while a third criticized him for hearing cases involving private attorneys ahead of cases involving Legal Aid and 18-B attorneys, "even though the public attorneys were present first."

However, monitors reported that Judge Kay was unique in "setting aside time for question-and-answer sessions with the families of defendants," to ensure that they understood what was happening. Monitors felt that this practice showed a tremendous amount of understanding and helped the families to deal with a difficult situation.

## **Hon. Margarita López-Torres**

Hon. Margarita López-Torres is a graduate of Queens College and Rutgers University School of Law. Prior to her current position, she was a teacher in the New York City Public Schools, served as an attorney in New York City's Office of the Corporation Counsel, and served as Deputy General Counsel of the Human Resources Administration. In 1993, she was elected to the Civil Court of the City of New York. In 1996, she was assigned to the Criminal Court, where she presided until June, 1999. In June, she was assigned to the Family Court.

Judge López-Torres was observed by eight monitors on 13 different days.

Monitors were impressed by the level of “respect” and “dignity” in Judge López-Torres’s courtroom, and by her “concern” for those appearing in it. She appeared “fair and respectful” to attorneys, defendants, jurors, courtroom personnel, and the public.

Judge López-Torres consistently appeared compassionate in her dealings with defendants. As one monitor noted, she “often asked if the defendant had any questions. Sometimes they did, and she was always willing to explain further.” She spoke directly and patiently to defendants, allowed them adequate time to speak, and then “explained her rulings clearly to them, with a full definition of the process that must be followed.” When there was a positive report on a defendant’s progress in a program to which he or she had been sentenced, the judge was “encouraging.” In one case, after receiving a positive report on a defendant, Judge López-Torres said, “This is a real pleasure.”

Judge López-Torres was well-informed about her cases, and she expected lawyers to be informed and prepared to proceed. In one case, when the District Attorney’s office failed to produce evidence, and the deadline neared to proceed or have the case dismissed, the judge was firm, warning the attorneys: “I have no confidence that the people will go forward prior to dismissal.” The judge asked why more time was needed, and commanded the attorneys to “do something proactive” to move the case forward. One monitor concluded that lack of preparation by the DA’s office “was simply not accepted.” She was clearly concerned about defendants being incarcerated for extended periods of time when they had not been proven guilty. “Justice cannot wait,” she commented during one case. When confronted with the judge’s firmness on this issue, “the assistant district attorneys suddenly became resourceful and started to hustle” to have their cases ready for trial.

However, one monitor felt that the judge was a “softie” in cases involving defendants against whom orders of protection were served. “She should be firmer with some of the defendants regarding orders of protection, to get the message across” that violating the order would have serious consequences. This monitor also criticized the absence of “stern lecturing” to ensure that defendants who were given adjournments in contemplation of dismissal (ACODS, in which charges are dismissed if the defendant is not arrested again in six months or one year) did not repeat their offenses. Another monitor felt that the judge did not maintain order, resulting in a “very noisy courtroom where it was hard to hear.”

However, monitors consistently praised Judge López-Torres’s treatment of jurors. One monitor observed, “She was very courteous to the jurors, speaking clearly to them in a way in which she was easily understood.” She apologized for any inconveniences experienced by the jurors and clearly explained the proceedings to them. Another monitor “was very impressed with her presentation to the jury and how her words were broken down to ‘plain English.’ You can almost sense the exchange of compassion between the judge and jury. The jury concentrated better and seemed to take everything more seriously.” A third monitor reported, “The judge really clarified the issues for the jury. She also reminded them that the poor quality of the facilities did not reflect how important their service was.” Monitors appreciated the judge’s use of a written juror questionnaire, which made *voir dire* more efficient, less intrusive, and less tedious.

Overall, monitors were impressed by Judge López-Torres's "respectful" and compassionate treatment of parties in her courtroom

### **Hon. Cornelius Matthews**

Judge Matthews did not respond to Modern Courts' request for biographical data.

Judge Matthews was observed by five monitors on four different days. Monitors described Judge Matthews as "compassionate," "soft-spoken," and "sensitive." He "conducted proceedings with dignity," "allowed adequate time for all parties," "listened to all the details needed to inform him on each case," and "showed respect for everyone." Monitors also praised his "calm" demeanor.

"Well-mannered," Judge Matthews almost always remained "pleasant and very even-tempered," monitors reported, "seldom showing any displeasure or disapproval." This helped to defuse situations in which "the tempers of others seemed short." Judge Matthews explained his rulings "thoroughly and carefully."

### **Hon. Joseph Kevin McKay**

Hon. Joseph Kevin McKay graduated from Fordham University and New York University Law School. From 1969 to 1974, he was an Assistant District Attorney for New York County, and from 1974 to 1981, he was an associate and later a partner at Hays, St. John, Abramson and Heilbron. From 1979 to 1981, Judge McKay served as an arbitrator in the New York City Civil Court; in addition, he served as Inspector General for the New York City Department of Sanitation. In 1983, he received an interim appointment to the New York City Civil Court by Mayor Edward I. Koch, and in 1984, Mayor Koch appointed him to the Criminal Court for a full ten-year term. From 1992 to 1997, he was designated an Acting Supreme Court Justice.

Judge McKay was observed by six monitors on nine different days.

Judge McKay was described as "low-key," "efficient," "straightforward," and "respectful of all parties." He also was "patient and certainly well-informed."

Active and involved, Judge McKay "probed" each case to get the facts. He "often found a more reasonable solution, and thus sent proceedings in a productive direction." He "asked questions when necessary," "spoke directly to defendants," and fostered a "relaxed and productive atmosphere." However, one monitor noted that Judge McKay often did not make eye contact with those who were speaking. "He hardly looks at those before him," this monitor reported. "He does a lot of writing." But it was clear from his pertinent follow-up questions that

he was listening while writing, this monitor concluded. According to another observer, “he showed no emotion or humor [and] never cracked a smile, and it was hard to tell whether he was compassionate or concerned.” Nonetheless, this monitor concluded, “Overall, the judge did a very good job of conducting the proceeding in as fair and dignified a manner as possible.”

Monitors generally felt that Judge McKay “was very patient and considerate to all who appeared before him,” particularly defendants, and explained his rulings “clearly and thoroughly.” When dealing with defendants, Judge McKay attempted to “get through” to them. In some cases, “he encouraged the defendant to improve himself”; in others, “he warned them what the consequences would be if they did not comply with the ruling by completing treatment or community service.” However, one monitor felt that the judge sometimes “went too far with defendants and let them off too eas[ily]” by reducing the charges. This monitor sensed that “the defendants don’t waste much time in letting you know, by their attitude on walking out of the courtroom, that they thought they had gotten away with something.”

Judge McKay was “very patient and considerate [with] the attorneys who appeared before him,” but also urged them to be prepared and keep the process moving. Sometimes, he appeared “annoyed with the People when they were not completely prepared, lacking files or the correct information.” In one case, he “was not at a loss for words” when the assistant district attorney submitted a poorly-prepared document.

In general, monitors applauded Judge McKay for fostering a “very dignified atmosphere” in his courtroom. Judge McKay “was very patient and considerate to all who appeared before him,” including defendants and attorneys.

### **Hon. Alan J. Meyer**

Judge Meyer did not respond to Modern Courts’ request for biographical data.

Judge Meyer, who normally presides in the Criminal Court in Richmond County, was observed in the Kings County Criminal Court by five monitors on five different days.

Monitors described Judge Meyer as “very personable,” “dignified,” “even-tempered,” and “humane.” He “showed respect for everyone,” often spoke directly to defendants, and exhibited “good teamwork [abilities] with his staff.” In addition, he maintained order in the courtroom: One monitor noted, “He did not hesitate to order someone who was disruptive to leave the courtroom.”

Monitors praised Judge Meyer’s patience. He allowed all parties ample time to speak. One monitor observed, “He seemed to listen well, taking time to address defendants to clarify a point and to explain the rulings clearly.” Another noted that he “went out of his way to make sure his words were understood.” Yet another reported that he gave equal attention to everyone, “listening with full patience and consideration, and showing proper concern and compassion.”

This monitor added that, even when he had to “give a lawyer a verbal scolding,” he did so without raising his voice.

One monitor observed Judge Meyer when he was presiding over two parts, and described him as “unruffled” by the resulting large caseload: “He did not rush attorneys or defendants” and “did not raise [his] voice or show any special emotions.”

