



Report on the Saratoga County Court

The Capital District Court Monitors

2004

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

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

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

The centerpiece of Modern Courts' efforts is our groundbreaking citizen court monitoring program, which gives citizens a powerful voice in how their court system is run. Our monitors, who now number more than 600 in over a dozen counties throughout New York State, have succeeded in obtaining numerous tangible improvements in the state's courts. This report details the findings of our citizen court monitors regarding the Saratoga County Court. We hope their recommendations will help to obtain improvements for the residents of Saratoga County that the court serves.

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TABLE OF CONTENTS

I. THE PROJECT 2
 Court Monitoring in New York State..... 2
 The Capital District Court Monitors 3

II. THE COUNTY COURT: SARATOGA COUNTY..... 4
 The Population It Serves: Saratoga County..... 4
 Caseload..... 4
 County Court Judges 5
 Appeals Process 5

III. THE JUDGE..... 6
 Hon. Jerry J. Scarano..... 6

IV. ATTORNEYS..... 9

V. JURORS..... 10

VI. NON-JUDICIAL COURT PERSONNEL..... 10

VII. OPERATIONS..... 11
 Delays and Adjournments 11
 Audibility..... 11
 Technology and Equipment Upgrades 11

X. FACILITIES..... 12

XI. RECOMMENDATIONS 14

ACKNOWLEDGMENTS..... 16

THE CAPITAL DISTRICT COURT MONITORS..... 17

I. THE PROJECT

Court Monitoring in New York State

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

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

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

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

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

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

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

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

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

The Capital District Court Monitors

The Capital District Court Monitors are a group of local volunteers who observe and report on courts in Albany, Rensselaer, Saratoga and Schenectady Counties. In 2003, the Capital District Court Monitors evaluated proceedings in the Saratoga County Court, including proceedings in its Drug Treatment Court, where non-violent addicted offenders are given the option of entering voluntarily into court-supervised treatment in return for a promise of a reduced sentence. During this project, Judge Jerry J. Scarano was the sole full-time County Court Judge.

On April 29, 2003, Helga A. Schroeter, the former Capital District Coordinator, held an orientation at the Saratoga County Courthouse for this monitoring project. Saratoga County Court Judge Jerry Scarano, Saratoga County's District Attorney James Murphy, Public Defender John H. Ciulla Jr., and Commissioner of Jurors Gayle E. Gavin, gave presentations to the monitors on their respective roles in the County Court. Kim Robinson, Modern Courts Director of Court Monitoring, instructed the observers on monitoring procedures and distributed criminal court monitoring handbooks and monitoring forms. The orientation concluded with a tour of the entire courthouse.

From May 2003 to September 2003, fifteen volunteer monitors observed proceedings fifty-eight times in the County Court. During the course of the monitoring, Ms. Schroeter held two additional meetings with the monitors, one midway through the project and the other at the conclusion, which served as an opportunity for monitors to share their observations, ask questions that arose while monitoring the court, and to collect the monitoring forms. The feedback from these meetings coupled with the written observations of the monitors served as the basis for the finding, and recommendations found in this report.

