



THE CITIZEN COURT MONITORING PROGRAM'S

REPORT ON

THE SARATOGA COUNTY

TOWN AND VILLAGE COURTS

April 2008

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I. INTRODUCTION

The Fund for Modern Courts is an independent, statewide court reform organization committed to improving the judicial system for all New Yorkers. Our court monitoring program (along with our citizens jury project, education and advocacy programs) identifies problems that affect our State's courts and offers information and recommendations about how to make the courts more effective, fair and accessible to all residents of the state. In addition, by building relationships with community members, other advocacy groups, and state and local governments Modern Courts works with all who want to ensure an independent and highly qualified judiciary.

This report describes the results of Modern Courts' court monitoring program of Town and Village Justice Courts in Saratoga County initiated and completed during the fall of 2007.

A. Citizen Court Monitoring

The Citizen Court Monitoring program, which began in 1975, is a statewide program that recruits non-lawyer, local volunteers to observe court proceedings in their communities. The monitors' findings and recommendations are published by Modern Courts and released to the public, court administrators, judges, court personnel, government officials¹, lawmakers, bar associations, civic groups, and the media.

Monitors are local volunteers who look at the courts from an average citizen's viewpoint, thereby providing a fresh, common-sense perspective on how courts serve the public. In the past, Modern Courts' court monitoring program has been influential in publicizing problems that exist in the courts; urging those responsible for the courts to make improvements, particularly in facilities and court operations; and educating citizens about the daily functions and operation of

¹ This report will be shared with the town and village governments that are responsible for the operations of the Town and Village Justice Courts in Saratoga County.

their courts in order to create a constituency of citizens who understand the problems facing the court system and who support efforts to assist the courts to function more efficiently and effectively.

B. Monitoring Town and Village Justice Courts

Recently, serious questions have been raised and concerns expressed about the nature, operations and quality of New York State's Justice Court system in government studies such as the May 2006 report of the Office of the State Comptroller that identified the mishandling of money in one third of the Justice Courts audited and urged reform of their budgetary management and operations systems, and the June 2006 report of The Spangenberg Group on the status of indigent defense in New York².

In addition, the release in November 2006 of the Action Plan for the Justice Courts, prepared by the New York State Unified Court System, focused public attention on the significant needs of the Town and Village Justice Courts and outlined dozens of new initiative and programs to assist those courts.

During 2007, Chief Judge Kaye's Special Commission on the Future of the Courts (chaired by Carey R. Dunne) held extensive hearings and traveled across the State to study the Justice Courts and provide recommendations for reform. Criminal defense attorneys, civil legal services, court clerks, individual judges, victims of domestic violence, representatives of mayors and towns, government agencies, bar associations and others have addressed the Justice Court issues. Articles in local newspapers and in the *New York Times* also highlighted problems within the Town and Village Justice Court system.

As a result of these questions and concerns, Modern Courts determined that it was essential to a full and fair discussion of those Justice Courts, which have been described as "the

² Prepared for New York Chief Judge Judith S. Kaye's Commission on the Future of Indigent Defense Services.

face of justice for a great many New Yorkers³,” for local citizens to monitor their Justice Courts and report their findings.

Town and Village Justice Courts

Located in every county (57 in number) outside of New York City, there are more than 1,200 Town and Village Justice Courts, with nearly 2,200 judges throughout New York State. Town and Village Justice Courts hear a broad range of criminal and civil cases. The criminal matters include a wide variety of crimes (e.g. assaults, criminal trespasses, and petit larcenies), domestic violence cases, and driving while intoxicated (DWI) cases, in addition to traffic and other violations, and arraignments and other preliminary hearings for felony cases. The civil jurisdiction includes cases involving amounts up to \$3000, landlord tenant matters, and local ordinance violations.

Although local Town and Village Justice Courts are constitutionally part of the New York’s Unified Court System, these courts are funded and administered by local town and villages. This means that the locality funds, operates and maintains its court facilities, hires its own personnel, provides its own security, and determines the Justice Court’s hours of operation. Many of these Justice Courts meet in the evenings; some meet as infrequently as once a month.

Justice Courts are unique in several other ways – they are the only courts in which non-attorney judges⁴, who are elected, are allowed to preside after completing a brief Office of Court Administration (OCA) training course; and they are not “courts of record,” meaning verbatim recording of proceedings are not required, which makes it difficult to have cases reviewed by appellate courts or ensure that litigants’ rights are protected.

³ Judith S. Kaye and Jonathan Lippman, New York State Unified Court System, Action Plan for the Justice Courts, Preface (2006).

⁴ Approximately 72 % of the town and village judges in New York State are non-lawyers.

II. PROJECT: COURT MONITORING IN SARATOGA COUNTY TOWN AND VILLAGE JUSTICE COURTS

Modern Courts determined that the monitoring of all the Justice Courts in all the counties of the State would provide useful information for the general public, policy makers, judicial administrators, the town and village governments that support these courts and, most importantly, the residents who use these courts. But because of limited resources Modern Courts decided to initiate its Town and Village court monitoring program first in Dutchess County⁵ followed by Saratoga County. Our initial goal was to monitor as many of the Justice Courts within Dutchess and then Saratoga counties as practical during a three month period, so the reports for both counties could be issued in early 2008. Subsequently, the monitoring program would be expanded to other counties, and additional reports on those Justice Courts could be issued in late 2008.

Prior to the start of monitoring in Saratoga County, Modern Courts recruited volunteer monitors and held a general informational and training program for them about the Town and Village Court system in the Davis Auditorium of Skidmore College in Saratoga Springs on October 16, 2007. At this meeting, Clifton Park Town Court Judge Robert Rybak spoke to the monitors about the handling of criminal and other proceedings, including landlord tenant cases in the Justice Courts. This orientation included a discussion of setting bail and the assignment of counsel for indigent defendants. Lynn A. Murphy, Esq. of the Saratoga County District Attorney's Office spoke to the monitors about the issuance of orders of protection and other matters related to the prosecution of domestic violence cases in the Town and Village Courts.

⁵ The Dutchess County court monitoring report was released on February 6, 2008 and a copy can be found on the Modern Courts website- www.moderncourts.org.

The training provided the local volunteers with an overview of their local Town and Village Justice Courts, and instructed them on monitoring procedures, including the use of Modern Courts' evaluation form⁶ during the project. A Town and Village Justice Courts monitoring handbook was developed that provided maps, driving directions, addresses and hours of operations of all 20 Justice Courts within Saratoga County as well as background material on the distinct nature of the Town and Village Justice Court and the types of cases to be heard in these courts.

On December 7, 2007, a second project meeting was held, during which the volunteers provided additional comments regarding their observations of the Town and Village Justice Courts, and feedback on the monitoring forms and other aspects of the monitoring process. This meeting included a presentation by Saratoga County Public Defender John H. Ciulla, Jr., Esq. on his organization's provision of legal services to indigent defendants across Saratoga County.

A. Saratoga County and Its Town and Village Justice Courts

Saratoga County has a population of approximately 215,473 according to the 2006 United States Census Bureau estimate, which represent a 7.4% increase from its population of 200,635 in the year 2000. The largest towns in the county are Clifton Park (32,995) followed by Halfmoon (18,474), Milton (17,103), and Moreau (13,836). The other towns have smaller populations. (e.g. Town of Day has 920 residents). Ballston Spa, which is Saratoga County's largest village and the only village with its own court, has a population of 5,556.

⁶ This form ("monitoring form") was developed specifically for the monitoring of Town and Village Justice Courts and includes suggestions from local volunteers, attorneys and other advocates who work in these courts. A copy of the monitoring form is attached as Appendix I.

Saratoga County has a total of 20 Town and Village Justice Courts⁷. There are 19 Town Justice Courts: Ballston, Charlton, Clifton Park, Corinth, Day, Edinburg, Galway, Greenfield, Hadley, Halfmoon, Malta, Milton, Moreau, Northumberland, Providence, Saratoga, Stillwater, Waterford, and Wilton. And there is only one Village Justice Court: Ballston Spa.

⁷ Saratoga County also has two City Courts - Saratoga Springs and Mechanicville. These courts were not observed as part of this project. Modern Courts released a report on the Saratoga Springs City Court in 2005.

III. MONITORS' OBSERVATIONS OF SARATOGA COUNTY

TOWN AND VILLAGE JUSTICE COURTS

After analysis of all 74 reports submitted by the monitors, Modern Courts' staff organized those observations into the following subject matter areas:

- A. Proceedings Observed**, including number and types of cases observed;
- B. Court Facilities**, including access for disabled persons, security, signage and parking concerns;
- C. Court Operations**, including caseloads, court security, maintenance of order, and audibility of proceedings;
- D. Criminal Cases**, including arraignment proceedings, appointment of attorneys for indigent defendants, proceedings involving young defendants, and domestic violence cases;
- E. Traffic Cases**; and
- F. Civil Cases**, including landlord-tenant cases.

A. Proceedings Observed

During the monitoring period, monitors observed proceedings in **19 of the 20** Town and Village Justice Courts located in Saratoga County; monitors did not observe proceedings in the Edinburgh Town Court.⁸ Monitors observed **74 courts sessions** in the Town and Village Justice Courts in Saratoga County. Individual courts were monitored within a range of from one to nine times during the project.⁹

The total number of proceedings observed for the monitoring period (October 18, 2007 to December 17, 2007) was **1,277**. Of that number;

- **42.8%** (546) involved **criminal matters**, including 44 (**3.4%**) **domestic violence cases**,
- **49.4%** (632) were **traffic cases**,
- **2.5%** (32) involved **general civil matters**,
- **2.7%** (34) were **housing cases** (Landlord/Tenant), and
- **2.4%** (31) **other cases** (i.e. ordinance violations/ zoning, etc).

It is notable that in **34.9%** (135 of the 546) of the criminal cases observed by the monitors, the defendant did not have legal representation during the proceedings. This is of considerable concern given that representation by an attorney is a constitutional right and critical to the fair administration of the criminal justice system. The monitors also noted in that in 386 (or **47.3%**) of the non-criminal proceedings observed, litigants did not have legal representation during the proceedings.

⁸ Edinburg Town Court did not have any scheduled court sessions during this monitoring project.

⁹ The number of times each court was visited and monitored can be found in Appendix II.

B. Court Facilities

In order for any court to provide for the fair administration of justice, the facility that houses that court must ensure that the dignity of the proceedings is maintained. If the public is to have confidence in the operations of the court, the facility must meet certain standards.

Modern Courts' monitors observed the facilities of 19 of the 20 Town and Village Justice Courts in Saratoga County. As previously noted, these court facilities are funded, operated and maintained by the local towns and villages.

Maintenance and Adequacy of Court Facilities

- The vast majority (**18 of the 19**) of court facilities observed were described as “well-maintained.” However, monitors reported that the Ballston Spa Village court facility was not well-maintained.