On the whole, monitors found that Judge Meyer was “exceptionally well-informed” and patient, and “seemed to be firm, when necessary.”

### **Hon. William Miller**

Hon. William Miller is a graduate of City College of the City University of New York and Boston University Law School. From 1980 to 1982, he was the Chief Assistant District Attorney in Kings County, and from 1982 to 1983, he was executive assistant to Kings County District Attorney Elizabeth Holtzman. In 1983, he was appointed to the Criminal Court of the City of New York by Mayor Edward I. Koch, and re-appointed in 1992 by Mayor David N. Dinkins. Since 1985, he also has served as an Acting Supreme Court Justice.

Judge Miller was observed by six monitors on five different days.

Monitors described Judge Miller as a “polite,” “patient,” and “even-tempered” judge with a “relaxed” demeanor. “A charming gentleman” who appeared compassionate, he was “very alert and aware of what’s going on around him.” Judge Miller also was courteous to those in his courtroom, explaining the reasons for delays and apologizing for the wait.

Monitors were impressed by Judge Miller’s “poise” and “composure.” He was “thoroughly informed of the background of his cases,” and generally “alert and on top of matters,” several monitors noted. One monitor concluded that it was “a very professional performance.”

Monitors praised Judge Miller for his considerate treatment of all parties in his courtroom. He “spoke directly with defendants, carefully explaining rulings.” He “informed everyone of their rights, as well as explaining the consequences if his orders were not followed.” He gave each person ample time to speak and “took extra time to make sure what he said was understood.” He sometimes took time to “teach” an attorney a point of law, “going into detail, when necessary.” Monitors noted that the attorneys in his courtroom “were fully prepared” and seemed “more alert than in other courtrooms.”

As one monitor concluded, Judge Miller was “a good listener, well-prepared, and respectful of attorneys and the court staff.”

## **Hon. Esther H. Morganstern**

Hon. Esther H. Morganstern is a graduate of Brooklyn College and Benjamin Cardozo School of Law. From 1986 to 1995, she served as law clerk to Justice Herbert Kramer of the New York State Supreme Court. In 1996, she was elected to the Civil Court of the City of New York as a Democrat. She later was assigned to her current position as a Criminal Court judge in Kings County.

Judge Morganstern was observed by six monitors on nine different days.

Monitors described Judge Morganstern as “alert,” “patient,” “considerate,” “concerned,” and “efficient.” They also noted that she “spoke clearly and audibly.”

Although Judge Morganstern “moved cases expeditiously,” she “took time to explain her rulings carefully and clearly.” She showed “a keen eye for details” and was well informed not only about the cases before her, but also about the background of the defendants involved. She also was “strict with attorneys, expecting them to be informed about the cases.”

Monitors noted that she often gave lawyers and their new clients time to consult on cases and recalled the cases later in the day. She also carefully explained any potentially confusing information to the jurors during trials.

However, one monitor criticized Judge Morganstern for speaking “only to attorneys,” rather than speaking directly to defendants. In dealing with attorneys, this monitor found her to be “only occasionally patient.” However, this monitor noted, the judge was “handling an extraordinary number of cases” on that day.

On the whole, monitors agreed that Judge Morganstern was “personable,” “listened well,” “was respectful to all parties,” and “seemed determined to treat each person equally.”

## **Hon. Patricia Nuñez**

Hon. Patricia Nuñez is a graduate of Queens College and Rutgers University School of Law at Camden. From 1978 to 1981, she served as a law assistant in the New York State Supreme Court and the New York City Criminal Court, and from 1981 to 1997, she served as an Assistant District Attorney for New York County. In 1997, she was appointed to her current position of New York City Criminal Court Judge by Mayor Rudolph W. Giuliani.

Judge Nuñez was observed by six monitors on 12 different days.

Judge Nuñez was described as a “patient and considerate,” with a “calm, deliberate, low-key, relaxed” demeanor. She showed “respect to all parties” and “conducted proceedings with dignity.”

Judge Nuñez handled large caseloads without seeming rushed. She took time to “delineate her rulings clearly” and to make sure that defendants understood the proceedings. She “never smiled, but did not seem stern,” and often appeared to be “intensely focused on what was being said.”

Monitors were divided on whether Judge Nuñez appeared to be engaged in the proceedings. One monitor reported that she “showed little emotion or reaction to defendants directly.” However, another monitor, observing the judge as she presided over domestic violence cases, felt that she expressed effectively the serious consequences of violating orders of protection.

Monitors generally applauded Judge Nuñez’s no-nonsense attitude. One monitor praised her for “holding to her decisions, despite some attorneys’ efforts to reduce a fine or probation.” Judge Nuñez also was “very informed on the cases before her,” and demanded that attorneys be informed as well. She “grew weary of all the assistant district attorneys being unprepared,” and “constantly” questioned their lack of preparation. When ADAs were continually “stalling and unprepared,” the judge “had the courage to dismiss a case.”

In general, monitors found that Judge Nuñez was “serious and well-organized, very business-like,” and “attentive” and “patient.”

### **Hon. Sheryl L. Parker**

Judge Parker did not respond to Modern Courts’ request for biographical data.

Judge Parker was observed by seven monitors on nine different days.

Monitors described Judge Parker as “even-tempered,” “respectful,” “well-informed,” and “highly professional.” She was “patient,” listening well and allowing ample time for people to speak. She also explained her rulings clearly.

Judge Parker “appeared informed about her cases.” One monitor commented, “I was impressed with her tenacity and skill.” This monitor continued, “She maintained her composure at some difficult times in the session. It appeared that the attorneys had respect for her judgment.”

Monitors praised Judge Parker’s treatment of defendants. One monitor regarded her as one of the “few” judges who took court appearances by defendants “very seriously.” While she often “spoke firmly” to them, she also was “patient and considerate.” When reviewing defendants’ compliance with drug treatment sentences, “the judge provided encouragement to those who had favorable reports,” and gave “warm congratulations to those who were success[ful] in completing their programs.” She also “took adequate time to clearly explain to

them their rights when making a plea,” and explained the details of her rulings. Monitors reported that she “often went out of her way to give better deals to those who seemed to have the potential for rehabilitation.” When defendants failed to complete programs, she reprimanded them, but was “genuine in her concern.”

Judge Parker “spoke softly,” contributing to the inaudibility of proceedings in the acoustically poor courtrooms. “I could hardly hear a word,” one monitor noted. Frequently, “she spoke directly to the parties and their attorney[s], so what was said was not clear to the rest of the courtroom.” Another monitor added, “I was sitting in the second row, and I couldn’t hear.”

Overall, Judge Parker was “low-key,” but “full of warmth,” smiling frequently at attorneys and defendants. She addressed those before the court, including defendants, in a “straightforward” manner, and conducted proceedings with “dignity.” She also “seemed to have a good rapport with the courtroom staff.”

### **Hon. Charles A. Posner**

Hon. Charles A. Posner is a graduate of the Pratt Institute and New York Law School. He also received a Master of Arts degree and an Advance Certificate in Educational Administration and Supervision from Brooklyn College. From 1983 to 1985, he served as project director for the New York State Workers’ Compensation Board’s Recodification of the Law Project, and from 1985 to 1990, he was principal law clerk to New York State Supreme Court Justice Gabriel Krausman. From 1990 to 1995, he was the Deputy District Attorney for Kings County. In 1995, he was appointed an interim Civil Court judge by Mayor Rudolph W. Giuliani. In 1996, Mayor Giuliani appointed him to his current position as judge in the Criminal Court of the City of New York, and he was re-appointed in 1999.

Judge Posner was observed by five monitors on eight different days.

Monitors generally found Judge Posner to be “compassionate,” with a “pleasant attitude.” One monitor observed that he was “always smiling”; another described him as a “lively” judge who exhibited “a sense of humor and a sense of a mission.” Monitors also noted that Judge Posner was “punctual” and explained the reason for delays during the court sessions.

Monitors were extremely impressed with Judge Posner’s “impeccable” manners. “He conducted his proceedings with great dignity,” one monitor observed. When delays occurred, “he went out of his way in speaking to everyone in the courtroom, saying, ‘Ladies and gentlemen, I apologize for the delay. Thank you for your patience.’” Even when the judge halted proceedings to admonish improper behavior, he did so “in a very polite manner.” One monitor concluded, “These little things go a long way.”

