

JOINT LEGISLATIVE HEARING ON THE 2014-2015 JUDICIARY BUDGET

REMARKS OF CHIEF ADMINISTRATIVE JUDGE A. GAIL PRUDENTI

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Good morning Chairpersons DeFrancisco, Farrell, Bonacic and Weinstein, committee members, staff, ladies and gentlemen.

I am delighted to be here, my third appearance before you, to discuss the Judiciary's budget request for the coming fiscal year. I very much appreciate the opportunity that I have had to meet with so many of you over the past two years and to work with you on issues that matter so much to you and to us. I look forward to continuing that conversation here today.

In my first two appearances before you I presented flat budget requests. But this year is different – must be different – and I am here to present the case for increased funding for the New York courts.

Today I want to talk about the efficiencies, innovations, and other good things that we have done over the past years as we have sought ways to do more with less, and to work more effectively. But I also need to tell you about the negative impacts of years of flat budgets, impacts that are felt every day by the people of New York who come to the courts seeking justice. And I'm going to talk about what we will do with the requested funding, to better serve the people of New York and to meet our constitutional mission.

There can be no doubt that the Judiciary has shown itself to be a good partner with the Executive and Legislative Branches in addressing the State's fiscal crisis. In the current fiscal year, the court system has \$22 million less General Fund cash to support court operations than it did five years ago. In the face of this declining funding, the

Judiciary has absorbed more than \$300 million in increased costs, for expenses such as mandated salary increments for nonjudicial employees and mandated increased funding for indigent criminal defense.

Absorbing these increased costs within zero-growth budgets has not been easy, but we have seized upon this challenge as an opportunity to rethink the way that we go about our business, and find ways not just to save money, but to work better and smarter. We streamlined administration, reorganized and consolidated offices and programs that provide services to the courts and the public, eliminated or reduced programs that are not critical to the courts' core mission, modified court operations, and cut all but essential expenditures. I am proud of all we have accomplished:

- We have expanded electronic filing. E-filing offers significant savings and convenience not only to the courts, but also to the County Clerks, attorneys and litigants.
- We continue to seek better ways to use automation to improve efficiency and reduce costs through initiatives such as the inter-agency electronic transmission of data. For example, we have enhanced the automation and quality of the data collected by the court system and electronically transmitted to Division of Criminal Justice Services and the FBI for the national firearms registry and implementation of the New York State SAFE Act.
- The court system operates its own phone system, using Internet Protocol telephones that operate over the court system's own data network. As a

result, we have sharply reduced our communication expenses by virtually eliminating monthly telephone charges.

- We have cut expenditures for print legal materials in favor of on-line materials that are available under flat-rate agreements with legal publishers.
- Web-based training for Judges and court personnel has made our training program more accessible, while sharply reducing its cost.
- Regional centers for the scanning and printing of millions of juror qualification questionnaires and summonses save equipment costs and reduce the burden on local commissioners of juror offices.
- A new, simple automated program is now assisting advocates prepare Family Offense petitions on behalf of domestic violence victims. This same technology will soon be used to help litigants prepare thousands of Family Court petitions, enhancing our service to self-represented litigants while significantly reducing the burdens on Family Court staff.
- When completed later this year, automation of the transfer of probation cases between counties will save the courts the time and expense of printing, mailing, and storing multiple copies of case files for more than 10,000 probation transfer cases each year.
- An automated real-time system for tracking the efficiency of the arraignment process in New York City helps ensure compliance with legal time requirements.
- We established an official electronic records repository that enables courts to more easily access records and to destroy paper records, thus reducing

the expense of storing paper files or creating microfiche records for records retention purposes.

- The close monitoring of jurors helps to reduce per diem juror fees, as well as to ensure that jurors are not called for service when it is unlikely that they will be needed.
- We launched a new web site that permits the public to easily order a criminal history search, providing greater service to the public while reducing the administrative costs of running this program, which annually collects more than \$92 million for the State Treasury.
- We enhanced controls in the attorney for the child voucher system to improve the accuracy of billing and payments in this \$50 million a year program.
- We continue to update and improve our various automated case management systems, thereby enhancing the efficiency and accuracy of information, reducing the need for data entry by court staff, and eliminating the use of paper. The Surrogate Court case management system, for example, has now been fully implemented statewide, as has an updated and enhanced Family Court system; we are beginning implementation of the new Criminal Court case management system.
- We have also reorganized the Office of Court Administration. A key component of this reorganization has been an effort to take full advantage of the State Comptroller's new financial management system, which streamlines and expedites processes, eliminates paper, and reduces the

numbers of employees involved in each transaction. As a result of this reorganization, we have been able to reassign a number of OCA employees to the trial courts.

These and other initiatives have made the court system more efficient and effective, while also reducing expenses. However, they have not been enough to generate all of the savings needed to live within flat budgets. Because the vast majority of the Judiciary budget is for salaries and other costs directly related to personnel, a reduction in the workforce has also been a central factor in controlling costs. Over the past five years, as a result of participation in the Early Retirement Incentive Program, targeted layoffs, a hiring freeze, and other measures, the nonjudicial workforce of the court system has been reduced by more than 1,900 employees. Our current staffing is the lowest it has been in more than a decade, in the face of a staggering workload of more than four million new cases a year.

Our ongoing, top-to-bottom review and rethinking of court operations has accomplished much, increasing efficiencies, improving processes, and creating more effective ways of serving the public. But the austere budgets of the past few years have also exacted a toll:

- The substantial reduction in our workforce has depleted back-office staff, with resulting delays in processing court documents, causing a delay in the disposition of cases.
- In many courthouses, the loss of court officers and other courtroom staff has made it increasingly difficult to staff all court parts.