In addition, monitors also found the Ballston Spa Village court facility to be inadequate in size and space. For example, the monitors who visited the Ballston Spa Village reported that, “This facility seems inadequate for the number of cases! It was very small and very rustic. The waiting room looks like a garage. The courtroom is very crowded,” and that, “The whole place is so cramped that it is very inconvenient for all. There is no privacy [for attorneys and their clients].”

Recommendation:

Ballston Spa village should assess the conditions of its court facility and make the necessary improvements if possible. If not, the village should consider relocating, or building a new facility that provides a well-maintained and accessible facility that allows its court to perform its essential functions efficiently with an appropriate environment for the litigants and those who work in these courts.

- **26% (5 of the 19)** of court facilities observed did not have adequate “space allocated in the courthouse for private attorney-client conferencing.” The five court facilities lacking either a devoted or adequate space for private attorney-client conferencing were Ballston Spa Village, Charlton, Malta, Moreau, and Stillwater Town courts. For example, one monitor who visited Malta Town Court reported, “The court permits the public defender to meet with his clients in a smaller file room but there is no private space for private attorneys to confer with their clients.” In Moreau Town Court, one monitor found that, “There was a very inadequate private conferencing room. Lawyers conferenced [with their clients] in the courtroom or the hallway.”

Recommendation:

Court facilities which did not have space allocated in the courthouse for attorney-client conferencing in private led to noisy courtrooms because attorneys were forced to meet with their clients in the courtroom during the proceedings. In addition, such circumstances present the potential for a breach of attorney-client confidentiality, because information has to be exchanged between attorneys and their clients in a public courtroom. Each court should allocate space within its facilities for attorney-client conferencing both to maintain order in the courtroom and to provide for attorney-client confidentiality.

- **63%** (12 of the 19) of court facilities observed did not have waiting rooms. Monitors reported that only the Ballston Spa Village, Ballston Town, Corinth Town, Galway Town, Greenfield Town and Hadley Town court facilities had waiting rooms. However, in some cases, monitors found that these waiting rooms were inadequate in size and/or amenities. For example, the waiting area in the

Ballston Spa Village Court was described as, “without amenities and had folding tables and chairs for those waiting to enter the courtroom.” In Galway Town Court, although monitors indicated that there was a waiting area, one monitor noted “there was a line of people outside of the courtroom waiting for their case to be called.”

Recommendation: The lack of waiting rooms or waiting rooms which are inadequate in size and/or amenities lead to overcrowded conditions in the courtrooms and hallways of the courts. Each court should allocate space within its facilities for those waiting to enter the court to maintain order in the courtroom.

Accessibility¹⁰

- One of the court facilities observed, Northumberland Town, appeared inaccessible to those with disabilities.

Recommendation:

The Town of Northumberland should take steps to provide reasonable accommodations and assistance to those who need them and are entitled to them under the Americans with Disabilities Act.

Court Security

- **74%** (14 of the 19) of court facilities observed did not have magnetometers at the entrance of the courts. Only Clifton Park, Corinth, Halfmoon, Moreau and Stillwater Town Courts had magnetometers.

Recommendation:

¹⁰ It should be noted that Chief Judge Judith S. Kaye’s Action Plan for the Justice Courts recommends the development of a survey and assessment form for Justice Courts in order to identify barriers that limit full participation in those facilities.

Given the large volume of criminal cases heard by Saratoga County Town and Village Justice Courts, including felony arraignments, those 14 towns and villages without magnetometers or other entrance screening devices should act quickly to acquire such security devices. It should be noted that Chief Judge Judith S. Kaye’s Action Plan for the Justice Courts has provided aid to localities for the acquisition of these security devices.

- **42%** (8 of 19) of court facilities observed did not have “sufficient/secure distance[s] in the courtroom between the parties.” Monitors reported that Ballston Spa Village, Corinth Town, Galway Town, Malta Town, Milton Town, Moreau Town, Northumberland Town and Stillwater Town Courts appeared too small or crowded to ensure a secure distance between parties.

Recommendation:

Security assessments (see p. 20 of this report for additional information) should be conducted of the courtrooms in Ballston Spa Village, Corinth Town, Galway Town, Malta Town, Milton Town, Moreau Town, Northumberland Town and Stillwater Town Justice Courts to determine if the current set-up in these courts ensure a secure distance between parties.

Courtrooms

- **21%** (4 of the 19) of courts observed had courtrooms that were inadequate in size for the proceedings, and lacked a sufficient number of seats. These courts were Ballston Spa Village, Corinth Town, Northumberland Town, and Wilton Town.

Recommendation:

Larger courtrooms and/or nearby easily accessible waiting areas are needed for the Ballston Spa Village, Corinth Town, Northumberland Town, and Wilton Town Justice Courts in order to reduce noise in these courtrooms related to overcrowded conditions and to ensure that

litigants and those in the courtroom can hear the calendar call and other announcements from court personnel.

Signage

- **None** of the courts observed had multi-lingual and/or Braille signage.

Recommendation:

Monitors reported that in some of the courts observed (Clifton Park Town, Halfmoon Town, Moreau Town and Waterford Town) that either an interpreter was used or needed by litigants who did not speak, or had difficulty understanding English. Multi-lingual signage should be placed in those courts, particularly in those foreign languages that frequently required interpreters.

- In **16%** (3 of the 19) of the courts observed (Northumberland Town, Saratoga Town, and Waterford Town) monitors reported that there were no signs outside of the court facilities indicating that a court was located in the building.
- **26%** (5 of the 19) of the court facilities observed did not have a sign inside the facility directing the public to the courtroom. Monitors did not observe such signs in Charlton Town, Northumberland Town, Providence Town, Stillwater Town, and Waterford Town Courts.

Recommendation:

Directional signage should be provided outside of the facility indicating that a Justice Court is located within the building, and signs within the facility should be provided directing the public to the location of the courtroom. Signage should be improved in these facilities to ensure that litigants and other members of the public can easily locate the courts. Signage is especially important in the Justice Court facilities because many are located in multi-use buildings.

Additional facilities comments regarding each of the courts observed can be found in Appendix III.

C. Court Operations

Caseloads

Monitors noted that the caseloads of some Justice Courts were large while other courts had significantly smaller caseloads on the occasions they were observed. For example, one monitor observed the Clifton Park Town Justice Court handled 53 cases during one observation – the largest number of proceedings observed during one court session during this monitoring project. In addition, monitors observed busy caseloads in Malta (51 cases), Wilton (49 cases), and Moreau (41 cases) Town courts.

Monitors made the following comments regarding some of the larger caseloads in the courts observed:

- It was a very busy day (40 cases) in Judge Hughes' court. (Clifton Park Town Court)
- Today was a huge caseload which went at least to lunch. The judge heard more than 20 cases in 2 ½ hours. (Moreau Town Court)
- The whole operation ran smoothly, professionally, and as efficiently as a large and disparate case load would allow. (Moreau Town Court)
- This village court was as busy as many other [courts] but the space was small and everyone was spilling out into the waiting area. (Ballston Spa Village Court)

Conversely, monitors also observed 31 court sessions in multiple courts during which 10 or fewer cases were heard. Monitors observed proceedings in Galway Town, Greenfield Town, and Stillwater Town Justice Courts where only one case was heard. In addition, monitors made observations in Ballston Spa and Galway Town where two cases were heard.

Monitors made the following comments regarding some of the small caseloads in the courts observed:

- The judge kept the two cases moving...stayed to do paperwork until 10 pm.
(Galway Town Court)
- There were very few cases heard tonight in contrast to Ballston Village Court.
(Ballston Town Court)

In addition, monitors noted that several defendants had to appear in multiple town and village courts:

- Some of the defendants had multiple charges and some of those [charges] in other jurisdictions. The judge seemed to handle [these cases] well, but maybe there is a way for all to be in one court. (Ballston Spa Village Court)
- During an arraignment, the defendant [who felt that he was charged with an inaccurate number of offenses] had to ask what the exact charges were. His paperwork did not arrive from Corinth. He was sent back to Corinth and then returned. (Greenfield Town Court)

Recommendation:

Modern Courts recommends that Ballston Spa Village Court, which monitors observed to be a busy court operating in an inadequate court facility, should consider consolidation with Ballston Town which has a newer facility and was observed to have as few as 2 cases during some court sessions. Given the extremely small caseloads of Galway Town, Greenfield Town, and Stillwater Town Justice Courts observed by the monitors, both towns should assess the number of cases heard by these courts and should consider consolidating with an adjacent Town Justice Courts.

New York State laws offer opportunities for cost savings and resource sharing for local governments; this is true for Justice Courts as well as other shared services. Consolidation, or the opportunity for towns to cooperate and form one Justice Court or share court facilities, and for villages to join their courts with town Justice Courts, or simply to dissolve their Justice Courts, permits local elected officials and local residents to preserve local courts.¹¹ Consolidation may address many of the issues that cause great concern about the justice court system¹² and are often observed by monitors. By taking steps to adopt consolidation options, local governments can address some of the problems of small courts, without losing local access to the justice system.

Local governments familiar with the New York State Executive Office of Local Government Efficiency and Competitiveness and an interagency task force for local governments, established in 2007, know the benefit of sharing resources as a means to provide the best service and offer taxpayer savings.¹³ Both the New York State Executive Office and the Comptroller's office offer these initiatives as a means to provide consultation, legal and logistical support to local governments wishing to consolidate or share services. The New York State Comptroller's office has recommended consolidation of Justice Courts and provides detailed data in its report, *Opportunities for Town and Village Justice Court Consolidation*.¹⁴ A brochure by the Comptroller's office was sent to local governments in 2007; it provides vital information on "how to" consolidate.¹⁵

11 UJCA § 106(1), UJCA§106-a; Village Law § 3-301(2)(a).

12 Enhancing the Fair Administration of Justice In New York's Towns and Villages Through Court Consolidation, Town and Village Task Force Report, The Fund for Modern Courts, February 2008, www.moderncourts.org

13 See Executive Order No. 11; and From the Shared Municipal Services Incentive Grant Program home page, www.dos.state.ny.us/lgss/smsi/smsihome.html

¹⁴ See www.osc.state.ny.us

¹⁵ See www.osc.state.ny.us

The laws governing consolidation require local citizen input in the process - public hearings must be held by local governments with citizen participation to determine what would be best in their communities. Modern Courts recommends that consolidation be considered in Saratoga County because localities would benefit from local citizen input, such as established in this report, and that using state assistance as part of the analysis and process of how best to share resources would enhance local Justice Courts.