Judge Posner showed “compassion and concern toward each individual and his or her problems.” Monitors reported that he “always took time to listen to the defendants, as well as to the attorneys,” and he sometimes asked defendants whether they were satisfied with their attorneys. In one case, a monitor observed, “he took time to push a defendant who seemed to have given up on life.” He also “often reminded defendants [that] they are innocent until proven guilty.”

While Judge Posner “showed a great deal of respect to everyone, defendants and attorneys alike,” he also “demanded respect in return.” One monitor observed that when one female defendant “smirked in front of him, the judge firmly showed her he would not tolerate that.” “He was serious and expected the same from others. He even told one lady, ‘Either you cooperate or I will hold you until trial.’” Another monitor reported, “The judge was usually patient and considerate, but clearly lost his patience with one man, stating, ‘You want to sit on the bench? Here!’”

Judge Posner also took an active role in the proceedings. He was “willing to take out time to personally make phone calls. He called the Job Corps for one man, a youth advocate for another.” He was impatient with delays in transporting detained defendants; as a result, defendants seemed to be delivered to his courtroom more quickly. Monitors also were pleased that he often maintained order and control in the courtroom by asking for silence.

### **Hon. Cesar Quiñones**

Judge Quiñones did not respond to Modern Courts’ request for biographical data.

Judge Quiñones presides three days a week in Kings County and two days a week in Queens County in the Domestic Violence Compliance Part, a specialized part that handles cases involving domestic violence offenders. He assigns first-time offenders to three- to six-month anti-violence programs, and regularly monitors their progress.

Judge Quiñones was observed by six monitors on seven different days.

Monitors found Judge Quiñones to be an ideal judge for this part: “socially minded, experienced, and creative.”

Judge Quiñones “showed respect for all defendants.” When he encountered defendants for the first time, “he explained his rulings clearly, with hope that some insight would be gained,” and “offer[ed] encouragement during the recovery process.” He “had a one-on-one, direct communication with the participants, showing respect, fairness, and human kindness,” one monitor noted. In his interaction with these defendants, he tried to “reinforce the values of self-control and self-respect.” Another monitor praised the “judge’s temperament, “his treatment of others, and [his] concern.” “Everyone is important to him and so is everyone’s time,” a monitor added. “He is concerned [about ensuring] that everyone is not wasting their time and is being helped.”

When defendants returned to report on their progress in their programs, Judge Quiñones was “considerate,” “compassionate,” and “generally interested in the defendants’ progress.” Monitors reported that “[h]e worked with defendants to arrange scheduled appearances in court to suit the defendants’ work schedules.” One monitor observed, “He would explain to the defendants who were not attending their programs that they were being monitored, and that he would send their cases to another part where they could be sentenced to jail if he continues to see that they aren’t complying.” Yet he “didn’t yell or scold if he read that they had gotten into more trouble since last he saw them, or that they were missing sessions. He reminded them that they were hurting themselves and might wind up going to jail, but didn’t say it threateningly. His demeanor is like he’s talking to a friend.” “I notice they all seem to like him and to thank him when they leave,” this monitor added.

Monitors praised Judge Quiñones’s ability to deal with litigants in difficult situations. A monitor reported that “one man requested jail time instead of the assigned program. When the judge read his rap sheet he was hesitant, claiming the records reflected that jail time did him no good in the past. This showed how important paying attention to the record can be.” In another case, “an unemployed man came to report that he had been missing his family training classes because he can’t afford the weekly fee. The judge gave him a month to try again.” Defendants and their families also appreciated the judge’s compassion. One morning, “the mother of a defendant came to thank the judge for her son’s successful rehabilitation.”

Judge Quiñones applauded defendants for successfully completing their programs. On one occasion, “the judge congratulated four defendants [who] finished their program[s], encouraged them to continue using what they learned, and wished them luck.” One monitor recalled “one case, where the person completed the program and the judge praised him, telling him he was so proud of him, and applauded him, joined by the court officer, court clerk, and court reporter. The defendant just beamed.”

One monitor concluded, he is “an unbelievable judge – kind, compassionate, understanding. People look forward to coming back to speak to him.”

Monitors also commended the court for instituting this part. “The rehabilitation service seems to bring positive results for appropriate, receptive defendants,” one monitor observed. “These programs are a more realistic approach to society’s unsolved problems.” Another monitor concluded, “The direct communication between the judge and the defendant does a lot more good than the average courtroom. The give-and-take decreases the hostility, and heightens and restores a sense of respect for the court system. More time is taken to understand each case, and communication plays a vital role in rehabilitation, as opposed to jail.”

### **Hon. Howard A. Ruditzky**

Hon. Howard A. Ruditzky is a graduate of Yeshiva University and Brooklyn Law School. From 1969 to 1971, he was an attorney at the Office of the Corporation Counsel of the City of

New York, and from 1971 to 1991, he was in private practice. In 1992, he was elected to the Civil Court of the City of New York. From 1994 to 1999, he was assigned to the Criminal Court of City of New York in Kings County. In March, 1999, he was appointed an Acting Supreme Court Justice by Chief Administrative Judge Jonathan Lippman.

Judge Ruditzky was observed by eight monitors on 12 different days.

Monitors generally found that Judge Ruditzky was “courteous,” “considerate,” and “knowledgeable,” as well as “patient,” “pleasant,” and “firm.” He “conducted proceedings with dignity,” allowed ample time for all parties to speak, and interacted well with the court staff.

One monitor was impressed that he stepped into the courtroom and said, “Good morning, everyone,” a courtesy which the monitor had not observed in any other courtrooms. He also showed a sense of humor and an “occasional smile.”

Judge Ruditzky appeared concerned about the rights of defendants. “On numerous occasions, he reminded attorneys to inform the defendants of their rights to appeal.” He “gave adequate time for all to speak and made certain every defendant understood the ramifications of any violations of his orders.” In one case, a monitor noted, “a defendant who had violated his probation blurted out to the judge the circumstances of his violation. When he spoke, the judge told him, ‘I advise that you don’t speak out of order, sir.’ The defendant seemed irate and continued pleading with the judge. The judge stopped him once again, explained the circumstances of his charges, and then and only then did the defendant fully understand the circumstances surrounding his arrest.” However, one monitor reported, “He was definitely not overwhelmingly friendly, or compassionate, but he was direct and to the point. He explained all charges, but did not appear concerned with defendants’ questions.”

Several monitors reported that delays, both at the start of proceedings and throughout the day, were neither announced nor explained.

Monitors found that Judge Ruditzky was firm with attorneys and others who were unprepared or who behaved inappropriately. In one case, “he expressively and appropriately defended the dignity of the court when openly challenged by an 18-B attorney,” one monitor reported. In another case, “he reprimanded the assistant district attorney, but was speaking low, [so] as not to embarrass her.” One monitor commended the judge for “calling the spectators to the back of the room for safety when an argument broke out.”

Monitors generally were pleased with Judge Ruditzky’s performance on the bench, describing him as “good, tolerant listener” who seemed “caring,” “fair,” and “polite.”

### **Hon. Eugene Schwartzwald**

Hon. Eugene Schwartzwald graduated from Hofstra University and Brooklyn Law School. From 1963 to 1977, he was an Assistant District Attorney for Kings County. In 1978,

he was appointed by Mayor Abraham D. Beame to the Criminal Court of the City of New York. In 1986, he was re-appointed to a second term by Mayor Edward I. Koch. In 1995, Mayor Rudolph W. Giuliani appointed him an interim Civil Court judge. Judge Schwartzwald held this position until his 1999 retirement. After retiring from service as a full-time judge, he was appointed a judicial hearing officer by Chief Administrative Judge Jonathan Lippman.

Judge Schwartzwald was observed by three monitors on three different days.

Monitors described Judge Schwartzwald as “unique” because of his “colorful” personality, his pre-session announcements to the courtroom, and his use of a microphone, which he brings to court himself.

One monitor described him as “a delight on the bench” who was “filled with good humor.” Another noted that he “was easygoing and made jokes, which brought smiles to the courtroom.” He “had an amazing ability to charm the audience, as well as those who appeared before the bench” this monitor added.