II. The County Court: Saratoga

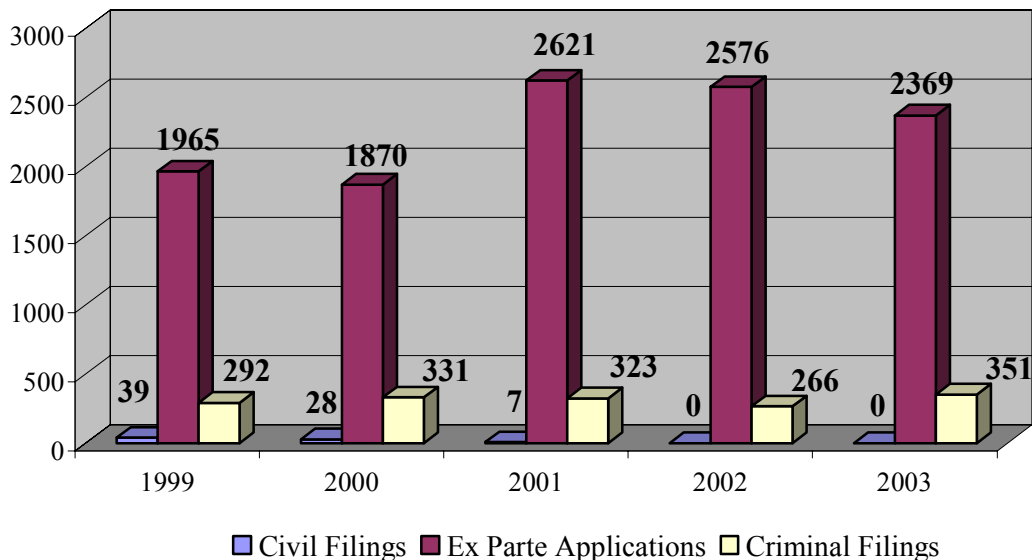
In New York, each county (excluding the five counties of New York City) has a County Court that hears felonies (criminal offenses punishable by a fine of \$1,000 or more, or by more than one year in prison). The County Court also has jurisdiction over civil cases involving amounts up to \$25,000.

The Population Served: Saratoga County

Saratoga County is part of the four-county region, including Albany, Rensselaer, and Schenectady, loosely identified as New York's "Capital District." Saratoga County is bordered on the south by Albany County, home of New York's capital city. It has a geographic area of 812 square miles. Ballston Spa serves as the county seat. As of the 2000 US census, the county's population was 200,635 which represents a substantial increase from the 1990 census figure of 181,276.

Caseload

Saratoga County Court Filings by Type (1999-2003)



Over the five year period of 1999 to 2003, the Saratoga County Court caseload varied, due to a fluctuation in the number of criminal filings and ex parte applications. The greatest number of criminal filings (351) occurred in 2003, the year this project was conducted. This represented an approximate 32% increase over the number of criminal filings (266) in 2002. Ex parte applications, where one party is seeking temporary or emergency relief such as an injunction without notice to an opposing or adversely affected

party, account for the greatest proportion of filings in the County Court. After reaching a high of 2,621 in 2001, ex parte applications declined in the subsequent two years. In 2003, the year of this project, there were 2,369 ex parte applications.

Interestingly, from 1999 to 2003, civil filings have steadily declined. The greatest number of civil filings (39) occurred in 1999, followed by no filings in the past two years. In 2002, combined filings were the lowest overall for the entire five year period (1999-2003).

County Court Judges

Eligibility: A County Court judge must be an attorney admitted to the bar for at least five years before assuming office, and must be a resident of the county that the judge serves.

Method of Selection: All County Court judges are nominated in county-wide, partisan primary elections, and then are elected in a county-wide general election.

Tenure: County Court judges serve ten-year terms. If a judge is unable to complete a term, the governor appoints an interim judge to fill the vacancy until the next general election. County Court judges may serve until a mandatory retirement age of 70.

Judicial Salaries: County Court judges' salaries range from \$119,800 to \$136,700 depending on which county they serve. In Saratoga County, the county court judge earns a salary of \$119,800.

Appeals Process

An appeal from the County Court is heard in the Appellate Division of the Supreme Court. Further appeals are brought before the Court of Appeals, New York State's court of last resort.

III. THE JUDGE

The following are the monitors' evaluations of Judge Jerry J. Scarano, the sole full-time judge of the County Court. The monitors evaluated the judge based on his demeanor, professionalism, command of the courtroom, and audibility, among other factors, when handling both his general caseload and the caseload in the specialized drug court. Monitors did not evaluate the judge's legal knowledge or rulings.

Judge Scarano was observed by 15 different monitors on 37 different days during the project.