Scheduling of Court Sessions

In Saratoga County, as is the case with all Justice Courts in New York State, each town and village sets its own Justice Court's hours of operation including the frequency of court sessions. In Saratoga County, the majority of the Justice Courts sessions were scheduled twice a week, or at least once a week. In many cases, the court had multiple sessions for different types of cases scheduled for the same day. For example, in the Moreau Town Justice Court generally all cases are heard on Thursdays: Criminal and DWI cases at 9:00 AM, Vehicle and Traffic cases at 2:00 PM, and civil matters 2:15 PM. In Clifton Park Town Court, one judge hears cases on Wednesday evenings: Small Claims, which need to be scheduled in advance, begin at 5:00 P.M. and Criminal and Traffic cases begin at 7:00 P.M. The other judge in Clifton Park Town Court has the same schedule, but hears cases on Thursday evenings.

Monitors observed that in court sessions in Hadley Town, Northumberland Town, Saratoga Town, Waterford Town and Wilton Town two judges heard cases simultaneously in the same courtroom. Monitors had the following mixed reactions to this practice:

- The courtroom is divided into two sections however they are not really divided.

They just have doors facing different directions with different judges. Both

judges see cases at the same time. It was very difficult to keep track of the cases.

(Hadley Town Court)

- There were two judges hearing cases at once in the same room. Because it was so busy it was difficult to hear. It seemed a little disorienting since there weren't signs directing people where to go [to have their case heard]. (Hadley Town Court)
- Overall professional and efficient [but] only one of the judges was audible though. (Northumberland Town Court)
- Judges sat at same bench and [heard] cases simultaneously. It very disorienting to watch both [proceedings] at once but the judges seemed quite at ease with the procedure. (Saratoga Town Court)
- The judges weren't very loud when speaking so even in the front row it was hard to hear it all. (Waterford Town Court)
- Having two courts in one room seemed to work, but [the proceedings in one court] were not audible to the [other] court other than the name called.

Recommendation:

In those Justice Courts where two judges hear cases simultaneously in one courtroom, there should be court personnel or signs directing people where to go in the courtroom to have their case heard or to sign in and wait for their case to be called. These courts also should consider scheduling sessions consecutively rather than simultaneously as a means to ensure audibility of the proceedings, decrease any confusion for litigants and, in light of the distribution of digital recording equipment to many of these courts, ensure clear and audibly recordings.

Court Security

The provision of security in Town and Village Justice Court facilities is the responsibility of the town or village where the each court is located. Providing sufficient security in Town and Village Justice Courts is complicated by the fact that many of these courts are not located in dedicated court facilities, but in multi-purpose rooms also used by the town or village board and citizen organizations.¹⁶

Monitors repeatedly expressed concern about the level of security provided at many of Saratoga County's Town and Village Justice Courts. For example:

- One defendant became agitated and verbally defiant and there was no court officer. (Moreau Town Court)
- A prisoner had to be brought in through the main courtroom entrance and then sit [in the courtroom] with a sheriff's officer close to him. (Clifton Park Town)
- The court is in a space that leads to the town supervisor's [and] bookkeeper's offices and had no security. The front door of the Town Hall is open and anyone could walk in. (Galway Town)
- On DA day¹⁷, some people had to stand and the courtroom was too small to allow for adequate separation of parties. [There was] no security. (Greenfield Town)
- Security is provided more by the large number of police officers present for traffic cases than by layout or space in the court. (Malta Town)

¹⁶ In Saratoga County, only Malta Town Justice Court and Moreau Town Justice Courts are located in facilities dedicated solely for use by these courts.

¹⁷ A "DA" calendar or day is a court session during which a Saratoga County Assistant District Attorney (ADA) and Public Defender are scheduled to appear in that court to prosecute or provide a defense in criminal cases.

To assist local town and villages, OCA¹⁸ began performing security assessments for Justice Courts requesting them. In each instance in which a locality or local court requests such assistance, OCA specially trained court officers visit the Justice Court and issue a confidential report to the Justice Court that provides comprehensive advice to improve the Justice Court's security. OCA's recommendations have ranged from relatively simple relocations or replacement of furniture to more fundamental capital improvements and changes to administrative procedures. It is the choice of the local towns and villages whether to comply with and expend the funds necessary to comply with recommendations to improve their Justice Court's security.

OCA also has adopted a policy that allows local town and villages to retain the State Judiciary's uniformed court officers to provide security and other support services in the Justice Courts on a limited basis. Despite the availability of this outside support, the overwhelming majority of Justice Courts still do not provide for this important safeguard to public protection.

Recommendation:

Each town or village in Saratoga County which has a Justice Court should request, if they have already done so, an OCA security assessment to determine how best to improve the security in their courts, and comply with the recommendations resulting from these assessments if financially feasible. In addition, local villages and towns with no security should consider utilizing using local law enforcement officers, or uniformed court officers to ensure the safe operation of their Justice Courts.

¹⁸ See Judith S. Kaye and Jonathan Lippman, *New York State Unified Court System, Action Plan for the Justice Courts*, p. 21 (2006).

Maintenance of Order

Several of the 19 Justice Courts were found to be quiet and orderly during the proceedings observed thus enabling the participants in the proceedings to be heard by the monitors, those litigants awaiting their cases to be called by the judge or other court personnel, and those family members accompanying litigants. For example:

- Order was maintained. (Day Town)
- Both judges were professional and had good control of the room. (Galway Town)
- Judge Nichols runs an orderly court. (Malta Town)

However, the monitors, who made multiple visits to some courts, found that on some visits, particularly when there were a large number of people in the courtroom, that these courts were noisy and disorderly. For example:

- [It was] hard to hear because of conversations in the courtroom.(Ballston Town)
- The courtroom was noisy with side conversations of those waiting, or asst. public defender with client or attorneys and clients. (Clifton Park Town)
- Court was noisy at times – it was difficult to hear much of the time. (Halfmoon Town)
- People were coming in and out of room; it was a little hectic. (Hadley Town)
- Proceedings seemed chaotic. Judge McKeivitt did not control the court room. Police, clerks and lawyer chatted during proceedings with each other [and] interrupted proceedings. People waiting also chatted. (Malta Town)
- Audience became very restless but no one called court to order. (Saratoga Town)

In one court, a monitor found that a particular court practice made the court noisier:

- The court clerk sat next to the judge and had some private discussions about payment with litigants and that was a disturbance [to the proceedings.] He could have been at a table in the back of the room. (Day Town)

Recommendation:

Monitors reported that several courts observed were noisy and disorderly during multiple observations. In some instances, the noise was attributed to the inadequacy of the size or location of the court facilities. But in others, monitors observed that the judges and court personnel did not ask for quiet or otherwise attempt to reduce the noise level in the courtroom. Local officials should address facilities issues such as courtrooms that are too small or without waiting areas which contribute to the noise and disorderliness in these courts. In addition, judges and/or other court personnel should inform those in the courtroom prior to the beginning of court proceedings, and periodically during the court session, that attendees should remain silent during the proceedings.

Audibility of Proceedings

The lack of audibility of some proceedings was a persistent challenge for monitors observing in the Town and Village Justice Courts. During some observations, the court proceedings were not audible or only audible for part of the time. In some cases the monitors attributed the inaudibility to judges, litigants and others in the courtroom who did not consistently speak audibly. For example:

- It was at times difficult to hear the judge. (Ballston Town)
- Some attorneys were very difficult to hear when they or their clients addressed the judge. (Clifton Park Town)

- Overall professional and efficient, only one of the judges was audible, though. (Northumberland Town)
- Judge Galarneau was practically whispering. (Waterford Town)
- Again, the judges weren't very loud when speaking so even in the front row it was hard to hear it all. (Waterford Town)

In other cases, monitors attributed the inaudibility of proceedings to either the lack or non-use of microphones for amplification purposes:

- Without a P.A. system, it was very difficult to hear what was going on. (Ballston Spa Village)
- They didn't use microphones in the court and it was difficult to hear. (Halfmoon Town)

Some monitors felt that the judges purposely spoke lowly or softly:

- The Judge speaks so low that no one can understand what happens ... except for their own case. (Milton Town)
- However, he [the judge] spoke in a whisper. It was very difficult to follow what he said. If he was trying to give people privacy while sentencing he did a good job. (Stillwater Town Court)

Recommendation:

Judges, attorneys, and other parties should speak audibly and clearly, and use microphones if available at all times; and judges should encourage all participants to speak audibly. Victims, family and friends of the defendants or victims each have a particular interest in understanding what occurs during the Justice Courts proceedings; members of the public also have an interest in the proceedings.

D. Criminal Cases

As noted previously, 42.8% of cases observed by court monitors involved criminal matters. Given the large number of such cases and the concerns expressed about the protection of the constitutional rights of defendants and the protection of victims in these cases, Modern Courts' monitors recorded observations about a number of aspects of criminal cases, including arraignment proceedings, the appointment of attorneys for indigent defendants, proceedings involving young offenders, and domestic violence cases.

Arraignments

An arraignment is the court proceeding during which a person, who has been arrested, is informed of the charges against him or her.¹⁹ Arraignments are a critical part of a criminal proceeding because it is the first time that a defendant appears before a judge. It is absolutely essential that the judge protect the constitutional rights of the defendant when arraigning a defendant. In addition, the defendant is informed of the right to counsel and advised that if he or she cannot afford an attorney one will be assigned for the entire case at the state's expense. If the defendant plans to hire an attorney, but has not done so at the time of arraignment, an attorney can be assigned for the arraignment only. If charged with a felony, the defendant is informed that within 144 hours of arrest he or she has the right to a preliminary hearing or a grand jury indictment. The defendant also is given notice of whether any incriminating statements were made to the police and whether witnesses identified him or her. Finally, the defendant is asked to enter a plea of guilty or not guilty.

¹⁹ N.Y.CPL §1.20 (9) (McKinney 2008) defines arraignment as "the occasion upon which a defendant against whom an accusatory instrument has been filed appears before the court in which the criminal action is pending for the purpose of having such court acquire and exercise control over his person with respect to such accusatory instrument and of setting the course of further proceedings in the action."

Judges in Town and Village Justice Courts regularly arraign defendants who are accused of crimes within their jurisdictions. And while a criminal defendant usually must be brought to the local court for arraignment within 24 hours of arrest, many of the Town and Village Justice Courts in Saratoga County have only one or two “DA” calendars²⁰ during a typical month. As a result many arraignments are conducted where neither a representative of the District Attorney’s office nor a defense attorney is present. Modern Courts’ monitors were able to observe DA calendars, but were not able to observe arraignments which took place when only the defendant, arresting police officer and judge were present, because such proceedings do not take occur at regularly scheduled times.

Observations Regarding Arraignments

During the monitoring project, monitors observed a total of 59 court sessions that included arraignments in 18 of 19 Town and Village Justice Courts observed in Saratoga County. No arraignments were observed in Day Town Court.