Despite his relaxed demeanor, Judge Schwartzwald was always “appropriately serious.” He was very concerned about ensuring that defendants knew the legal consequences of pleading guilty. Monitors noted that he “was serious about explaining everyone’s rights very carefully,” and “did his best to discipline those who have had a brush with the law.” One monitor concluded, “He clearly has everyone’s rights and best interests in mind.”

Judge Schwartzwald seemed very well-informed about the cases. He also paid great attention to detail, “carefully checking the wording on each ticket.” Monitors reported that it seemed that he reduced charges in numerous cases, after consulting with police officers and assistant district attorneys.

Monitors praised Judge Schwartzwald for opening each court session with an announcement to the public, including waiting defendants, about court procedures. “Before court started, he explained the different kinds of rulings and the fines for various summonses. He explained the options regarding pleas and their implications, and asked for questions from the audience,” a monitor reported. Monitors felt that this explanation was very effective and helpful.

As noted previously, Judge Schwartzwald brought his own microphone to court, which helped with audibility. Monitors appreciated this extra effort to ensure that proceedings would be audible to all of those in the courtroom. He also was “one of the few judges who announced delays in advance.”

According to the monitors, Judge Schwartzwald “listened well,” was “very patient,” was “considerate,” and “appeared to have respect for all parties.”

## **Hon. Kathryn M. Smith**

Hon. Kathryn M. Smith is a graduate of Hunter College and Rutgers University School of Law. She also earned a Master of Science degree in Guidance and Counseling from the City University of the City of New York. Prior to practicing law, Judge Smith was a teacher and guidance counselor. From 1978 to 1988, she was an attorney in the Law Department of the Metropolitan Life Insurance Company, and from 1988 to 1993, she was an attorney at the New York State Attorney General's Office. In 1994, she was elected to the Civil Court of the City of New York, and assigned to the Criminal Court.

Judge Smith was observed by nine monitors on 10 different days.

Monitors reported that Judge Smith was a "very dignified" judge who displayed patience, consideration, compassion, concern, and an ability to be firm at appropriate times. One monitor felt that her "calm," "low-key" demeanor was an asset, enabling her to "keep her cool" during emotional and frustrating cases. Another, however, described Judge Smith as "cool" and "emotionless, never showing a sense of humor or cracking a smile."

"Extraordinarily respectful of all parties," Judge Smith allowed everyone before the bench "ample time to speak." She also took time to speak directly to defendants. For example, she scolded a young defendant, saying, "You're on the wrong track."

Judge Smith appeared concerned about the fairness of the proceedings. In one case, a monitor observed the judge's concern regarding whether a defendant was being held in jail unfairly. In a different case, involving a defendant whose income was too high to qualify for help from Legal Aid, she expressed reservations about the defendant "defending himself." One monitor commented, "She was concerned with the individual situation of each." Another monitor found her to be "one of the most compassionate judges I've seen." A third noted that she was "very concerned with administering justice fairly."

While Judge Smith treated lawyers and defendants "with the highest [degree] of dignity," she "was firm in demanding that others treat the court with the same dignity." She "strictly maintained order and control" in the courtroom. In one case, when a defendant used profanity in court, the judge told his attorney, "I will not have this court disrespected. Inform your client that his case will be adjourned until he can show the same respect that the court shows him." On another occasion, she "reprimanded an assistant district attorney for not having a file and for not being fair to defendants." In still another case, she "read an attorney the riot act," but did so "without losing her temper." She "never raised her voice and never seemed annoyed." She also had the ability to be both "gentle and firm" at the same time, a monitor reported.

Judge Smith also managed her caseload efficiently without appearing rushed. One monitor observed that she "functioned in a very professional manner and kept the activity

moving. Any time a lawyer wasn't ready, or papers were not up to par, the judge would just hold that aside for later and state, 'Okay, lets just take the next case.' She kept the momentum going." Yet, she "always took that extra moment to familiarize herself better with each case on an individual basis, reading each document before her and asking questions of lawyers and defendants in a straightforward manner."

Monitors felt that she gave each case the necessary time and attention. For example, one monitor noted that an "even though [an] abrupt attorney requested that she hurry up so he could leave for his next appointment," while she was "gentle and very diplomatic" with such attorneys, she proceeded at her own pace.

Monitors also credited Judge Smith with "consistently speaking clearly." The combination of her clear speech and her maintenance of order made proceedings as audible as possible, considering the poor acoustics in the courtrooms. Monitors also commended Judge Smith's ability to work well with her courtroom personnel.

## IV. ATTORNEYS

Throughout the monitoring project, the volunteers observed many attorneys at work, including assistant district attorneys from the Kings County District Attorney's Office; defense attorneys from the Legal Aid Society, with which the City of New York contracts to represent defendants who cannot afford private counsel; and assigned counsel, known as "18-B attorneys," who are private attorneys assigned to those cases in which the Legal Aid Society is unable to represent the defendants. Some defendants retain private attorneys.

Overall, monitors praised the majority of lawyers that they observed, finding them to be "prepared, well-dressed, and impressive in the presentations they made." Many were "well-informed" about their cases, showed care in handling the cases, and "took time to explain carefully to their clients what to expect." However, many lawyers seemed "harried, running from courtroom to courtroom," and frequently met their clients for the first time just before appearing before a judge.

Monitors found that lawyers waiting for their cases to be called were a major source of noise in the courtrooms, and thus, a major contributor to the public's inability to hear proceedings. "They create lots of noise talking to their clients," one monitor reported. Another observed, "While cases are before the judge, attorneys should be quiet and speak to each other and their clients outside the courtroom." "Much of the noise in the courtroom was caused by the lawyers sitting in the front row," another noted. This monitor concluded that lawyers should "show more respect for the court by being quiet," instead of "constantly talking to each other, or to court personnel," while cases other than their own are before the bench.

In addition, during proceedings, lawyers continually walked in and out of courtrooms looking for clients, calling out their names. Monitors felt that attorneys should use a less distracting method for finding their clients.

### **Kings County District Attorney's Office**

Several assistant district attorneys (ADAs) received praise. Monitors described one as "excellent and totally professional"; another "had all the required papers, was courteous toward the opposing attorney, and was persistent but polite in questioning witnesses and introducing exhibits." Monitors found a third ADA to be "prepared, helpful, and extremely knowledgeable regarding current laws, often reminding the judge," and another ADA was described as "lively and often entertaining in his presentations, as well as very prepared." Still another was praised by a monitor for being "very serious and not compromising on a suspected knife attack; he requested \$50,000 bail and got it."

However, monitors were critical of the many assistant district attorneys whose incessant lack of preparation led to frequent delays and adjournments in numerous cases. Monitors felt

that the delays were unfair to defendants, who sometimes waited in jail for their cases to be resolved. They also believed that such delays were unfair to the public, which pays for the services of the District Attorney's office, because missed deadlines often result in the release of defendants and the dismissal of numerous cases.

The ADAs' most common excuse for being unprepared was the claim that case files were missing. Almost daily, monitors observed the postponement of a parade of cases because ADAs did not have the case files:

- "There were a number of times when the People [the Kings County District Attorney's Office] were not ready to proceed. Usually it was because of lack of a file or for some other technical reason."
- "There were many postponements because the People were not ready to proceed. As far as I could determine, the ADAs could not do their thing because of the failure of their system to provide them with all the data they needed and the time to evaluate its contents."
- "The ADAs could not locate files. They were scolded by [Judge López-Torres] and apologized very politely, but came up with more excuses for other cases."
- "The People did not have files for three cases. Judge McKay gave them one day to find the files."
- "The People's attorney was not prepared for three cases due to the files not being there, and for one case he had not had time to read the documents. These four cases had to be postponed for later this month."
- "Many different reasons were given why the ADA was not ready. The judge tried her best to push cases [forward], but usually the ADA had one excuse or another why the time was not now. Mostly, the ADAs said they did not have current papers, so cases were put over to a later date."
- "Some ADAs [were] not ready to proceed, for lack of some information or failure to have a complete file."
- "Many cases were delayed because the ADAs couldn't find the files. The defendants therefore must return to court. This causes chaos in work schedule, home schedule, and other problems."
- "The ADAs did not have files on three cases. They had to find files and had second calls on which they still could not find the files. These cases had to be rescheduled, meaning defendants had to take another day off work."