Hon. Jerry J. Scarano

Judge Jerry J. Scarano is a graduate of St. Bonaventure University and Suffolk University Law School. From 1969 to 1977, he was in private practice in Saratoga Springs. He served as an Assistant District Attorney for Saratoga County from 1977 to 1987 and as First Assistant District Attorney from 1987 to 1994. In addition, he was the Town Attorney for the Town of Wilton from 1978 to 1994. In 1993, he was elected to sit in the Saratoga County Court.

Demeanor

Monitors described Judge Scarano as "patient" and "respectful" "while maintaining a no-nonsense," "businesslike" attitude. One monitor gave him an "A+" for his demeanor, while another summed up her feelings as follows: "I was most impressed with Judge Scarano. He was unfailingly polite to all [and] seemed unhurried." One observer described Judge Scarano as "firm yet fatherly toward young defendants, encouraging them to mend their ways and remain aware of the consequences of future transgressions."

However, one monitor described a proceeding where Judge Scarano seemed "agitated." "He got highly excited at one defendant who would not speak up and seemed to contradict what his lawyer was presenting. He delayed the proceeding until it was straightened out."

In regards to his manner when interacting with attorneys, one monitor said: "Judge Scarano listened attentively and thoughtfully to attorneys as they made their presentations. Once he had heard what attorneys had to say however, he gave his rulings quickly and concisely."

In Drug Treatment Court, Judge Scarano was generally praised for his "relaxed," "patient," but "firm" demeanor while conducting proceedings. The monitors noted that Judge Scarano was quick to offer praise and encouragement to the defendants appearing before him, as well as an interest in their everyday lives. In the words of one monitor: "The judge is concerned with all aspects of the defendant's case: treatment, restitution, housing,

family and social relationships, medication, support systems, anger issues, testing and visitation of children.” Another monitor noted, “Judge Scarano’s [interactions] with people in treatment court are impressive. It is clear that he works closely with the treatment court personnel and is well informed about each case. He is very good at dealing with participants; putting them at ease, eliciting information about their progress, and setting clear guidelines for what is expected of them.” Yet another observer noted, “Defendants seem to relate well to the judge and have confidence in his judgment.”

Several monitors noted a contrast between Judge Scarano’s demeanor in the Drug Court and his demeanor in other County Court proceedings. One approvingly noted that he had a “much more humane approach in Drug Court, asking lots of questions about how things are going for each individual, and giving fatherly advice.” Another monitor said that the judge sounded more like a social worker than a judge.

Professionalism

Monitors generally observed that Judge Scarano was thorough when explaining rights and responsibilities to defendants. One monitor noted, he “took care to [e]nsure that each defendant understood what he or she was agreeing to.” Another observed, “ Judge Scarano generally appears thoughtful and seems thorough in his hearing of cases.” One monitor wrote, Judge Scarano “is very thorough in advising defendants of their rights and of the right[s] that they give up by entering into a plea bargain. Although he actually says the same thing to every defendant, he says it slowly and clearly and makes it seem that he is explaining it to that defendant personally. He asks every defendant who pleads guilty to tell what they did in their own words.”

However, One monitor found that the judge’s thoroughness differed somewhat with different cases. This monitor said: “In one case, he took pains to be sure the defendant understood conditions. In another case, he was especially accommodating [to] one woman [who] was represented by her father who was not an attorney. In the remainder of cases, he seemed to rush. He asked for summary only-no details, and disposed of cases quickly.” This monitor was unsure whether the defendants appearing before Judge Scarano that day understood the results of pleading guilty.

Monitors also commented that Judge Scarano used the court’s time efficiently, without appearing to rush. In addition, monitors noted that he appeared objective and often explained things in layman’s terms.