Reading of Charges to Defendants

- While monitors observed that the judges typically read the charges to each defendant arraigned in the Justice Courts where arraignments were observed, in 20% (12 of 59) of court sessions observed, monitors reported that the judge sometimes did not read the charges to each individual defendant during arraignments.
- Of the 12 court sessions observed during which the charges were not read to each individual defendant during arraignment, three were observed in Malta Town Justice Court, two in Ballston Spa Village Justice Court, two in Galway Town

²⁰ A “DA” calendar or day is a court session during which a Saratoga County Assistant District Attorney (ADA) and Public Defender are scheduled to appear in that court to prosecute or provide a defense in criminal cases.

Justice Court, one in Clifton Park Town Justice Court, one in Hadley Town Justice Court, one in Milton Town Court, one in Northumberland Town Justice Court, and one in Waterford Town Justice Court.

Informing Defendants of Plea Options

- Monitors reported that in 25% (15 of 59) of court sessions where arraignments were observed the judge did not “inform each defendant of his plea options (not guilty or guilty).” Those courts were: Ballston Spa Village, Charlton Town, Galway Town, Greenfield Town, Galway Town, Halfmoon Town, Malta Town, Milton Town, Stillwater Town, and Waterford Town Justice Courts.
- None of the defendants were observed being informed of their plea options during arraignments in Charlton Town Court or Waterford Town Court.

Monitors reported that many of the judges in the courts observed took their arraignment responsibilities seriously and afforded each defendant their constitutional rights. For example:

- The judge read each charge, asked if understood, [and] discussed options. (Ballston Town)
- The judge explained again and again. He made sure that each defendant understood the ramifications of his/her answer and pled correctly. (Moreau Town)
- Judge Calderon explained rights, answered questions and tried to make sure people understood the proceedings. (Milton Town)
- He (Judge Nichols) was patient in most cases listening to defendants and taking time to answer questions. (Malta Town)

- Judge Nichols handled a large caseload efficiently while also taking time to listen to defendants and answer questions as they need arose. (Malta Town)

Unfortunately, there were some courts where the monitors raised questions about whether the constitutional rights of each defendant were adequately protected by the presiding judge. For example:

- In most cases where an attorney represented a defendant the judge did not explain the charges because the attorney had already done so. (Clifton Park Town)
- The judge (Paul Varley) only read the charges to those without an attorney. (Greenfield Town)
- I felt that the judge did not do a decent job explaining people's rights to them or answering their questions. He gave short vague answers; even [the] people expressed that they confused. (Halfmoon Town)
- Not always but in about half [the judge read the charges to the defendants.] (Ballston Spa Village)
- The judge did not read charges out loud so I could not hear [what the charges were] in most cases. (Stillwater Town)

Recommendations:

Informing Defendants of their Rights

In those courts where monitors did not observe charges being read to each criminal defendants, and where judges were not observed informing defendants of the available plea options (not guilty or guilty), judges must take care to read the charges to all defendants and inform all defendants of the available plea options.

Recording²¹ Unscheduled Arraignments

While it is to be expected that Town and Village judges would read the charges to each defendant and inform each defendant of his or her plea options during the DA calendars, when Assistant District Attorneys and both public defenders and private defense attorneys are present, it is unclear whether this practice occurs during the many unscheduled arraignments that take place, when only the defendant, arresting officer and judge are present.

Given that many arraignments of defendants take place at unscheduled times and days when neither Assistant District Attorneys nor public defenders or private defense attorneys are present, Modern Courts recommends that judges of Town and Village Justice Courts be provided with inexpensive tape recorders so that these arraignments can be recorded and reviewed. Such a practice would ensure that the constitutional rights of every defendant are protected and shield judges from unsubstantiated accusations of impropriety.

Appointment of Attorneys for Indigent Defendants

It has long been held that a defendant has the constitutional right to be represented by counsel under the US Constitution.²² In New York State, the right is recognized under its own Constitution²³, and by statute.²⁴ Locally, Section 200.26 of the Uniform Rules for Trial Courts requires Town and Village Justice Courts to make an initial determination of eligibility for assigned counsel at arraignment when a defendant is being held without bail or is unable to post bail. If the court determines that the defendant is eligible for counsel, it must immediately assign

²¹ Although Town and Village Justice Courts are not “courts of record” and are not required to record their proceedings, recording arraignments when no attorneys are present is wise public policy. It should be noted that the Unified Court System has begun to provide electronic recording devices to the largest Town and Village Justice Courts.

²² Gideon v Wainwright, 372 US 335; Coleman v Alabama, 399 US 1; Powell v Alabama, 287 US 45.

²³ NY Const, Art I, § 6.

²⁴ CPL § 170.10, 180.10, 210.15 (McKinney 2007).

counsel and notify counsel and the local pretrial services agency of the assignment.”²⁵ Defendants are not obligated to make any request for their own representation; the judges are expected to recognize and determine when the rule applies²⁶.

In Saratoga County, the Office of the Public Defender represents most indigent defendants.

Monitors observed the following regarding the appointment of assigned counsel:

- In **17²⁷ of the 19 Justice Courts** observed, the judges “informed each defendant of their right to an attorney if charged with a criminal offense.” For example, in Hadley Town Court, Judge Leland Aldrich “seemed interested in having defendants follow up on getting an attorney,” and in Moreau Town Court, Judge Carlos Calderon “told a young man that if he didn’t qualify for the public defender he would probably want to get his own counsel.”
- In **17²⁸ of 19 Justice Courts** observed, the judges “adjourned cases so defendants could get a lawyer.” For example, in Charlton Town Justice Court, one monitor reported, “One man came in with several tickets from Charlton and Morrow and just wanted to pay as he was going to work for Corrections on Long Island. The judge spent lots of time urging him to get a lawyer as one charge was a misdemeanor. Finally he agreed and a [return court] date was set.” In Halfmoon Town Court, “All criminal cases were adjourned so [defendants] could get public defenders.”

²⁵ Spangenberg Report, p.113.

²⁶ 22 NYCRR § 200.26.

²⁷ The exceptions were Northumberland Town and Waterford Town Justice Courts.

²⁸ Saratoga Town and Stillwater Town Justice Courts were the exceptions.

- In **4 of the 19 Justice Courts** observed, the judge “appointed an attorney to [a] defendant at the arraignment.” Judges in Ballston Town, Clifton Park Town, Moreau Town, and Providence Town Justice Courts appointed attorneys at arraignment.
- In **8 of the 19 Justice Courts** observed, the judge “used a questionnaire to determine eligibility for defendants for an assigned attorney. This practice was used by judges in the Clifton Park Town, Corinth Town, Greenfield Town, Halfmoon Town, Malta Town, Milton Town, Moreau, and Wilton Town Justice Courts. For example, Judge James Nichols, Malta Town Justice Court, “handed the application [for a public defender] to defendants” in court.
- In **10 of the 19 Justice Courts** observed, the judge “provided information about legal services to indigent defendants.” For example, in Ballston Spa Village, Judge Thomas Schroeder “explained how to contact the Public Defender” to defendants. These courts did not provide information on Legal services: Ballston Town, Corinth Town, Day Town, Galway Town, Hadley Town, Halfmoon Town, Providence Town, Saratoga Town, Stillwater Town, and Waterford Town Justice Courts.

Recommendation:

Monitors reported that in 48% of the courts observed judges did not provide defendants with information about obtaining legal services. Every judge should provide each indigent criminal defendant with information about legal services. Written information about the availability of legal services for indigent defendants should also be available particularly in cases in which a public defender might not be available in court during that session.

Monitors made the following additional observations about the appointment of attorneys to indigent defendants:

- It concerns me that so many people do not want to accept the help of the public defender. Many people state that they are not financially equipped to hire a private attorney yet also say they are not interested in applying for the public defender. (Milton Town)
- The judge (Charles Krom) did give all [the defendants] a chance to apply for and urged them to do so. But most refused and said that they would [adhere] to the judge's decision [because] they did not like outsiders, but trusted the judge. (Day Town)
- [One judge] threatened a young man with jail in order to force him to fill out his application to the public defender's office which he had neglected to do in the time given to him. (Malta Town)
- There were about 25 people waiting to see one public defender. After they met with the public defender they would go before the judge. Because there was only one public defender, however, this took a bit of time. (Corinth Town)

Juvenile Defendants in the Town and Village Courts

In New York State, young people aged 16 and older accused of criminal acts are charged as adults and appear as defendants in the Town and Village Justice Courts. Younger teens who have committed serious crimes also may have their cases heard in the Justice Court rather than in the Family Court. Certain youths between the ages of 14 and 19, may be treated as a youthful offender in the local Justice Courts, which generally results in their juvenile record being sealed and a reduction in the maximum sentence that maybe imposed. Other juvenile defendants may

not be afforded this status, and if convicted will not have their records sealed, which would have significant repercussions for their futures, including barring them from future employment, student loans, and even public housing.

The monitors observed many defendants under the age of 18 in the Town and Village Justice Courts.²⁹ It was not possible to ascertain if all of these defendants were treated as youthful offenders, as defined by state law, by the court. However, monitors did observe whether these young defendants were accompanied by a legal guardian and whether they had legal representation in the often busy local Town and Village Justice Courts with their diverse caseloads. The monitors' observations are as follows:

- In almost half (34 of the 74) of the court sessions which were observed, there were cases involving defendants under the age of 18.
- In the vast majority (25 of the 34) of the court sessions involving defendants under the age of 18, the defendants were accompanied by a legal guardian.
- In more than half (20 of the 34) of the court sessions, the defendants under the age of 18 had legal representation present during their cases.

Monitors observed several judges encouraging young defendants who did not have an attorney to seek legal representation. In one case in the Town of Day, a monitor reported that “the young man’s father was there with him and said that they did not want a public defender or an attorney despite the judge’s urging. The judge adjourned [the case] in hope that [the defendant] would get an attorney.” In another case, in Hadley Town Justice Court, a monitor also observed that the defendant was “advised to get a public defender or an attorney and let the judge know.” Judge Wood, Wilton Town Justice Court, “appeared very concerned about a girl with

²⁹ During their observations, some monitors had access to each court’s calendar which listed a date of birth which is typically how the monitors identified that a defendant was under the age of 18. In some cases, the judge, the lawyer, or other court personnel made reference to the fact that the defendant was under the age of 18 as well.

her mother willing to plead guilty to petit larceny” and “after the judge urged them, an attorney there [in the courtroom] talked to the defendant.”

Recommendation:

While monitors overwhelming reported that local Town and Village judges appeared to try to explain court procedures to young defendants, and in some cases, to their parents, and ensure that they had legal representation, Modern Courts recommends that a fact sheet or other resource which provides information for youths about services and programs available to them, the sealing of juvenile records, and the future consequences resulting from a criminal conviction be made available to young defendants. This is especially important considering that these young defendants’ cases are being heard in busy courts which handle an array of cases, unlike the Family Court where the proceedings are focused on the children.