The delays and adjournments that resulted from lost files and similar lack of preparation adversely affected the operations of the court. Monitors witnessed cases being dismissed because procedural deadlines had not met by the District Attorney's Office. (In New York, the prosecution must be ready to present evidence within 90 days of arraignment.) "[I]n one instance, the [prosecution] failed to meet its time limitation to convert to an information. As a result, this defendant was released and had to reappear on another date. Such delays should not occur," one monitor commented. On another day, another monitor observed, "nine cases had to be dismissed because the prosecutors missed the deadline[s]." Sometimes the ADAs seemed better prepared when the judges applied some pressure: One monitor reported, "The ADA was very diplomatic, as the judge was outraged when files were not produced. She even made sure, by the end of the day, to meet his requests. All [of] the files except one were found."

Many other cases were postponed or dismissed because of "sloppy" preparation by the District Attorney's office. On one occasion, Judge Karopkin found numerous poorly-prepared files, and "scolded the ADAs, reminding them that these files would not be viewed unless they were better organized." On another occasion, "the People had no record [of the fact] that a defendant was incarcerated." In still another case, "the People did not have the correct names of the defendants, and were missing fingerprints on the defendants." One monitor observed a case in which "the People had this boy's age and name incorrect. How can there be such a mix-up?" Another reported that "a man in handcuffs accused of assault and harassment of a woman was brought in, after having waited nine days in jail because the DA's office was waiting for 911 tapes. The tapes still were not here, so Judge Cross issued an order of protection, and the defendant needs to come back for trial." This monitor concluded, "It is unbelievable that the DA's office had not yet [ob]tained the 911 tapes – this should be a routine and quick procedure." The monitor was also concerned because the defendant, accused of a serious crime, had to be released until the adjournment date.

On several occasions, the judges reprimanded assistant district attorneys for being ill-prepared. One monitor reported, "Judge Kay had to take time out to explain to the ADA how to handle cases; it looked like [the ADA] needed help or coaching." Another noted that an "ADA was reprimanded by Judge Smith for not being fair to the defendant," because the ADA was lacking some files. Yet another monitor observed, "Judge Nuñez [appeared] weary of ADAs being unprepared."

One monitor concluded that the Kings County District Attorney's office must be completely chaotic: "From what I have observed in various courtrooms, the People are not prepared, files were not present, and they were mixing up names and other basic information on the cases. This means defendants have to appear and then have their cases postponed for another date. It is wasted time for the court, as well as for the lawyers and the defendants." Another monitor reached a similar conclusion: "The DA's office appeared to be flying blind."

## Legal Aid Attorneys

Some monitors praised the Legal Aid attorneys, noting that they generally seemed “pleasant” to their clients, shaking their hands and exuding a sense of confidence. One monitor was impressed by a Legal Aid attorney who “was dramatic and really defended her client.”

However, monitors had some significant concerns about the representation provided to indigent defendants. Legal Aid attorneys appeared to be overworked, running from courtroom to courtroom to cover their large caseloads. At times, although a defendant was present during the calendar call, his or her attorney was absent. A monitor observed, “Some attorneys never showed up for their clients, so adjournment dates were given.” In these circumstances, the defendant was forced to wait until the next court date to have the charges against him or her resolved, which required the defendant to miss another day of work. A monitor described a young man who, “trying to clear up driving infractions, was left waiting all day with no call or explanation to him or the court by his attorney.”

This situation was not uncommon. One monitor noted, “Many delays were observed due to lateness of the attorneys. Clients were observed and heard complaining that they have been here a long time and their attorneys are not here yet.” Another monitor declared, “Lawyers should be constantly in contact with their clients. I observed that three clients were waiting in court since 9:30 AM., and their lawyers didn’t arrive in the courtroom until 12:00 or 12:15. These cases cannot be heard until the lawyer is present. Legal Aid should have someone in touch with the court to let them know if the case[’s] lawyer is not going to be in court on time.”

Perhaps even more serious was the lack of time that Legal Aid attorneys had to prepare for their cases. “Those clients who are incarcerated are represented instantly by an attorney,” one monitor observed. This monitor inquired, “How can the attorneys be familiar with the case in such a brief time? More time should be given for those incarcerated.” Another monitor noted that “most of the time, the Legal Aid attorneys saw the defendant’s file just before the case was tried.” Monitors marveled that “most of the time, they were able to work with the defendant and come up with some kind of defense.”

Some monitors were concerned that “defense attorneys do not appear too sympathetic to the individuals they are representing.” One monitor felt that “none of them are working too hard at getting their clients released. It does not appear that they are overall supporters of those they are defending.” A monitor concluded, “Legal Aid attorneys appeared too passive in cases involving small offenses.”

## Other Assigned Counsel

Assigned counsel, known as 18-B attorneys, selected from lists approved by the Appellate Division, and are appointed by the court to represent indigent defendants. Some 18-B attorneys received praise for their efforts. Monitors described one lawyer as “respectful to the jurors and to his adversaries,” and commended another for displaying “a consistent amount of concern [for] his clients” and for being “professional and polite toward the judge and toward his adversaries.” One monitor found that another attorney was “pleasant to everyone, informed, seemed to want to help everyone, and was well-prepared.” One “kind” 18-B attorney volunteered car fare to an elderly man to help him get home. A monitor described another attorney as “very compassionate and deeply concerned with younger defendants, often scolding them with firmness when numerous warrants appeared on their rap sheets.” In another case, a monitor reported, “the 18-B attorney was prepared and defended his client with the perseverance and respect anyone would be proud of.”

However, monitors also observed that 18-B attorneys sometimes seemed dispassionate. A monitor reported: “One 18-B lawyer handed a defendant a slip of paper and walked away without explaining anything. The defendant said the lawyer never spoke to him. This lawyer did not seem pleasant.” One monitor attributed the apparent lack of effort by defense attorneys to their overwhelming workloads: “The attorney[s] caseloads should be reduced to ensure better representation of indigent defendants. It’s simply impossible to give adequate attention to individual cases under these circumstances.”

## V. COURT PERSONNEL

Non-judicial court personnel have an enormous impact on the public's perception of the Criminal Court, and on the quality of justice that is dispensed. Defendants, victims, family members, and prospective jurors spend a great deal of time outside of the courtroom, dealing with court clerks, court officers and other court personnel. In addition, in most courtrooms, court clerks, court officers, and a court reporter may be present. Court clerks are responsible for scheduling and other case management duties; uniformed court officers provide security in the courtrooms and waiting areas; and court reporters produce official transcripts of court proceedings. Occasionally a foreign language or American Sign Language interpreter is also available.

A majority of the monitors applauded the court personnel, noting that they "worked like beavers to get everything in order before court opened," and were "extremely helpful and efficient" in assisting the judges. Monitors took particular note of the hard work performed by court officers, who maintained order and security, and helped with paperwork and other clerical duties. In general, monitors found court personnel to be "well-organized," "very pleasant," "cheery," and "accommodating to the public," despite their depressing physical surroundings.

Monitors praised several court officers for maintaining order effectively in difficult situations. For example, "the court officers handled very well a situation in which the defendants were badgering a plaintiff and had to be removed forcibly from the court." However, on other occasions, court officers seemed unable to maintain order: "They did little to enforce the required decorum in the courtroom," one monitor observed; "they go through the motions but don't get the job done." Another monitor found that "court personnel did not quiet the room; the judge had to do this himself." Yet another was critical of the "generally relaxed atmosphere, with officers not asking for 'silence' or for 'no newspaper reading' or [for] 'hats off.'" "If court officers were more active in the seating areas, there would be less trouble in the courtroom," one monitor commented. Another concluded, "The judge shouldn't have to keep order himself. He shouldn't have to disrupt proceedings to scold or warn the audience; the personnel should do their job." A third added, "It was difficult for the judge to maintain order in the courtroom, since she was only temporary and didn't seem to carry much weight with the court officers assigned to this courtroom." Monitors also noted that court personnel sometimes treated lawyers differently from other people in the courtroom: For example, they permitted the lawyers to read newspapers during proceedings, but forbade others to do so.

While some officers seemed too permissive, others were brusque with members of the public and with some defendants. Monitors described some officers as "on edge" and "overly stern." One monitor noted that court officers "roamed among the public benches, and ejected at least five people for talking without giving any preliminary warnings." Another observer found that "some of the court officers were not too polite, yelling at people to sit down, impatient with foreigners who did not understand." Yet another reported that an officer "reprimand[ed] a man for talking. After the man apologized, the officer stared at him with such displeasure, then rolled

his eyes at him as he walked away.” “Many times, the court officers were downright nasty to many of the defendants,” another concluded.