- Back-office employees have at times been redeployed to courtroom duties, causing further delay in the processing of documents, or officers and courtroom clerks are shared between courtrooms, causing delays in the opening of court parts until the required courtroom team is assembled.
- Reduced staffing is causing delays in trials and in deciding motions.
- The increasing need to redeploy staff between different offices and functions has made the need for training especially critical, exactly at the time that the reduced staffing makes training more difficult.
- Also, mid and upper-level court managers, reduced in numbers, have been diverted from their administrative and oversight duties to critical front-line tasks directly serving the public.
- The 4:30 courtroom closing time, adopted as an important (albeit flexible) overtime control measure, has prompted complaints from members of the bar and the public.
- And, while not yet a crisis, the loss of court officers significantly affects the timely delivery of prisoners to courtrooms and raises serious concerns about safety in our courthouses, especially in light of such incidences as the fatal shooting at the Middletown Courthouse in 2012.

That five years of flat budgets has not exacted a higher toll is a testament to our judges and nonjudicial employees who, in the face of an overwhelming workload and reductions in personnel and resources, have redoubled their efforts and are working harder than ever. We have, however, reached a crossroad. We simply cannot fulfill our duty to

the people of New York with another budget that is premised upon attrition, and that requires that we continue to reduce our workforce.

In the coming fiscal year, the Judiciary again faces significant cost increases, including a \$17 million increase in funding for the final year of the phase-in of statutorily mandated indigent criminal defense standards, and \$17.5 million for mandated salary increments for represented nonjudicial employees. The Judiciary simply cannot, as it has for over the past years, absorb these increased costs with no additional funding and still meet its constitutional mission.

For that reason, the Judiciary is requesting an increase in its budget. This budget seeks cash funding of \$1.81 billion for General Fund State Operations to support court operations. This request represents an increase of \$44.2 million, or 2.5 percent, exclusive of the \$5 million that we are requesting to support the creation of 20 new Family Court judgeships.¹

Our request for additional funding in no way signals the end of the Judiciary's commitment to seek further efficiencies, savings, and improvements in our service to the public. That commitment is steadfast and ongoing. Our budget request, along with further savings that we are committed to find, will allow us to meet the new costs that we face, and continue to fulfill our duty to the people of New York, as well as to avoid further reduction in service to the public and to mitigate some of the negative impacts that have resulted from the series of no-growth budgets of recent years.

¹The General Fund appropriation request associated with the requested increase in cash is \$1.82 billion, which represents a \$63 million, or 3.6 percent, increase. The increase in the appropriation request is slightly higher than the increase in the cash request because of technical reasons that relate to the use of reappropriations to pay for the first two years of the judicial salary increase. The cash increase, rather than the appropriation request, is the true measure of the actual cost of the year-to-year increase sought by the Judiciary.

In contrast to the recent budgets, the requested budget is not premised on the need to further reduce the already depleted workforce of the courts. The courts would be able to maintain their current staffing levels, and, in addition, to fill a limited number of positions that are essential to operations. The requested funds will also be used to ensure that courtrooms can remain open to the public until 5 pm each day, avoiding inconvenience and disruption to jury trials and other court proceedings.

This budget also provides \$15 million in additional funding for civil legal services, to help ensure equal justice to the millions of litigants who appear each year without counsel in eviction, domestic violence, consumer debt, and other cases involving the essentials of life. Legal representation in foreclosure cases continues as a major concern, especially in light of the dramatic increase in filings this year. Not only does the lack of representation in these cases impose a profound human and social toll on the most vulnerable New Yorkers, but our judges bear significant additional burdens, including more and longer court appearances, when they hear cases in which a party is not represented. The result is delay and inefficiency, as well as increased costs, both to the court system and to represented parties. These additional funds for civil legal services are also a sound investment: for every dollar invested in civil legal services there is a return of six dollars in economic benefit to the State of New York in terms of reduced social services and other public expenses.²

Finally, the Judiciary budget addresses the critical and widely recognized need for additional Family Court Judges. Over the past three decades, the caseload of the Family

²See The Task Force to Expand Civil Legal Services in New York, Report to the Chief Judge of the State of New York, November 2012.

Court has nearly doubled, from 366,000 filings a year in 1983 to more than 698,000 today. This shocking statistic does not tell the whole story – over the years new statutory requirements, such as database checks in custody and visitation cases and a mandated increase in hearings in permanency cases, have greatly increased the time and resources required by each case.

Over the past 30 years, while filings have increased by 90 percent, few new Family Court judgeships have been established. None have been created in New York City since 1990, and only one was created anywhere in the State in the last decade (Orange County in 2005). Each and every day our Family Court Judges make extraordinary efforts to give each family the time and attention that these difficult cases deserve. We have also attempted to handle the heavy, and demanding, workload of this Court by assigning quasi-judicial staff to hear certain types of cases. This temporary remedy is no longer sustainable: it is time to do right by the families in crisis that come to this court. Therefore, this budget provides funding for 20 Family Court judgeships, to be established effective January 1, 2015. In recognition of the constitutional authority of the other branches in establishing new judgeships, the funding for these judgeships is included as a supplemental appropriation, in addition to the 2.5 percent increase discussed above. Over the coming months we look forward to working with you to discuss where these new judgeships are most critically needed.

It has now been just over two years that I have served as the Chief Administrative Judge. As I said when I was here last year, this has been the most challenging position I have held in more than 20 years as a judge. But I am determined to view the difficult challenges that we face as an opportunity to transform our court system for the better. I

believe that, with your support, we have made real progress and we look forward to continuing our partnership with you in this historic endeavor.

On behalf of the Judiciary, I pledge that we will continue to stand strong as we adapt to these changing times and we will do our best to serve the residents of our great state. Thank you for inviting me to address you today. I would now be happy to answer any questions you may have on the Judiciary Budget.