

# **NEW YORK CITY BAR ASSOCIATION TASK FORCE ON TOWN AND VILLAGE COURTS**

## **REPORTS ON TOWN AND VILLAGE COURTS: SUMMARY WITH RECOMMENDATIONS**

### **A. EXECUTIVE SUMMARY**

On October 27, 2006, Barry Kamins, the President of the New York City Bar Association, announced the formation of a Task Force to address the well-documented problems facing New York State's Town and Village Courts, also known as the Justice Courts. The Task Force was charged with finding ways to address the problems and to assist in implementing improvements. The Task Force was formed after publication of several articles in the New York Times and analysis of the reports of the New York State Comptroller ("Comptroller") concerning the Town and Village Courts. The Task Force members are lawyers and judges from diverse parts of the State.

After extensive research, interviews and consideration, the Task Force issued four reports. Memorandum on Justice Court Technology (March 6, 2007), dealing with technology, computers, recording court proceedings, and training to use the equipment; Recommendations Relating to Training for Town and Village Justices and Court Clerks (June 11, 2007), dealing with training for justices and non-judicial personnel; Recommendations Relating to Assisting Town and Village Justices (June 11, 2007), dealing with legal and administrative assistance for justices and non-judicial personnel; and Recommendations Relating to Structure and Organization (October 10, 2007), dealing with consolidation of courts, transfer of cases to lawyer justices, and State supervision of court administration. The 25 recommendations of the Task Force resulting from this analysis and discussion are set forth below.

The Town and Village Courts, established by the New York Constitution, have long been a part of our State's history. However, just as other judicial or governmental functions, laws and regulations have been part of a world that has changed, the Town and Village Courts have played a role in a legal world that has changed. The Task Force believes that in the current context, if the Town and Village Court structure is to remain at all, there must be prompt implementation of the changes recommended in the Task Force's four reports.

There are currently over 1,200 Town and Village Courts and over 2,000 town and villages justices, all of whom sit on a part-time basis. Approximately 68% of the justices are not lawyers. However, in some counties, such as Westchester County, all of the justices are lawyers. It appears that the number of town and village justices in a county who are lawyers increases if the county includes an urban or commercial area or is proximate to one. In contrast, many counties in the central, northern and western parts of the State have only a few or no lawyer justices.

The Town and Village Courts have preliminary jurisdiction over all criminal cases, including capital cases, and full jurisdiction over misdemeanors, including assaults. The town and village justices can hold felony hearings, bail hearings, pretrial suppression hearings, and trials, including jury trials when they are authorized. They also hear civil cases involving claims of up to \$3,000, as well as summary eviction cases and emergency family court proceedings. Despite this broad authority, under the current system, justices receive limited training and are not reviewed for qualifications to sit, as are other elected judges.

The Task Force believes that all justices of the Town and Village Courts should be lawyers. It also believes that a District Court system with full-time lawyer judges addresses many of the problems that have been identified. However, it also recognizes

that neither the move to all lawyer justices nor the adoption by a county or part of a county of a District Court is likely to take place in the short term. Accordingly, the Task Force proposes the changes in the Town and Village Court system reflected in the 25 recommendations set out in the four Task Force reports, as printed below. These recommendations are intended to be complementary; each is intended to enhance the other. They include the transfer of some cases to lawyer justices, consolidation of courts, full-time State supervised non-judicial personnel to provide staffing and assistance, legal training and assistance for justices and non-judicial personnel, state of the art equipment and computers and training to use them, and a record made of each court proceeding. While some of the recommendations can be effectuated more rapidly than others, we urge that all be implemented promptly so that the benefits of the changes can accrue to the court system and those whom it serves.

B. THE RECOMMENDATIONS.

**Structure and Organization**

**RECOMMENDATION 1**

**The Task Force recommends that the Criminal Procedure Law be amended to require that the justices of the Town and Village Courts who preside over pretrial suppression hearings and jury trials in criminal cases be lawyers and, to meet this requirement, that pretrial suppression hearings and jury trials be transferred to justices who are lawyers or to judges.**

**The Task Force further recommends that the Criminal Procedure Law be amended to require that in all other cases in which the crimes charged are A, B, or unclassified misdemeanors and the presiding town or village justice is not a lawyer, on request of a party, the case be transferred to a justice who is a lawyer or to a judge.**

**RECOMMENDATION 2**

**The Task Force recommends that newly amended Uniform Justice Court Act § 106 (Session Laws 2007 Chapter 321), and rules promulgated pursuant to that section, be applied to facilitate the transfer of cases from town and village lay justices to town and village lawyer justices or judges in order to effectuate Recommendation 1.**

### **RECOMMENDATION 3**

**The Task Force recommends that the Office of Court Administration issue plain language forms for pleading in summary proceedings for eviction that are comprehensible to the litigants and require disclosure in the eviction petition of special circumstances, including the presence of an immovable mobile home, building code violations, government rent subsidies, and possible violations of the warranty of habitability.**

### **RECOMMENDATION 4**

**The Task Force recommends that town and village justices be provided with intensive training on procedural and substantive law applicable to summary proceeding eviction cases.**