In the Drug Treatment Court, the monitors described Judge Scarano as very professional. They noted that his questions and explanations were clear and thorough, and that his rulings appeared to be objective. One monitor commented, “His professionalism was always there. He had done his homework and rarely referred to his notes. He knew each person’s history.” Another monitor summed it up as follows: “I was impressed with Judge Scarano’s performance in treatment court. He was clearly well informed about addiction and recovery, knowledgeable about what issues needed to be addressed and how to do so effectively.”

Command of the Courtroom

Monitors found that Judge Scarano had good command of the courtroom. Monitors observed that “Judge Scarano’s courtroom [was] an orderly one,” and noted that he was clearly “in charge.” but “allowed participants to speak when they had an idea or relevant comments.” Another monitor, who observed Judge Scarano in a matrimonial trial, stated: “He exerted control effectively by intervening a number of times to ask clarifying questions or question relevance, and on one occasion by admonishing attorney behavior.” Yet another observer commented, “People seem to understand what he expects without him having to demand order.”

Audibility

The monitors found that Judge Scarano was “audible” most, if not, all of the time. However, they also noted that although the proceedings were generally audible, it was considerably more difficult to hear the judge on hot days when either the fan or the air-conditioner was in use. Many commented that other parties, including defendants, could not always be clearly heard, especially since these parties were often facing the judge and their backs were to the monitors and other courtroom attendees.

IV. ATTORNEYS

During the course of the project, monitors observed a variety of attorneys at work in the County Court, including assistant district attorneys (ADAs), public defenders, and attorneys in private practice. When evaluating these attorneys, monitors considered their treatment of litigants and others, including the judge in the courtroom, and their level of preparation.

Overall, monitors found that attorneys they observed were “competent,” “courteous,” and “respectful” of their clients and the judge. Monitors specifically praised Mr. Ciulla of the Saratoga County Public Defender’s Office who was described as “thorough” and “well-prepared” by several monitors. The ADAs as a group received praise for their “professionalism” and defense attorneys for making an effort to “explain things” to defendants.

In the drug treatment court, the monitors reported that attorneys were present, but in most cases, had a limited role in the proceedings compared with treatment court staff. One monitor, however, commented that during treatment court proceedings, Mr. Kopack from the DA’s office and Mr. Martineau from the Public Defender’s Office “showed themselves to be well informed about participants’ situations and progress” and “showed great flexibility in being able to forgo the traditional adversary roles and work together...to guide and support the progress of the participants.”

Monitors questioned the level of preparation by attorneys on several occasions. On one occasion, a monitor observed that an attorney failed to appear, resulting in “the court date [being] rescheduled.” On another occasion, during the course of a matrimonial trial, one of the litigants’ attorneys carried a box full of evidence into the courtroom but seemed unsure of what was in the box. One monitor observed, in regards to another case, “The constant fumbling of paperwork for required forms to be signed gives indication of unpreparedness, although this is probably not true.” On yet another occasion, proceedings were delayed because the defendant had not seen the conditions of probation ahead of time. During a sentencing proceeding, one public defender didn’t appear to have explained things clearly ahead of time, and a recess was necessary for this purpose.

Although most monitors indicated that the attorneys were audible, several commented that they occasionally had difficulty hearing some of them who spoke too softly or were drowned out by noise in the courtroom.

V. JURORS

Of the fifteen monitors participating in this project, only five had the opportunity to observe a jury trial. Four out of the five monitors felt that the jury was “alert” during the proceedings and that their time was used efficiently in court. One monitor disagreed and indicated that one juror seemed inattentive during the trial and that no one pointed this out or seemed to notice. All monitors agreed that the judge and other court personnel treated the jurors and prospective jurors courteously.

VI. NON-JUDICIAL COURT PERSONNEL

Non-judicial court personnel have a significant impact on the public’s perception of the courts, as well as on the quality of justice that is dispensed. In most courtrooms, court clerks, court officers, and sometimes a court reporter may be present. Litigants often encounter these people outside the courtroom environment, during intake, while waiting for cases to be called, or while arranging for support or other services.