Domestic Violence Cases

Domestic Violence (DV) cases present themselves through a variety of different criminal charges in the Town and Village Justice Courts including harassment, assault, and stalking. In addition, charges such as burglary, obstruction of justice, and endangering the welfare of a child may involve domestic violence. Many DV cases result in the issuance of an “order of protection” (OP), which is a legal document issued by a judge ordering someone to follow specific conditions of behavior. Initially these orders are temporary, until all the facts have been gathered and the case is heard in Town or Village Justice Court on a later date. There may be modifications throughout the duration of a case. After a case has been heard and it has been decided that a crime has been committed a final order may be issued.

The monitors observed 44 cases involving domestic violence during this monitoring project; of these observed 18 were arraignments.

- In the majority (17) of those cases (18) where an arraignment occurred. The monitor observed that the judge “adequately explained the charges to each defendant,” and in 11 of those cases the judge “answered defendant’s questions regarding the charges.”
- An order for protection (OP) was issued in 32 of the 44 DV Cases observed. In only 16 of these cases did the judge “clearly explain to each defendant the contents of the order for protection.”
- In 17 of the 32 cases where an OP was issued, the judge “explain[ed] the consequences for violation of an order for protection.” For example, in Ballston Spa Village Court, “The judge was very firm about respecting orders of protections and stay away [provisions],” and “One young man [had] a long discussion with the judge about how [he] must comply with the terms of the order for protection.”

Recommendation:

Every judge must ensure that when an order of protection is issued in a DV case that the defendant is fully aware of what is required of him or her and the consequences for violating the order.

Other DV Findings

In addition to the above findings, the monitors observed the following:

- An existing order of protection was modified in 4 of the 44 DV cases observed.

- In 2 of 44 DV cases observed a defendant was sanctioned for violation of an order of protection.
- 1 defendant in 44 DV cases observed was held in custody without bail.
- 3 defendants had bail set in 44 DV cases observed. Bail ranged from \$25,000 to \$1,000.

The monitors made the following additional comments regarding the handling of domestic violence cases in the Town and Village Justice Courts:

- A wife was withdrawing charges against her spouse but the judge was careful to ask her if she understood [her] options. They had been to anger management class before he allowed her to drop the charges. (Malta Town)
- There were several harassment, assault cases, etc. involving many family members [which] were adjourned in hopes that the defendants would get attorneys. However, the judge did [grant] several orders of protection and stay away orders to men and women alike. (Day Town)
- One case was a violation of an order of protection; the defendant was urged to get an attorney. (Ballston Town)

E. Traffic Cases

Monitors observed 546 cases in the Town and Village Justice Courts involving alleged violations of the Vehicle and Traffic law. Monitors generally found that each Town and Village Justice Court had established procedures to handle the large number of traffic cases heard in Saratoga County. For example:

- Practically all cases were some type of traffic ticket and in many cases had been plea bargained from moving to stationary violations. If DA had not acted, the judge asked the defendant if he/she wanted an adjournment so the DA's office could look at case. The procedures were very quick, but judge asked repeatedly about understanding accepting a plea bargain. (Wilton Town)
- The judge allowed a lot of moving traffic violations to be minimized to parking [tickets]. (Ballston Town)
- This judge requires every person arrested for speeding whose plea is reduced to a parking ticket to take defense driving class. (Clifton Park Town Court)

Monitors did observe that several judges took time to ensure that litigants understood the plea and were afforded time to pay any fines or fees.

- When fines and surcharges stated, the judge gave people plenty of time to pay. (Wilton Town)
- Most of the cases today were traffic matters. Most were speed[ing tickets] plea bargained down to lesser speeds or parking violations. Judge Nichols asked each defendant if they understood the offer ("Do you understand what they're doing for you here?"), what

consequences would or would not result, and offered to give people time to pay the fine.

(Malta Town)

- One monitor observed in Ballston Town Justice Court that “several cases needed to be dismissed because a trooper [or other law enforcement officer] did not show up in court or had failed to file the necessary paperwork.”

F. Civil Cases

Relatively few civil cases (66) were observed by Modern Courts' monitors during this project. More than half (34)³⁰ of the civil cases observed were landlord-tenant cases.

Landlord-Tenant Cases

Landlord-tenant cases are heard in the Town or Village Justice Court where the property is located. The cases most commonly heard in the Town and Village Justice Courts are non-payment cases, in which the landlord claims that the tenant owes rent and seeks to collect overdue rent from a tenant, or holdover cases, where the landlord seeks to evict a tenant for reasons other than non-payment of rent.

In 28 of the 34 landlord-tenant cases observed, the monitors reported that judge "clearly explained court procedures to litigants." For example, one monitor observed Halfmoon Town Justice Court Judge Kevin Tollisen "patiently explained and probed to make sure each defendant understood and accepted the judgment."

A warrant of eviction was issued in 4 of the observed cases. In each of these cases, the tenant had failed to appear in court.

Many of the monitor's observations involved adjournments. Monitors observed:

- 10 requests for adjournment were made; 8 requests were made by tenants and 2 were made by landlords. In the Corinth Town Justice Court, one tenant requested an adjournment to obtain an attorney. One monitor observed that "the tenant said that she had planned on having a private attorney [but] she and her boyfriend just broke up and he moved out of the apartment so she had no way to pay for a private attorney."

³⁰ These cases were observed in Halfmoon Town (16), Clifton Park Town (7), Greenfield Town (6), Corinth Town (2), Ballston Town (2) and Milton Town (1) Courts.

She asked for a public defender and the judge said that it was too late that ‘they had to settle it tonight.’

- 5 of the landlord-tenant cases observed were adjourned to a later date.
- 3 of the landlord-tenant cases were adjourned following requests for adjournments from tenants (2 cases) or the landlord (1 case).
- 2 of the landlord-tenant cases observed were adjourned by the judge (without a request by either party) to a later date due to the failure to appear by the tenant.

IV. SUMMARY OF RECOMMENDATIONS

Court Facilities

Adequacy and Maintenance of Court Facilities

Ballston Spa village should assess the conditions of its court facility and make the necessary improvements if possible. If not, the village should consider relocating, or building a new facility that provides a well-maintained and accessible facility that allows its court to perform their essential functions efficiently with a safe environment for the litigants and those who work in these courts.

Attorney/Client Conferencing Space³¹

Court facilities which did not have space allocated in the courthouse for attorney-client conferencing in private led to noisy courtrooms because attorneys were forced to meet with their clients in the courtroom during the proceedings. In addition, such circumstances present the potential for a breach of attorney-client confidentiality, because information has to be exchanged between attorneys and their clients in a public courtroom. Each court should allocate space within its facilities for attorney-client conferencing both to maintain order in the courtroom and to provide for attorney-client confidentiality.

Waiting Rooms

The lack of waiting rooms or waiting rooms which are inadequate in size and/or amenities lead to overcrowded conditions in the courtrooms and hallways of the courts. Each court should allocate space within its facilities for those waiting to enter the court to maintain order in the courtroom.

Accessibility³²

³¹ In some courts, space was allocated in another town building, or the judge's chambers were used.

³² It should be noted that Chief Judge Judith S. Kaye's Action Plan for the Justice Courts recommends the development of a survey and assessment form for Justice Courts in order to identify barriers that limit full participation in those facilities.

Northumberland Town Justice Court's facilities observed appeared inaccessible for those with disabilities. Modern Courts urges that the town of Northumberland take steps to provide reasonable accommodations and assistance to those who need them and are entitled to them under the Americans with Disabilities Act.

Security Devices

Given the large volume of criminal cases heard by Saratoga County Town and Village Justice Courts, including felony arraignments, those 14 towns and villages without magnetometers or other entrance screening devices should act quickly to acquire such security devices. It should be noted that Chief Judge Judith S. Kaye's Action Plan for the Justice Courts has provided aid to localities for the acquisition of these security devices.

Courtroom Security

Security assessments (see p. 19 of this report for additional information) should be conducted of the courtrooms in Ballston Spa Village, Corinth Town, Galway Town, Malta Town, Milton Town, Moreau Town, Northumberland Town and Stillwater Town Justice Courts to determine if the current set-up in these courts ensure a secure distance between parties.

Adequacy of Courtrooms

Larger courtrooms and/or nearby easily accessible waiting areas are needed for the Ballston Spa Village, Corinth Town, Northumberland Town, and Wilton Town Justice Courts in order to reduce noise in these courtrooms related to overcrowded conditions and to ensure that litigants and those in the courtroom can hear the calendar call and other announcements from court personnel.

Multi-lingual Signage

Monitors reported that in some of the courts observed (Clifton Park Town, Halfmoon Town, Moreau Town and Waterford Town) that either an interpreter was used or needed by litigants who did not speak, or had difficulty understanding English. Multi-lingual signage

should be placed in those courts, particularly in those foreign languages that frequently required interpreters.

Directional Signage

Directional signage should be provided outside of the facility indicating that a Justice Court is located within the building, and signs within the facility should be provided directing the public to the location of the courtroom. Signage should be improved in these facilities to ensure that litigants and other members of the public can easily locate the courts. Signage is especially important in the Justice Court facilities because many are located in multi-use buildings.

Court Operations

Consolidation of Local Justice Courts

Modern Courts recommends that Ballston Spa Village Court, which monitors observed to be a busy court operating in an inadequate court facility, should consider consolidation with Ballston Town which has a newer facility and was observed to have as few as 2 cases during some court sessions. Given the extremely small caseloads of Galway Town, Greenfield Town, and Stillwater Town Justice Courts observed by the monitors, both towns should assess the number of cases heard by these courts and should consider consolidating with an adjacent Town Justice Courts.

New York State laws offer opportunities for cost savings and resource sharing for local governments; this is true for Justice Courts as well as other shared services. Consolidation, or the opportunity for towns to cooperate and form one Justice Court or share court facilities, and for villages to join their courts with town Justice Courts, or simply to dissolve their Justice Courts, permits local elected officials and local residents to preserve local courts.³³ Consolidation may address many of the issues that cause great concern about the justice court

³³ UJCA § 106(1), UJCA§106-a; Village Law § 3-301(2)(a).

system³⁴ and are often observed by monitors. By taking steps to adopt consolidation options, local governments can address some of the problems of small courts, without losing local access to the justice system.