Monitors also noted that “many of the officers show signs of boredom, so visibly that it becomes embarrassing to the public”; they felt that this was disrespectful to the court. They also found it disrespectful when officers and clerks ate in the courtroom, “continually combed their hair,” or “dressed sloppily.”

## **Interpreters**

Foreign-language and sign language interpreters often were immediately available. However, on some occasions, defendants had to wait an exceedingly long time for an interpreter. One monitor reported that “a vocally disadvantaged young man sat all morning waiting for a sign language interpreter who didn’t arrive, at least in the morning session.”

## **VI. COURT OPERATIONS**

In addition to their assessments of the judges, attorneys, and court personnel, the monitors evaluated the organization and function of the court itself. They found several areas in which they felt that the court's performance could be improved.

### **Apparent Shortage of Judges**

On numerous occasions, monitors observed judges who were forced to divide their time between two courtrooms, substituting for a judge who was absent. This often occurred during the summer months, when many of the judges were on vacation simultaneously. However, there were also many occasions when judges had to do double duty throughout the year. "Judge Kay was working two courtrooms because of the vacation schedule, and time was lost," one monitor reported. On another day, "people in the courtroom were left waiting when Judge Bunyan left at 10:50 to cover another part," another monitor observed. This monitor also noted that "recesses abounded, and a roomful of defendants and their families waited impatiently. Four court officers, the court reporter, and the court clerk sat around with nothing to do." On another occasion, Judge López-Torres was "taking care of two parts, running back and forth between two courtrooms. Even while a jury trial was going on, she had to interrupt proceedings to take cases in the other courtroom." One judge was observed "explaining to the jurors that there is a shortage of judges"; this shortage resulted in inefficient use of the jurors' time. The monitor who observed this concluded, "The court system seems to be very disorganized."

As noted in Section II of this report, because a large number of Criminal Court judges are assigned to serve as Acting Supreme Court Justices, fewer than half of the 107 judges appointed to the Criminal Court actually presided in the Criminal Court at the time this project was conducted. Including judges assigned from the Civil and Family Courts, approximately 75 judges sit in the Criminal Court in all five counties.

### **Delays and Adjournments**

Monitors observed defendants, witnesses, lawyers, and others waiting for extended periods of time for their cases to be heard. They found this particularly troubling, in light of the Criminal Court's huge caseload.

One source of delays was the delayed transport of detained prisoners. As one monitor put it, "There is a problem with the ability to produce bodies. There should be a more efficient way of getting incarcerated defendants to the courtroom in a timely manner." Delays also were frequently caused by missing attorneys or defendants, and by waiting for information on defendants to come from the Department of Probation or another agency.

Another source of delay was the late appearance of judges, particularly in the mornings. Many judges began proceedings after the official opening of court, which is 9:30 AM, and nearly a third of the time, judges took the bench after 10:00 AM. Monitors reported that often, no reason was given for the judges' late arrival. Monitors recommended that, when proceedings will begin later than the scheduled time, announcements be made to those waiting in the courtroom.

Monitors also noted that defendants often spent more than a half-hour waiting for forms (documenting adjournment, dismissal, discharge, etc.) after their court appearances. A monitor observed that it was not unusual to see a defendant "waiting sometimes two hours after being in front of the judge to pay a fine. If the fine is not paid the same day, he has to take off from work to pay fines [and] surcharges within the established time, or serve time in jail." Several monitors witnessed the defendants' frustration with these delays: One monitor reported, "I sat next to a young man anxious to get to his job." In addition, monitors noted that "it may be fair to warn those who are prepared to plead 'not guilty' that a potential few extra court dates may accompany that plea." Monitors believed that all of these processes should be made more efficient.

Monitors also reported observing extraordinarily long lines of people waiting to enter the courthouse each morning. For security reasons, every member of the public must walk through the magnetometer just inside the courthouse doors. Emptying pockets, removing belts, and walking through multiple times results in long waits to get into court. "At times, the line outside lasts until 11:00 or 11:30 AM," one monitor reported. Another observed, "The line outside of the Criminal Court was wrapped around the corner and people had to wait over an hour to get in." This created a particularly uncomfortable situation when the weather was inclement. At times, one monitor noted, "arguments and fights occur on the line." The lines also cause delays in court proceedings, as defendants and witnesses find it very difficult to get to the courtrooms in time for early-morning proceedings.

The monitors made several suggestions designed to reduce the discomfort associated with the wait: Magnetometers could be moved further inside the lobby of the building, which would permit people to stand inside while waiting on cold and rainy days; officers could be present to move "people with disabilities, elderly and frail people, and those with small children" to the front of the line; and the courthouse could be opened prior to 9:00 AM, to reduce the number of people entering the courthouse at the same time.

Furthermore, monitors recommended that the Criminal Court implement a "staggered calendar." Currently, most litigants are scheduled to arrive for their court appearances at 9:30 AM, resulting in an enormous crush of people every morning. By staggering the calendar, people would be required to come to court at different times during the day; some might be told to be present at 9:30 AM, others at 11:30 AM, and others at 2:30 PM. This would help to alleviate the delays caused by long lines at the courthouse each morning, and would distribute cases more efficiently throughout the day. Four years ago, shortly after the monitors recommended it, the Kings County Family Court implemented such a calendar, and achieved these kinds of positive results.

## **Distractions in the Courtroom**

In the Kings County Branch of the New York City Criminal Court, there is a constant whirl of activity while the judges are conducting proceedings. One monitor noted, “The court officers are walking in and out of the courtroom, calling out the names of the defendants. Attorneys are calling out the names of their clients. Every sound echoes because of the high ceilings” in most of the courtrooms. “Even the stamping of some papers by the court clerk resounds like a shot in the room.” In addition, attorneys and their clients continually conduct conferences in the courtrooms, court clerks call defendants to their desks to obtain information for orders of protection, court officers speak on walkie-talkies, and various other activities occur. All of these activities contribute to inaudible proceedings, which deny the public its right to know what occurs in its courts, and denies defendants their constitutional right to a public trial.

“All that yelling and bustling has to be stopped,” one monitor asserted. Monitors suggested that additional conference rooms be provided so that attorneys and their clients can meet outside the courtroom. They also urged that a sign-up sheet be placed on the courtroom door so that attorneys will know if their clients are present, that orders of protection be prepared in a separate office, and that court personnel remain vigilant in controlling courtrooms noise.

Considering the high noise level in the courtrooms, monitors also found it unacceptable that the practical step of installing microphones in the courtrooms for amplification purposes has not been taken.

## **The Children’s Center**

Over the past five years, the state court system, in conjunction with private social service agencies, has opened 23 child-care centers in courthouses across New York. The Children’s Centers were established to accommodate the growing number of people who must come to court accompanied by young children, who can distract their parents and guardians from courtroom proceedings, and make taking care of one’s court business particularly difficult. Children also may be exposed to disturbing or traumatic proceedings, and must endure hours of boredom and discomfort.

Victim Services Agency operates one of these Children’s Centers on the eighth floor of the Kings County Criminal Court. “Bright, colorful, and well-equipped,” the center is a place where children up to age 12 can play, read and engage in other supervised activities while their parents or guardians are in court. Unfortunately, monitors noted that the center is “underutilized”; many people still appear in court accompanied by young children.

Monitors suggested that greater efforts be made to inform people with young children of the availability of the Children’s Center and its services. Flyers should be posted around the

courthouse, and court personnel should inform people when entering the courthouse about the center.

### **Visitor Information**

Monitors also noted that many people in the Criminal Court seem confused or lost. Monitors suggested that court personnel be stationed in public areas to answer questions.

## VII. COURT FACILITIES

The eight-story Kings County Criminal Courthouse is located at 120 Schermerhorn Street in downtown Brooklyn. Monitors reported that the building seems to suffer from years of neglect by the City of New York, which is responsible for the upkeep of its courthouses. “It’s a shame to neglect such a beautiful building,” one monitor observed. “Tell the Mayor to forget building stadiums and spend money to repair and renovate the Criminal Court building,” another monitor commented. “It needs an overhaul.”