Monitors observed a host of non-judicial court personnel, from court officers stationed at the entrance of the courthouse or in the courtrooms, to court clerks, court reporters, and interpreters.

Monitors uniformly reported that court personnel were pleasant, courteous and helpful. One monitor observed, “Court personnel were helpful and informative.” This monitor specifically praised the court officers for “contribut[ing] to the sense of the court being under control and secure.” Another observed: “There is always an abundance of court personnel around, especially court officers. Everyone is polite and willing to answer questions.” However, one monitor noted, “One court officer was dozing at one point [during] a trial.”

Foreign language and American Sign Language interpreters were rarely needed to translate court proceedings in the Saratoga County Court. However, the monitors noted that when needed, interpreters were available for litigants who did not speak English or who were hearing-impaired. One monitor observed a court session during which an interpreter was needed in two cases. The monitor felt that the interpreter “did a good job” in both cases.

VII. OPERATIONS

Delays and Adjournments

Overall, the monitors found the proceedings moved forward smoothly with few delays. Where delays were noted, they were brief and often were due to the fact that the court was waiting for defendants to be produced by the Sheriff's Department. Other causes cited were: paperwork missing from files, paperwork needed to be completed once terms were agreed upon, conference between DA and defendants' attorneys, and meetings in chambers.

Several monitors noted that the judge often had to "allow 8 weeks for the pre-sentence investigation to be completed" by the Probation Department which delayed the judge's sentencing. This monitor suggested that staffing levels at the Saratoga County Probation Department needed to be increased in order to ensure swifter preparation of the pre-sentencing report.

Audibility of Proceedings

Many of the monitors found proceedings to be audible "most of the time." Also, while they found the judge to be audible nearly all of the time, they found that the litigants and attorneys were not always easily heard especially when they were addressing the judge. Monitors noted that microphones for amplification purposes were not always available. Uniformly, monitors had difficulty hearing the proceedings when the air-conditioning system was in use. For this reason, the judge frequently requested that the system be shut down during a trial unless the heat was extreme.

Technology and Equipment Upgrades

Many of the monitors noted that the ventilation system was a major problem. When the air conditioning was in use, proceedings were difficult to hear, and when it was shut off, the room became hot, stuffy, and uncomfortable. As one monitor described it: "Some change should be made to the ventilation system so that the court didn't have to choose between having air or audibility." Monitors also thought that audibility could be greatly improved with a non-directional sound system or microphones.

VIII. FACILITIES

The Saratoga County Court is located within a five-building county office complex in Ballston Spa. The County Courthouse is accessible for disabled persons, and the monitors found the parking facilities to be excellent, with ample spaces for those with mobility disabilities. However, monitors did observe that while there were many parking spaces for those with handicaps, there were no signs from the parking lot indicating where the entrance was located.

Monitors described the court facility as “modern, clean and well lighted,” and “well maintained with a spacious entrance hall.” The only part of the facility that appeared to monitors to be unclean and in disrepair was a small courtyard, which was described as “unsightly” and “deteriorating” and in need of some maintenance. Several monitors felt that the courthouse needed better signage including a sign outside indicating that the County Court was housed inside the building.

Monitors noted that office space was at a premium, with the staff crowded into small office areas with inadequate storage facilities. They also noted that while the waiting area was spacious, there were “few chairs” or benches and no private areas available for confidential attorney/client consultations. Many monitors noted that these meetings often took place in the jury room when it was available, but more frequently in the hallway, with attorneys and their clients leaning up against the walls.

Monitors found that the public restrooms were well maintained and accessible for disabled users. One monitor noted, however, that the ladies room had only one stall and nowhere to set papers. There was also no diaper changing area in this restroom. Several monitors also observed that there was no drinking fountain on the main floor.

The monitors found the county courtroom to be large, clean and in good repair. There was a difference of opinion among the monitors regarding the lighting in the courtroom. Many noted the lack of windows with some describing it as “gloomy,” “dim” or like a “dark hole”. Some monitors also found the seating in the courtroom to be uncomfortable, and the signage within the courthouse to be inadequate.