Local governments familiar with the New York State Executive Office of Local Government Efficiency and Competitiveness and an interagency task force for local governments, established in 2007, know the benefit of sharing resources as a means to provide the best service and offer taxpayer savings.³⁵ Both the New York State Executive Office and the Comptroller's office offer these initiatives as a means to provide consultation, legal and logistical support to local governments wishing to consolidate or share services. The New York State Comptroller's office has recommended consolidation of Justice Courts and provides detailed data in its report, *Opportunities for Town and Village Justice Court Consolidation*.³⁶ A brochure by the Comptroller's office was sent to local governments in 2007; it provides vital information on "how to" consolidate.³⁷

The laws governing consolidation require local citizen input in the process - public hearings must be held by local governments with citizen participation to determine what would be best in their communities. Modern Courts recommends that consolidation be considered in Saratoga County because localities would benefit from local citizen input, such as established in this report, and that using state assistance as part of the analysis and process of how best to share resources would enhance local Justice Courts.

Scheduling of Court Sessions

In those Justice Courts where two judges hear cases simultaneously in one courtroom, there should be court personnel or signs directing people where to go in the courtroom to have

34 Enhancing the Fair Administration of Justice In New York's Towns and Villages Through Court Consolidation, Town and Village Task Force Report, The Fund for Modern Courts, February 2008, www.moderncourts.org

35 See Executive Order No. 11; and From the Shared Municipal Services Incentive Grant Program home page, www.dos.state.ny.us/lgss/smsi/smsihome.html

36 See www.osc.state.ny.us

37 See www.osc.state.ny.us

their case heard or to sign in and wait for their case to be called. These courts also should consider scheduling sessions consecutively rather than simultaneously as a means to ensure audibility of the proceedings, decrease any confusion for litigants and, in light of the distribution of digital recording equipment to many of these courts, ensure clear and audibly recordings.

Security Assessments

Each town or village in Saratoga County which has a Justice Court should request, if they have not already done so, a OCA security assessment to determine how best to improve the security in their courts, and comply with these recommendations if financially feasible. In addition, local villages and towns with no security should consider utilizing using local law enforcement officers, or unformed court officers to ensure the safe operation of their Justice Courts.

Maintenance of Order in the Courtroom

Monitors reported that several courts observed were noisy and disorderly during multiple observations. In some instances, the noise was attributed to the inadequacy of the size or location of the court facilities. But in others, monitors observed that the judges and court personnel did not ask for quiet or otherwise attempt to reduce the noise level in the courtroom. Local officials should address facilities issues such as courtrooms that are too small or without waiting areas which contribute to the noise and disorderliness in these courts. In addition, judges and/or other court personnel should inform those in the courtroom prior to the beginning of court proceedings, and periodically during the court session, that attendees should remain silent during the proceedings.

Audibility of Proceedings

Judges, attorneys, and other parties should speak audibly and clearly, and use microphones if available at all times; and judges should encourage all participants to speak audibly. Victims, family and friends of the defendants or victims each have a particular interest

in understanding what occurs during the Justice Courts proceedings; members of the public also have an interest in the proceedings.

Criminal Cases

Informing Defendants of their Rights

In those courts where monitors did not observe charges being read to each criminal defendant, and where judges were not observed informing defendants of the available plea options (not guilty or guilty), judges must take care to read the charges to all defendants and inform all defendants of the available plea options.

Recording³⁸ Unscheduled Arraignments

While it is to be expected that Town and Village judges would read the charges to each defendant and inform each defendant of his or her plea options during the DA calendars, when Assistant District Attorneys and both public defenders and private defense attorneys are present, it is unclear whether this practice occurs during the many unscheduled arraignments that take place, when only the defendant, arresting officer and judge are present.

Given that many arraignments of defendants take place at unscheduled times and days when neither Assistant District Attorneys nor public defenders or private defense attorneys are present, Modern Courts recommends that judges of Town and Village Justice Courts be provided with inexpensive tape recorders so that these arraignments can be recorded and reviewed. Such a practice would ensure that the constitutional rights of every defendant are protected and shield judges from unsubstantiated accusations of impropriety.

Legal Services Information

Monitors reported that in 48% of the courts observed judges did not provide defendants with information about obtaining legal services. Every judge should provide each indigent

³⁸ Although Town and Village Justice Courts are not “courts of record” and are not required to record their proceedings, recording arraignments when no attorneys are present is wise public policy. It should be noted that the Unified Court System has begun to provide electronic recording devices to the largest Town and Village Justice Courts.

criminal defendant with information about legal services. Written information about the availability of legal services for indigent defendants should also be available particularly in cases in which a public defender might not be available in court during that session.

Provision of Information to Young Defendants

While monitors overwhelming reported that local Town and Village judges appeared to try to explain court procedures to young defendants, and in some cases, to their parents, and ensure that they had legal representation, Modern Courts recommends that a fact sheet or other resource which provides information for youths about services and programs available to them, the sealing of juvenile records, and the future consequences resulting from a criminal conviction be made available to young defendants. This is especially important considering that these young defendants' cases are being heard in busy courts which handle an array of cases, unlike the Family Court where the proceedings are focused on the children

Orders of Protection

Every judge must ensure that when an order of protection is issued in a DV case that the defendant is fully aware of what is required of him or her, and the consequences for violating the order.

Appendix I

Monitoring Form



Town and Village Justice Court Monitoring Form

Fall 2007

Monitors Name: _____

Court Visited: _____

Judge Observed: _____

Date: _____

Total Cases Observed Today (By Type of Case):

Criminal (including DUI)	_____
Domestic Violence	_____
Housing (Landlord/Tenant)	_____
Civil Cases	_____
Traffic	_____

Criminal Cases

(Please check all boxes that apply and fill in information as asked)

Present in the Courtroom

- Assistant public defender/s
- Other defense attorney/s
- Assistant district attorney/s
- Private attorneys (retained by the defendants)
- Court Officer
- Court Clerk
- Other/s

Please note the number of cases in which the defendant did not have an attorney present: _____

Start of the Proceedings

- Sign-In Sheet for Parties
- No Sign-In Sheet

The judge:

- appeared to call the parties according to the order in which they signed in
- gave preference to any parties or attorneys

Eligibility and Appointment of Court Appointed Attorneys

The judge:

- informed each defendant of their right to an attorney if charged with a criminal offense
- informed each defendant that an attorney will be appointed if the defendant could not afford one
- used a questionnaire to determine eligibility for defendants for an assigned attorney
- appointed attorney to each defendant at the arraignment
- refused to appoint a lawyer to represent a defendant when the defendant asked
- provided an explanation to defendants who are ineligible for a court appointed attorney
- provided information about legal services to indigent defendants
- adjourned cases so defendants could get a lawyer

Please note any cases in which the judge did not inform a defendant of his or her right to an attorney; failed to appoint an attorney, or any other aspect of the appointment of attorneys that was notable:

Arraignment - Explanation of Charges/Pleas

The judge:

- offered the services of an interpreter for the next appearance if the defendant appeared not to understand English
- read the charges to each defendant
- asked each defendant if he or she understood the charges
- answered each defendant's questions regarding the charges
- informed each defendant of his plea options (not guilty or guilty)
- gave each defendant or his or her attorney a chance to be heard before setting bail
- encouraged any defendant to plead guilty by informing him or her of the possibility of a high bail amount or by other means. Explain: _____

Criminal Cases (continued)

Please note any cases in which the judge did not explain the charges or plea options to a defendant or allow a defendant to be heard:

Bail or Other Release from Custody (applies in cases where defendant pleads not guilty)

Please check the box that applies to each case.

Case#	1	2	3	4	5	6	7	8	9	10
The Judge released the defendant without setting bail										
The Judge refused to set bail and held the defendant in custody										
The Judge set bail for defendants										

In cases where bail was set, please list the charge and the amount of bail set:

Case #	Charge	Bail Amount
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Sentencing

Prior to the sentencing:

- the defense attorney made a recommendation on the length of the sentence in each case
- the ADA made a recommendation on the length of sentencing in each case
- the judge gave the defendant or his or her attorney a chance to be heard in each case

If the defense attorney or ADA or defendant was not allowed to make recommendation or be heard in some cases, please explain:

In cases where a sentenced was imposed, please list the charge that the defendant pled guilty to or was convicted of and the length of the sentence:

Case #	Charge	Sentence
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Was there a procedure set-up to collect DNA samples from sentenced defendants³⁹? Yes No
Please explain:

Youthful Offenders

Did you observe any defendants who were under the age of 18? Yes No

Were these youthful defendants accompanied by a legal guardian? Yes No

Did these defendants have legal representation? Yes No

Additional observations on youthful offenders:

³⁹ In June 2006 the list of offenses which require for which convicted person are required to submit a DNA sample to state databases expanded to included additional misdemeanor offenses including those handled in the town and village courts.

Domestic Violence Cases (DV)

Arraignments

- | | | |
|--|--|--------------------------------------|
| <input type="checkbox"/> Assistant public defender | <input type="checkbox"/> Victim | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Assistant district attorney (ADA) | <input type="checkbox"/> Victim's Advocate | |
| <input type="checkbox"/> Private attorneys (retained by defendant) | <input type="checkbox"/> Court Clerk | |
| <input type="checkbox"/> Other defense attorneys | <input type="checkbox"/> Court Officer | |

The judge:

- adequately explained the charges to each defendant
- answered defendant's questions regarding the charges
- appeared evenhanded in his or her handling of the parties in the case
- offered the services an interpreter for the next appearance if the defendant or alleged victim appeared not to understand English

Please note any cases in which the judge did not explain the charges or to a defendant or allow a defendant to be heard or in some cases the alleged victim to be heard during arraignment:

Bail

In each case, list the charge and note whether the judge set bail, released the defendants without setting bails or held the defendant in custody? When the defendant was released from jail were conditions set?

	Charge	Released or Held in Custody	Bail (Yes or No)	Bail Amount	Conditions Set (Yes or No)
Case #1					
Case #2					
Case #3					
Case #4					
Case #5					
Case #6					
Case #7					
Case #8					
Case #9					
Case #10					

Prior to setting bail, did the judge allow

- the defendant a chance to be heard?
- the defense attorney made a recommendation on the amount of bail?
- the ADA made a recommendation on the amount of bail?

Please note any cases in which an ADA or defense attorney to make a recommendation about the amount of bail or an unrepresented defendant or be heard on the issue of bail:

Issuance of Orders and Sanctions

Please check the appropriate box to indicate which if any orders were issued in cases observed today.

Case #	1	2	3	4	5	6	7	8	9	10
an Order of Protection with a Stay Away Provision										
an Order of Protection without a Stay Away Provision										
Modification of an Order of Protection										
No Order of Protection										
an Order to Remove the Defendant's Firearm										

Explanation of Orders

Did the judge:

- provide a reason for not issuing an order of protection (if an order of protection was not issued)
- clearly explain to each defendant the contents of the order for protection
- explain the consequences for violation of the order of protection
- allow the defendant and victim to ask him or her questions regarding the order

Please note any cases in which orders were not explained:

Sanctions for Violation of Court Order

Please check the box to indicate whether a sanction was imposed or not.