Evidence of neglect was apparent throughout the building. During their observations, monitors found “crumbling ceilings with pipes and wiring exposed and in disrepair,” which created a “fire hazard”; “outer halls and the courtroom doors [that] need[ed] painting”; and “cracked and chipping paint” throughout the building. Monitors also found ventilation to be poor, and suggested that “the air ducts need to be cleaned.” “Many of the coverings on the light fixtures hang ready to fall on someone’s head,” one monitor observed. “Ceiling tiles in the hallways are missing in blocks, and water stains were observed in the ceiling on the eighth floor,” another reported. One monitor suggested, “They should wash down the inner entrance with a hose during night hours, and they should shine the brass on the doors and paint the outside fence to make a decent appearance.” “Mice and vermin” apparently infest the courthouse: One monitor saw “a mouse run free in the courtroom,” and others heard stories from court personnel about infestations. The public bathrooms were “filthy.” One monitor concluded, “Some of these problems may seem small, but they add up. This building seems to be a low priority. A few repairs would go a long way to having a court that makes a good impression on the public.”

The courthouse also lacked various essential features. Most troubling to monitors was the lack of designated rooms that could be used for confidential attorney/client conferences. Frequently, monitors observed lawyers and their clients discussing cases in public areas, stairways, and courtrooms. Holding conferences in these areas denies these clients privacy, and may permit adversaries to hear their conversations. Conferencing in the courtrooms also contributes to chaotic conditions and inaudibility of proceedings.

Also lacking were public telephones in the lobby, as well as adequate space for some offices that provide essential services to the court. For example, one monitor observed probation officers working in “areas that are no larger than a phone booth.” The “miniscule area” designated for the Probation Department’s use fails to reflect the importance of this office. “It’s almost humiliating, considering that so many cases come here and it is so relied-upon by the court,” this monitor commented.

In the arraignment parts on the first floor, one monitor questioned “the use of the glass holding pen with groups of defendants. It’s a courthouse, not a jail, and these defendants shouldn’t be displayed this way in public view.”

The physical condition of the courtrooms varied. Monitors described some as large with adequate space for the public, while others were small and “didn’t have enough benches.” Some

were “airy” and “clean,” while others lacked windows and had poor ventilation. Monitors also found that some courtrooms had noisy air-conditioning and heating systems, and judges sometimes had to request that court officers turn off air conditioners and open windows in order to hear proceedings. Some courtrooms were well-lit; others had missing lighting fixtures. Some were “spotlessly clean”; others were “dirty and dusty, badly in need of cleaning.” In some courtrooms, monitors found walls with peeling paint or furniture “in disrepair.”

Most of the courtrooms throughout the Criminal Court share several common problems: poor acoustics, and a lack of microphones for the judges, attorneys, and witnesses. The continuous commotion and constant banging of doors as people go in and out of the courtrooms exacerbates the audibility problem.

### **Public Accessibility**

It is relatively easy for most people to get to the Kings County Criminal Court complex via public transportation. However, gaining access to the courthouse itself is a more formidable task.

Monitors reported that long lines of people waiting to pass through the magnetometers in the lobby “stretch around the corner” on busy mornings. Many people waited a half-hour or even an hour, on some days, to enter the building. Once inside the courthouse, it can be difficult to find the appropriate courtroom or office, because there is no directory in the lobby, and signage throughout the building is deficient.

Poor elevator service is a serious problem for those who must use the court. At the time of monitors’ observations, usually only three of the five public elevators were in service. One monitor observed, “It takes sometimes up to 20 minutes to get a chance to ride on an elevator.” Sometimes, the elevators missed floors for which people had pushed buttons, and on one occasion, a monitor reported, people were trapped in an elevator for over 20 minutes. According to one monitor: “The elevators are feared. They are unstable, and definitely a potential hazard. The problem gets progressively worse.”

### **Access for the Disabled**

The Criminal Court is accessible only with great difficulty for people with physical disabilities. The public must enter the building through revolving doors, which cannot accommodate a wheelchair. “It’s too tight an opening for some wheelchairs; the officers often go out of their way to provide a helping hand,” but it would take only “one slip and fingers could be injured,” one monitor reported. This monitor recommended, “The revolving doors should be replaced with doors that properly fit a wheelchair.” One monitor suggested that automatic sliding doors be installed.

The courtrooms in the Criminal Court are not properly designed for wheelchair access. Courtroom doors barely allow most wheelchairs enough space to scrape through the doorway, no space in the seating areas is designated for wheelchairs, and many of the jury boxes and witness boxes are inaccessible.

## **Upgrading the Kings County Criminal Court**

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. A primary objective of the plan is consolidating and upgrading court facilities in Kings County, where several courts operate in inadequate facilities.

A key component of the City's plans to provide adequate facilities for Kings County is the construction of a new court complex for the Kings County Family Court and the New York State Supreme Court, Criminal Branch. After ten years of site selection difficulties, the City Administration concluded that 330 Jay Street is the best location for the new complex.

The construction of this new building will make available a large amount of desperately-needed space at 120 Schermerhorn Street for the overcrowded Criminal Court, which currently shares its facilities with the Supreme Court, Criminal Branch. The new courthouse also will benefit the Housing Court. After the Family Court moves into the new facility, there are plans to renovate the old Family Court Building at 283 Adams Street, and relocate the Housing Court in that building. This would be a great improvement from the Housing Court's current deplorable rented facilities at 141 Livingston Street.

In late 1999, with support from Community Board 2, Brooklyn Borough President Howard Golden, the City Planning Commission, and the Mayor's Office, the City Council approved a long-standing plan for a new court complex to be constructed at 330 Jay Street. Construction is tentatively scheduled to begin in late 2000. The monitors urge that construction begin on the new court complex at 330 Jay Street as expeditiously as possible.

## VIII. RECOMMENDATIONS

1. ***The New York State Legislature should enact legislation restructuring the court system.***

In 1997, New York State Chief Judge Judith S. Kaye presented to the State Legislature a proposed constitutional amendment to restructure the state's court system. The amendment would replace the current nine-tier maze of courts, which often have overlapping jurisdiction, with a streamlined, less hierarchical structure. It would reduce the number of trial courts to a total of two. Under this restructuring plan, the Family and Surrogate's Courts would merge into the Supreme Court, and several other courts, including New York City's Civil and Criminal Courts, would be combined into one state-wide "District Court." This proposed legislation also would eliminate the current limit of one Supreme Court justice per 50,000 people.

To the monitors, the need for restructuring is urgent. Under the Kaye Plan, the number of Supreme Court judges could be increased, reducing the number of Criminal Court and Civil Court judges who must be assigned to the Supreme Court. The removal of the statutory limitation would result in the availability of more Criminal Court judges to handle the court's own burgeoning caseload.

Like all proposed amendments to the State Constitution, the Kaye Plan must be passed by two consecutive State Legislatures and signed by the Governor; it then must be ratified by the voters in a statewide referendum. To streamline the functions of the Kings County Criminal Court, to increase the availability of judges, to reduce the court's overwhelming backlog, and to improve the efficient processing of cases, the Senate and Assembly should reintroduce the Kaye plan and give it first passage.

2. ***The Kings County District Attorney's Office should be prepared to proceed with cases on the scheduled court date.***

Monitors found that the most pervasive problems in the Kings County Criminal Court were created by unprepared assistant district attorneys, who caused incessant delays and adjournments. Prosecuting attorneys who are not ready to proceed impair the efficient and effective administration of justice. For some defendants, this results in extended stays in jail, even though they have not yet been found guilty. Others are forced to return to court repeatedly, which conflicts with their job duties and other responsibilities. These delays also have an impact on the community, since cases often must be dismissed when deadlines are missed.

The Kings County District Attorney's office needs additional resources to handle the increasingly large Criminal Court caseload. Monitors also urged the District Attorney's Office to implement new procedures to ensure that the assistant district

attorneys are prepared, including closer supervision of the ADAs and better handling of documents.

3. ***Both the State and City of New York should allocate additional resources for criminal legal services.***

The increase in the number of criminal cases in New York City has not only affected the District Attorney's office; it has also impacted the ability of defendants to obtain an adequate defense. In 1996, the Legal Aid Society, which provides indigent defendants with their constitutionally-guaranteed counsel, was subjected to major funding cutbacks from the City of New York and New York State. Consequently, the Legal Aid Society was forced to reduce its New York City staff from more than 575 attorneys to fewer than 400. In Kings County, the 115 Legal Aid attorneys who currently handle criminal cases have about 70 cases on their dockets at any one time.