As previously noted, many monitors observed that the ventilation system in the courtroom was poor, and the air-conditioner and fan were “noisy;” which “made the proceedings hard to hear.” Several also noted that when the air-conditioner “is turned off the room becomes stuffy.”

Access for the Disabled

Monitors observed that while the courthouse was accessible to disabled persons, the courtroom itself was not. It was noted that one needed to step down to approach the judge’s bench, and there were also one or two steps down to the prosecution and defense tables. Monitors thought that these obstacles might prevent a wheelchair bound attorney

or witness from participating in the proceedings. One monitor also observed that there were inadequate accommodations for someone in a wheelchair to serve as a juror in the juror box.

IX. RECOMMENDATIONS

1. Saratoga County should take steps to make the courthouse more accessible to the public.

Monitors reported a lack of clear signage inside and outside the courthouse. While the courthouse is accessible to disabled persons, it is difficult to figure out how to access the building from the parking area. The monitors urge the County to improve the signage, provide better and more visible directions from the parking area to the courthouse. The courtyard outside of the courthouse could also benefit from additional maintenance and landscaping. Inside the County Court, the monitors urge that additional signs indicating the locations of various rooms should be located in central and visible locations.

2. Saratoga County should address the court's growing space needs.

Monitors consistently cited a lack of conferencing space for confidential meetings between attorneys and clients as well as inadequate office space for staff and storage. While there is a large and spacious lobby/waiting area, much of the space is unusable due to an expanded ceiling and there is insufficient seating in the waiting area. The monitors urge the County to consider expanding the second floor of the courthouse to create more office space and other possible alternatives to meet the growing space needs of the facility.

3. Saratoga County should take steps to ensure that the public hears all proceedings.

The monitors found it difficult for the public to hear all proceedings for two main reasons: Many attorneys and defendants could not be heard because microphones for amplification purposes were often not available. Some monitors suggested that acoustics could be greatly improved with the installation of a sound system. The other major impediment to the audibility of proceedings was the ventilation system. Monitors noted that the system was extremely noisy, and had to be shut off so that proceedings could be heard. When it was turned off, however, the room became stuffy and uncomfortable. Monitors urge the County to examine ways to improve the ventilation system so that both comfort and audibility may be maintained in the courtroom.

4. The County of Saratoga should evaluate staffing levels at the Department of Probation and increase them if warranted.

Several monitors noted that typically there was a delay of eight weeks for the sentencing of defendants because the Probation Department required 8 weeks to complete pre-sentencing investigations. The monitors recommended that the adequacy of staffing at the Probation Department be examined, and that staffing levels be increased if

warranted. Monitors felt that such an examination would result in the improvement in the administration of justice.

ACKNOWLEDGEMENTS

The Capital District Court Monitors and the Fund for Modern Courts wish to thank Judge Jerry J. Scarano for his cooperation during this project. He permitted extraordinary access to County Court and Drug Court proceedings and readily answered monitors' questions. We are grateful to him and to his staff for their assistance. Very special thanks to Chief Clerk Carolyn Hall and Judge Scarano's law clerk Susan Fitzsimmons for their assistance and availability throughout the course of this project.

Special thanks to Saratoga County's District Attorney James Murphy, Public Defender John H. Ciullo, and Commissioner of Jurors Gayle E. Gavin for their willingness to answer questions and provide information during the orientation.

Modern Courts owes particular gratitude to Helga Schroeter, who coordinated the project, and to the monitors themselves. Without their dedication, this report would not have been possible. Their willingness to volunteer their time and efforts helps to improve New York's courts for the public as a whole.

Modern Courts Capital District Director Anne Marie Couser wrote this report with editorial assistance from Court Monitoring Director Kimyetta R. Robinson and the monitors.

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