Case #	1	2	3	4	5	6	7	8	9	10
Imposed a Sanction										
Did Not Impose Sanction										

Support Services:

Did the judge generally refer the victim(s) to any local support services? _____

Were defendants referred to any services such as an offenders program? _____

Housing (Landlord/Tenant) Cases

In each case observed, please check the box to indicate that the landlord and/or the tenant were represented by an attorney. If either the landlord or tenant were not represented by an attorney leave the box blank.

Case #	1	2	3	4	5	6	7	8	9	10
Landlord										
Tenant										

Proceedings

Did the judge:

- clearly explain court procedures to litigants
- give each tenant or his/her attorney the opportunity to present his or her case
- give each landlord or his/her attorney the opportunity to present his or her case
- listen to arguments made by litigants not represented by attorneys
- allow litigants not represented by attorneys to ask questions about court procedure
- offered the services of an interpreter for the next appearance if a party appeared not to understand English

Please note any occurrences where one of the parties was not given an opportunity to present their case or ask questions:

Stipulations/Orders

The judge:

- explained the contents of each stipulation or order
- asked litigants if they understood the terms of each stipulation or order
- informed the parties that they did not have to agree to a stipulation but could go to trial
- explained the consequences of not adhering to a stipulation to litigants
- allowed litigants to ask him or her questions about orders
- answered litigant questions regarding stipulations or orders
- explained the 72-hour notice procedures when issuing order for warrant of eviction

Please note any occurrences where an order or stipulation or notice procedure was not explained:

Adjournments:

Please check the appropriate box and provide the reason for the adjournment if possible.

	Party Who Requested the Adjournment	Was the Adjournment Granted or Not Granted?	Reason For Adjournment*
Case #1	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #2	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #3	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #4	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #5	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #6	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #7	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #8	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #9	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	
Case #10	<input type="checkbox"/> Landlord/ Landlord's Attorney <input type="checkbox"/> Tenant/Tenant's Attorney	<input type="checkbox"/> Granted <input type="checkbox"/> Not Granted	

* Possible Reasons for the adjournments:

- Inspection requested
- To obtain assistance for emergency rent
- To prepare for trial or a hearing
- Tenant did not appear
- Landlord did not appear

How many of the cases observed were adjourned? _____

COURT FACILITIES

Was the court located in a building or location dedicated solely for use as a court?	Yes or No
Was there a waiting room, outside of the courtroom, for the public?	Yes or No
Did the courthouse appear accessible for disabled persons?	Yes or No
Was space allocated in the courthouse for private attorney-client conferencing?	Yes or No
Was there a restroom available for use by the public?	Yes or No
Were the court facilities such as waiting areas and hallways clean?	Yes or No
Were the court facilities well-maintained?	Yes or No
Was the restroom clean?	Yes or No

Security

Was there a magnetometer at the entrance to the court?	Yes or No
Was there sufficient/secure distance in the courtroom between the parties?	Yes or No

Signage

Was there a sign outside of the court?	Yes or No
Was there a sign or directory directing the public to the courtroom?	Yes or No
Were the signs legible and easy to understand?	Yes or No
Was the information provided by the signs accurate?	Yes or No
Were the signs in multi-lingual and/or in Braille?	Yes or No

Courtroom

Was adequate in size for the proceedings?	Yes or No
Did the courtroom have sufficient number of seats?	Yes or No
Was the courtroom well-maintained?	Yes or No
Was the courtroom clean?	Yes or No
Was there adequate lighting in the courtroom?	Yes or No

Parking

Was there public parking available at the court?	Yes or No
Were there a sufficient number of parking spaces?	Yes or No
Was there a fee for parking?	Yes or No

Technology

Were the proceedings being recorded?	Yes or No
Was there a computer in the courtroom that could be accessed by court personnel?	Yes or No
Did the court have the capacity to accept credit card payments for fines and fees?	Yes or No

Please make any additional comments regarding any aspect of the court facilities including any improvements to the facility that could be made (e.g. addition of a waiting areas, repairs, better maintenance or cleanliness, more lighting, better signage additional private space for attorney/client conferencing.)

General Observations Regarding the Court's Operations

Please comment on any issues or concerns related to **criminal proceedings** such that you observed today.

Please comment on any issues or concerns related to **domestic violence proceedings** that you observed today.

Please comment on any issues or concerns related to **housing proceedings** that you observed today.

Please comment on any issues or concerns related to other proceedings (**traffic, civil, ordinance violations**) that you observed today.

Based on your observations today, what was your **general impression of the court's operations** including the justice (for example, demeanor, professionalism, efficiency, control of the courtroom) and other court personnel?

Appendix II

Listing of Number of Observations

By Court

Courts Observed	Total Observations
Ballston Spa Village	5
Ballston Town	8
Charlton Town	2
Clifton Park Town	6
Corinth Town	3
Day Town	1
Edinburg Town	0
Galway Town	6
Greenfield Town	9
Hadley Town	4
Halfmoon Town	4
Malta Town	6
Milton Town	5
Moreau Town	4
Northumberland Town	1
Providence Town	1
Saratoga Town	2
Stillwater Town	4
Waterford Town	2
Wilton Town	1
TOTAL	74

Appendix III

Additional

Court Facilities Observations

Additional Observations on Court Facilities

Ballston Town

- The court facilities (2 years old) are extremely impressive. They are part of a government center in a totally rural area.
- There were very few cases heard tonight in this lovely big facility (quite a contrast with conditions in the Ballston Village Court).
- This part [the court facilities section] of the building is in the basement with a long hall leading to the courtroom with many side rooms available to the clients, etc. It feels very isolated although a security person was there.
- There was little space between the judge and defendant – that might be unsafe. (Ballston Town Court)

Ballston Spa Village

- The waiting room area is in a garage (former firehouse) with cold concrete floors, damp and cold.
- The waiting area was without amenities and had folding tables and chairs for those waiting to enter the courtroom.
- The courtroom is very stale – no windows, and much too small.
- This facility seems inadequate for the number of cases! It was very small and very rustic [The] waiting room looks like a garage. The courtroom is very crowded.
- The court is too small and awkward for defendants, prisoners, attorneys, and the public. It is stuffy and when the door is open it is noisy.
- The courtroom is so crowded that it created a very volatile situation despite the presence of police officers.
- Space for private attorney-client conferencing was apparently only for the ADA.
- There was no space for private meetings. The ADA met with defendants in a space which may have doubled as the judge's office.
- The public defender had a radiator for his files.
- The whole place is so cramped that it is very inconvenient for all. There is no privacy.
- The village may be poor but perhaps they could use some space in the County facilities.
- They [the court] are getting a grant for a PA system.

Charlton Town

- This is a small multi-purpose room in a small town hall.
- A new town hall is under construction.

Clifton Park Town

- A prisoner had to be brought in through the main courtroom entrance and then sit [in the courtroom] with a sheriff's officer close to him
- There was a requirement for sign-in [by litigants and other visitors to the court].
- The Public Defender meets at a desk in the court with the defendants- not private.

Corinth Town

- Tonight was the first night they were using the metal detector.

Day Town

- It was a pleasant all-purpose room.
- The town offices were used as conference rooms.

Galway Town

- The courtroom was very clean.
- The courtroom should be located in a larger room. There really wasn't room for anyone and there was a line of people outside of the courtroom waiting for their case to be called due to the lack of space.
- The court is in a space that leads to the town supervisor's [and] bookkeeper's offices and had no security. The front door of the Town Hall is open and anyone could walk in.
- They are working on getting credit card machines in the near future.

Greenfield Town

- Facilities were clean and modern.
- Facilities were very clean and attractive.
- On DA day, some people had to stand and the courtroom was too small to allow for adequate separation of parties. Courtroom size was adequate on other days.
- No security.
- I would be very concerned with a DV case here because of the lack of distance between parties (no distance) and zero security.
- An upgrade in security and separation of the parties would seem to be high priorities.
- The [court] expects to have recording equipment next week. Awaiting equipment from state in order to have the capacity for credit card payments.

Hadley Town

- The courtroom is divided into two sections. However, they are not really divided. They just have doors facing two different directions with two different judges.
- Judge Aldrich sat on a raised stage; the second judge was at a table in the rear of the room.
- A very noisy floor, poor acoustics and lots of tramping back and forth.

Halfmoon Town

- There was a sign at the beginning of the road telling people that court was on that road but no sign telling which building the court was in.
- The courtroom was spacious, well lit and somehow, subtly non-threatening.
- I felt fairly uncomfortable here because I was pretty much sitting right next to those who were in custody.
- I would suggest a better waiting area since I didn't see a substantial number of seats outside the courtroom.
- Halfmoon is building a new town hall so [in the future] this building will be [dedicated] to the court. They will then have the space that they need badly for private conferencing areas and waiting areas.

Malta Town

- When [the monitor] got into the town complex area, there was a tiny sign saying which way town court was. I didn't see a sign right in front of the building.
- The court was very small.
- The court needs microphones...needs quiet places for client/attorney consultations...needs a larger waiting area.
- Lack of waiting space resulted in some people not responding when called by ADA, Public Defender or clerk.

- Town [placed] town historian in court space which is too bad because that would have been a [attorney/client] counsel room.
- This courtroom has narrow aisle dividing the two seating sections in the courtroom.
- Security is provided more by the large number of police officers present for traffic cases than by layout or space in the court.
- The court permits the public defender to meet with his clients in a smaller file room but there is no private space for private attorneys to confer with their clients.
- The judge noted that they would be getting the capacity to accept credit cards but didn't have it now.

Moreau Town

- There are plans for a new court. They have a building but no funds to retrofit it. They definitely need a larger facility with additional space for conferencing and waiting areas.
- The court was very small and set back from the road. Easy to miss [from the road.]
- It was a courtroom and the sheriff sub station.
- Signs were hand-printed for bathrooms and directions to the courtroom.
- Incarcerated [detained defendants] had to stand first in the hall and then along the wall in court. Lawyers once in court had to stand as well.
- Restroom was clean but [with] no light.
- There was a very inadequate private conferencing room. Lawyers conferenced in the courtroom or the hallway. They also need more waiting areas.
- They have new laptop recording device provided by OCA.

Northumberland Town

- No road signs directing people to the court.

Providence Town

- Outside the room where the attorneys and defendants talked you could hear everything.

Saratoga Town

- Rooms for conferences served as town offices as well.
- There were 2 judges sitting at the bench with a court clerk between them with a computer. One judge had a mike which made it easier to hear what was going on. The other judge did not and it was almost impossible to hear what was happening.

Stillwater Town

- The courtroom needs better lighting, a better space for attorney client conferencing than a hallway, and better signage on the roads indicating that [where] there is a town court.
- There was no privacy [for conferencing], not enough room, and I couldn't hear anything.
- This court was slightly hard to find and there was no waiting area/consultation area.