Monitors observed the consequences of these cutbacks: The Legal Aid attorneys appeared to be overworked, ran from courtroom to courtroom to cover their cases, and were frequently absent or late, resulting in delays and adjournments. Worse, the lawyers' overwhelming caseloads resulted in inadequate preparation. Frequently, attorneys met their clients for the first time just before they appeared before a judge; while most lawyers did an admirable job under the circumstances, monitors questioned whether a lawyer could be sufficiently familiar with a case with so little time for preparation. Thus, the monitors urge both the State and the City of New York to allocate additional funding and resources for criminal legal services.

4. ***The Criminal Court judges and other court personnel should maintain order in the courtrooms.***

As monitors reported, there are many distractions in most courtrooms in this court. Lawyers talk among themselves when their cases are not being heard. They continually walk in and out of the courtrooms and call out the names of clients during proceedings. Meetings between defendants and lawyers are held in the courtrooms, while court clerks call up parties to complete the necessary paperwork for orders of protection. Court officers speak among themselves. With all of these distractions, it is nearly impossible for the public, which often includes many victims and the family members of defendants, to hear the proceedings.

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

Monitors also recommended that an area of the courthouse be designated as conference space, where lawyers and clients may consult with each other, and where the right of attorney/client privilege may be protected. In addition, monitors recommended

that orders of protection be handled in a separate office, to reduce congestion and noise in the courtroom.

5. ***To reduce delays that result from multiple appearances by non-violent petty offenders, the City of New York and the Office of Court Administration should create additional community courts, such as the Red Hook Community Justice Center, in other parts of Kings County.***

The Red Hook Community Justice Center, modeled after Manhattan's Midtown Community Court, is a multi-jurisdictional court: Its caseload consists primarily of misdemeanors and low-level felony cases, but it also handles some Family Court and Civil Court matters. Convicted offenders receive "community restitution" sentences that must be served immediately. Potential sentences may include painting over graffiti, planting trees, or stuffing envelopes for local non-profit organizations.

Based on the Justice Center's own analysis, Red Hook's 4,500 cases generate 10,000 court appearances each year. By handling these cases, the Justice Center reduces the number of cases that must be heard at the crowded and overburdened Criminal Court. To reduce delays in the Criminal Court, monitors urge the City and the Office of Court Administration to create additional community courts.

6. ***To relieve overcrowded dockets and improve the efficient administration of justice in the Criminal Court, the New York City Police Department should revert to its previous policy governing "quality-of-life" offenses, under which officers have discretion to issue Desk Appearance Tickets.***

Prior to 1998, the NYPD handled most minor, non-violent "quality-of-life" offenses, such as fare-beating and panhandling, by issuing a Desk Appearance Ticket (DAT), which requires the defendant to appear in court for arraignment at a later date. In early 1998, the NYPD embarked upon a new strategy: If a person who is detained for such an offense is unable to produce sufficient identification to prove that he or she is not the subject of an outstanding arrest warrant, that person will be arrested and sent to jail for detention to await arraignment. In fact, the numbers of DATs issued continues to decline: In a series of articles, *The New York Times* reported that while the NYPD issued 45,868 DATs in 1998 (the year of this monitoring project), it issued only 16,748 in 1999 – a drop of roughly 63%.

During the course of this project, it became obvious to monitors that a large proportion of the cases on the Criminal Court's grossly overcrowded dockets involved just such quality-of-life offenses. It was also obvious to them that many of these defendants had spent the last 20 or 30 hours in detention, waiting for their cases to be called. Monitors appreciated the need to ensure public safety by enforcing quality-of-life laws; however, they were convinced that enforcement should not come at the expense of basic fairness to defendants, and should not impair the court's ability to handle cases involving far more serious crimes. In recognition of the fact that the current policy of

arrest and detention has led to rampant overcrowding in the Criminal Court, and thus to inefficient processing of defendants charged with minor offenses, monitors recommend that the NYPD begin issuing more DATs.

7. ***To reduce delays and adjournments in court and to reduce the time that people must wait to enter the courthouse, the Kings County Criminal Court judges should implement staggered calendars.***

Currently, all parties are required to arrive at 9:30 AM on their scheduled court date. As a result, people must wait up to an hour to pass through the walk-through magnetometers and enter the courthouse. Huge crowds also fill the area in front of the public elevators, and people must wait for several elevators to pass before they can squeeze into one. In addition, courtrooms and public areas are overcrowded; people wait for hours for their cases to be heard.

By staggering the calendar, courthouse traffic would be more evenly distributed throughout the day, and litigants would wait a shorter amount of time in court. A staggered calendar currently is being used in the Kings County Family Court. Since it was instituted, the morning lines have disappeared, the courthouse is less crowded, and people are not being forced to wait as long in court. Other courts, including the Criminal Court, should adopt this system.

8. ***The Kings County Criminal Court staff should inform the public of the services provided by the eighth-floor Children's Center.***

The Criminal Court is an uncomfortable and stressful environment for children. Troubling court proceedings may traumatize them, they are a distraction to their parents or guardians, and they create additional noise and disruptions in the courtroom. The Children's Center provides an excellent service for people who must bring young children to court: Trained staff keep children fed, entertained, and under constant supervision. Unfortunately, the Children's Center appears to be underutilized.

Monitors urge that court personnel better publicize the existence of the Children's Center by posting flyers, and by encouraging parents and guardians to use the center's services. They also urge that court officers and staff who see people with children entering the courthouse send them to the center.

9. ***The New York State Office of Court Administration should install microphones in all courtrooms for the judges, lawyers, and witnesses.***

Proceedings in the Criminal Court often are difficult for the public to hear. The courtrooms have poor acoustics, and the high traffic creates a tremendous amount of noise. To enable the public to hear the proceedings, every courtroom should be provided with microphones to be used for amplification.

10. ***To increase the amount of space available to the Criminal Court, the City of New York and the Office Court Administration should begin construction of the court complex at 330 Jay Street as expeditiously as possible.***

In late 1999, with support from Community Board 2, Brooklyn Borough President Howard Golden, the City Planning Commission, and the Mayor's Office, the City Council approved a long-standing plan for a new court complex to be constructed at 330 Jay Street. Upon completion, the Supreme Court's facilities will be moved to this new location. The vacated space then will be used by the Criminal Court, which needs additional courtrooms, attorney/client conference rooms, and space for other important functions. Monitors urge the City, OCA, and the developer to begin construction of the new court complex as soon as possible.

11. ***The City of New York City should make improvements to the Criminal Court facilities.***

Monitors recommend that the courthouse be made accessible for people with disabilities: At the courthouse entrance, "the revolving doors should be replaced with doors that properly fit a wheelchair," and the elevators, which are often out of service, need to be repaired or replaced.

Cleaning and maintenance throughout the building must be improved: The roof must be repaired; vermin must be exterminated; ceilings must be fixed; the restrooms must be cleaned and maintained regularly; and the courthouse doors and the outer halls need repainting.

The City of New York is responsible for providing court facilities that serve the public efficiently and effectively. This requires a dignified and comfortable atmosphere. The City must stop neglecting this building, and must fulfill its obligation to maintain adequate facilities.

12. ***The Office of Court Administration should implement an evening session of the King County Criminal Court's Domestic Violence Compliance Part.***

The monitors praised the court's Domestic Violence Compliance part, where they found that domestic violence matters were treated fairly and consistently. However, monitors suggested that an evening session of the Domestic Violence Compliance Part be created, so that defendants, victims, and witnesses who work during the day could make their regular appearances in court without missing a day of work.

13. ***The Office of Court Administration should establish an information center for those interested in the status of a particular defendant.***

Monitors suggested that an information center be available for people "seek[ing] information on the status of defendants." Victims, as well as defendants' family members, often were "confused, misinformed, and devastated by the trauma" of coming

to court. The lack of information available to those who must wait only adds to this stress. Monitors felt that it would be fairer to all parties involved to make more information readily available.

## **ACKNOWLEDGMENTS**

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This report was written by former Assistant Director Alan B. Beck and Kimyetta R. Robinson, Director of Court Monitoring, with assistance from the monitors. It was edited by Modern Courts Deputy Director Barbara E. Reed.

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