Waterford Town

- Good space is provided for seating and attorney-client conferencing.
- Absolutely no signage [the monitor] just assumed it was in the police building.
- A good-sized room.

Wilton Town

- There were two judges in one courtroom with proceedings going on at the same time.

Appendix IV

Additional Observations

on Justice Courts Observed

Additional Observations on Justice Courts Observed

Ballston Spa Village Court

- A very busy court.
- This village court was as busy as many other [courts] but the space was small and everyone was spilling out into the waiting area.
- The judge and other personnel seemed to work well as a team considering the very crowded court and lengthy calendar.
- Without a P.A. system, it was very difficult to hear what was going on.
- The Public Defender had 7 cases that I heard, but many more coming up. Private attorney had 9 cases. One other assigned counsel [was present].
- Most [litigants] asked for adjournments and took pains to say why it was needed.
- Some of the defendants had multiple charges and some of those [charges] in other jurisdictions. The judge seemed handle to [these cases] well, but maybe there is a way for all to be in one court.
- DWI cases were discussed closely to see if assessments were completed or what was recommended treatment in another.
- The judge was very firm [with defendants] about respecting orders of protection and stay away [provisions].

Ballston Town Court

- The court needed more security but town has no police or a contract with a sheriff.
- Those pleading traffic tickets were very close to the judge as they leaned over a railing.
- Several (traffic) cases needed to be dismissed because a trooper [or other law enforcement officer] did not show up in court or had failed to file the necessary paperwork.
- There were about 10 other cases that did not show.
- The judge read each charge, asked if understood, [and] discussed options.
- It was at times difficult to hear the judge.
- The judge was in firm control.
- There were very few cases heard tonight in contrast to Ballston Village Court.

Charlton Town Court

- I saw a convicted sex offender come in and ask the court to request that Probation allow him to leave the area. The judge said it was not in his power to do that. The judge urged him to talk to his attorney.
- One man came in with several tickets from Charlton and Morrow and just wanted to pay as he was going to work for Corrections on Long Island. The judge spent lots of time urging him to get a lawyer as one charge was a misdemeanor. Finally he agreed and a [return court] date was set.
- Charlton is a very small town and the judge knew several of the people and seemed genuinely concerned with those who appeared before him.
- The judge had all the files in a box and the court is not computerized. If someone paid a fine, he wrote out the receipt and thanked him.

Clifton Park Town Court

- The court has a very busy calendar.

- It was a very busy day (40 cases) in Judge Hughes' court.
- Many cases were adjourned.
- [In house proceedings], the tenants simply did not show up.
- Occasionally, the judge forgot to announce the charges. However, the judge clearly stated what the defendants' rights were.
- The courtroom was noisy with side conversations of those waiting, or asst. public defender with clients or [other] attorneys and clients.
- It was hard to hear some lawyers and clients. When heat came on it was even harder to hear lawyers and defendants.
- The ADA, public defender and court officer call names of defendants whenever they are ready no matter what the judge is doing. It may happen that people miss these calls.
- This judge requires every person arrested for speeding whose plea is reduced to parking to take defense driving class.

Corinth Town Court

- There were about 25 people waiting to see one public defender. After they met with the public defender they would go before the judge. Because there was only one public defender, however, this took a bit of time.
- The judge requested that court monitors begin to wear identification badges.

Day Town Court

- Order was maintained.
- The judge had security for the first time in 8 years on the bench.
- It was hard to hear.
- The court clerk sat next to the judge and had some private discussions about payment with litigants and that was a disturbance [to the proceedings.] He could have been at a table in the back of the room.

Galway Town Court

- The judge kept the two cases moving...stayed to do paperwork until 10 pm.
- Things run very smoothly and efficiently. Both judges were professional and had good control of the room.

Greenfield Town Court

- A well-run court.
- During an arraignment, the defendant [who felt that he was charged with an inaccurate number of offenses] and had to ask what the exact charges were. His paperwork did not arrive from Corinth. He was sent back to Corinth and then returned.
- [The Judge] needs to take on a lot of roles herself which disrupts the fluidity of the courtroom.
- The judge maintained control of court well [but] the court lacked security.
- I would be very concerned with a DV case here because of the lack of distance between parties (no distance) and zero security.
- A private attorney admitted ignorance of ENCON law but entered into deal with ADA on client's behalf that the judge accepted. The attorney was not familiar with client either since client was not in court. The judge allowed this.
- The charges were not read aloud when private attorneys were present.

Hadley Town Court

- There were two judges hearing cases at once in the same room. Because it was so busy it was difficult to hear. It seemed a little disorienting since there weren't signs directing people where to go [to have their case heard].
- The courtroom is divided into two sections however they are not really divided. They just have doors facing different directions with different judges. Both judges see cases at the same time. It was very difficult to keep track of the cases.
- People were coming in and out of room; it was a little hectic.
- The judge was very professional and made sure people understood what was going on.
- He really seemed interested in having defendants follow up on getting an attorney.

Halfmoon Town Court

- I felt that the judge did not do a decent job explaining people's rights to them or answering their questions. He gave short vague answers even people expressed that they confused.
- All traffic court hearings were adjourned to future dates.
- All criminal cases were adjourned so [defendants] could get public defender.
- Court was noisy at times – it was difficult to hear much of the time. They didn't use microphones in the court and it was difficult to hear.

Malta Town Court

- The court was very small and noisy.
- The judge mumbled so much the people he was speaking to had to ask him to say things again.
- This court is very noisy with people talking in the hall and in the court.
- The public defender took all the people out of the room to discuss the cases before going in front of the judge, they then went up to the judge without any attorney. This was different than the procedure at the other courts I visited.
- The judge did ask each about ability to pay fines and said better to pay just a little rather than miss a payment as payment plan could be readjusted.
- The judge did ask about [litigant's] understanding the plea and told some that no points would go on the license or if the insurance company be informed if defendant was unsure of accepting the plea.
- Many on calendar did not show after names called.
- There were three cases that had to be adjourned for the same reason. The judge and public defender explained that a backlog was causing urine test results to get to the court [in] 90 days.
- In cases where DNA was involved, the judge did not set court date until the results came back as very slow.
- Judge Nichols runs an orderly court.
- Judge Nichols handled a large caseload efficiently while also taking time to listen to defendants and answer questions as they need arose.
- In one case, he (Judge Nichols) granted an adjournment to an elderly man when the public defender explained that the man didn't understand what was being offered and said he wanted time to come back with a family member.

- [One judge] threatened a young man with jail in order to force him to fill out his application to the public defender's office which he had neglected to do in the time given to him. (Malta Town Court)
- Proceedings seemed chaotic. Judge McKeivitt did not control the court room. Police, clerks and lawyer chatted during proceedings with each other [and] interrupted proceedings. People waiting also chatted. (Malta Town Court)
- Judge McKeivitt never informed as individuals or as group what the defendants' rights were. (Malta Town Court)
- The Malta Court was professional and efficient but very crowded and no one tried to stop people from conversing as they waited.
- PD and clerk called out names as other cases were being conducted by judge. [In a domestic violence case] a wife was withdrawing charges against her spouse but judge was careful to ask her if she understood the options. They had been to anger management class before he allowed her to drop charges.
- Most of the cases today were traffic matters. Most were speed[ing tickets] plea bargained down to lesser speeds or parking violations. Judge Nichols asked each defendant if they understood the offer ("Do you understand what they're doing for you here?"), what consequences would or would not result, and offered to give people time to pay the fine.

Milton Town Court

- The judge seemed ... was very intent on seeing "justice" done. He read rights on arraignment up front to everyone and then again with each case. Judge Calderon explained rights, answered questions and tried to make sure people understood the proceedings.
- In a case of trespass based on an information, the judge explained the defendant's rights and asked how he wished to proceed. The man said he didn't want counsel but would like to explain. The judge first said he couldn't hear an explanation if the plea was not guilty "only if you're pleading guilty can I hear explanations otherwise the [opposing] party has to be there.
- Judge Calderon told a young man that if he didn't qualify for the public defender he would probably want to get his own counsel for the charges.
- It concerns me that so many people do not want to accept the help of the public defender. Many people state that they are not financially equipped to hire a private attorney yet also say they are not interested in applying for the public defender.
- The tenor of the proceedings while informal was orderly.
- The judge speaks so low that no one can understand what happens to others except for their own case.

Moreau Town Court

- Very orderly, well-run busy court.
- The whole operation ran smoothly, professionally, and as efficiently as a large and disparate case load would allow.
- Well organized court. The clerks were extremely efficient.
- Today was a huge caseload which went at least to lunch. The judge heard more than 20 cases in 2 ½ hours.
- The judge explained again and again. He made sure that each defendant understood the ramifications of his/her answer and pled correctly.
- One defendant became agitated and verbally defiant and there was no court officer.

- Large number of adjournments, many for incarcerated defendants being transported for 3rd or 4th time [because] there was not enough room in holding pen for all of them.
- Mother and grandmother of victim [DV case] in court were consulted after sentence passed to make sure they could take the order to victim.
- Traffic officers took out the people [who accepted a] plea bargain prior to beginning of traffic proceedings.

Northumberland Town Court

- Overall professional and efficient [but] only one of the judges was audible though.
- #### **Providence Town Court**
- The general setup seemed fairly informal but everyone conducted themselves professionally.

Saratoga Town Court

- Courtroom was crowded but well organized. Space was available for all officers and attendees.
- There were lengthy periods of waiting. The judges sat and waited for attorneys to show up.
- Audience became very restless but no one called court to order.
- Judges sat at same bench and [heard] cases simultaneously. It very disorienting to watch both [proceedings] at once but the judges seemed quite at ease with the procedure.

Stillwater Town Court

- However, he [the judge] spoke in a whisper. It was very difficult to follow what he said. If he was trying to give people privacy while sentencing he did a good job.
- Good security measures were taken.
- The court was slightly hard to find, and there was no waiting area/consultation area.
- The judge did not read charges out loud so I could not hear [what the charges were] in most cases
- It was much easier to hear this time. The judge spoke louder and kept better control over the courtroom.

Waterford Town Court

- Two judges [were] operating simultaneously.
- The courts' operations were very efficient. Everyone was seen in a timely manner.
- Again, the judges weren't very loud when speaking so even in the front row it was hard to hear it all.

Wilton Town Court

- Practically all were some type of traffic ticket and in many cases had been plea bargained from moving to stationary violations. If the ADA had not acted, the judge asked the defendant if he or she wanted an adjournment so the DA's office could look at case. The procedures were very quick, but judge asked repeatedly about understanding and accepting a plea bargain. When fines and surcharges stated, the judge gave people plenty of time to pay.
- Having two courts in one room seemed to work, but [the proceedings in one court] were not audible to the [other] court other than the name called.

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