### **RECOMMENDATION 5**

**The Task Force recommends that summary proceedings in eviction cases be decided by lawyer justices or judges when the respondent is *pro se* and when, on review of the plain language pleadings, there is disclosed the presence of (1) an immovable mobile home, (2) disrepair of the premises raising a question as to whether there is a violation of the warranty of habitability, (3) pending building code violations, or (4) government rent subsidies.**

### **RECOMMENDATION 6**

**The Task Force recommends that there be further study of civil cases within the jurisdiction of Town and Village Courts to determine whether any additional civil matters present the types of issues that should be heard by lawyer justices or judges, whether there is additional need for plain language forms, and whether intensive training is needed on any specific areas of procedural or substantive law.**

### **RECOMMENDATION 7**

**The Task Force recommends that each town examine and determine whether consolidation of Town Courts would be beneficial to the town and the Town Court and, where appropriate, pursue consolidation pursuant to Session Laws of 2007, Chapter 237 (amending Uniform Justice Court Act § 106-a).**

### **RECOMMENDATION 8**

**The Task Force recommends that each village examine and determine whether abolition of the office of village justice would benefit the village and the Village Court and, where appropriate, initiate local legislation pursuant to Village Law § 3-301(2)(a), or, if an inconsistent charter provision pre-exists the Village Law, seek state legislation pursuant to Article 17(b) of the New York Constitution.**

## **RECOMMENDATION 9**

**The Task Force recommends that every Town and Village Court have a court clerk who is trained to prepare the records and documents and satisfy the financial reporting and safeguarding of funds requirements of the applicable statutes and regulations. The clerks should be full time employees of the courts and be fairly compensated. Courts may combine resources to retain a shared court clerk if the work of a single court does not warrant a full time clerk. The clerks should be supervised by a State-compensated employee who also is available to provide assistance to the court clerks.**

## **RECOMMENDATION 10**

**The Task Force recommends that in planning for consolidation of Town Courts, the elimination of the position of village justice, or the transfer of misdemeanor cases from the Town and Village Courts when there is no available lawyer justice, the Office of State Comptroller reevaluate the allocation of the revenues of the Town and Village Courts so that legislation can provide to municipalities an appropriate share of the courts' revenues.**

## **Technology**

### **RECOMMENDATION 1**

**The Task Force recommends that proceedings in every case be recorded by court reporters using current technology or by digital recording in lieu of a court reporter present in the courtroom. Measures, including locating and retaining court reporters, should be taken immediately in order to begin the recording in courts with no present system for recording or in which tape recorders are currently used.**

### **RECOMMENDATION 2**

**The Task Force recommends that justices and their court clerks be given access to computers with accompanying uniform and appropriate software for case management, fiscal record keeping, and financial reporting. Further, training in the use of the software should be mandatory with monitoring and assistance available to aid the success of the training.**

### **RECOMMENDATION 3**

**The Task Force recommends that Justices each be given computer access for training, research, conferencing with other judges, and writing opinions and orders.**

### **RECOMMENDATION 4**

**The Task Force recommends the study and consideration of video conferencing**

for designated court proceedings to avoid delays when the lawyer cannot appear in person or the defendant cannot be transported from a county or local detention facility.

#### **RECOMMENDATION 5**

The Task Force supports the expanded use of E-Mail to simplify communications between Justice Courts and everyone else.

#### **RECOMMENDATION 6**

Computers for both the justice and the clerk should be provided.

### **Training**

#### **RECOMMENDATION 1**

The Task Force recommends that the New York City Bar Association, working with other bar associations and entities as appropriate, establish a committee to identify volunteer lawyers to work with the New York State Judicial Institute to prepare and present courses of study for basic and advanced programs for Town and Village Justices.

#### **RECOMMENDATION 2**

The Task Force recommends that the New York State Judicial Institute establish a collaborative program for Town and Village Justices and the clerks of the courts with the Office of Court Administration, Office of the State Comptroller, The Division of Criminal Justice Services and other agencies for training on court administration and fiscal responsibility and accountability.

#### **RECOMMENDATION 3**

The Task Force recommends that the members of any advisory committee established to plan and monitor the training programs for the town and village justices be manifestly neutral in their positions with respect to the issues that come before the Town and Village Courts; alternatively, the membership of the Committee should reflect the perspectives of all the litigants before those courts, and not, as proposed, only governmental or prosecutorial interests.

### **Legal and Administrative Assistance**

#### **RECOMMENDATION 1**

The Task Force recommends that the State, through the Office of Court Administration, fully fund a sufficiently large staff of lawyers (the Resource Center):

to respond promptly to town and village justices' inquiries about the law

**and the governing rules of judicial conduct;**

**to provide assistance for the evening and night-court sessions held in most Town and Village Courts, as well as for night-time arraignments and bail decisions; and**

**to prepare and distribute regularly updates to relevant laws, regulations, and new case law.**

## **RECOMMENDATION 2**

**The Task Force recommends that the State, through the Office of Court Administration, fund a staff knowledgeable in court and fiscal management to assist the justices in carrying out their responsibilities as record keepers, finance officers, and administrators of their courts.**

## **RECOMMENDATION 3**

**The Task Force recommends that The New York City Bar Association, working with other bar associations and entities as appropriate, identify lawyers who are qualified to assist in answering questions about the law and prepare a list of those who, until the Center is fully staffed, would be available to answer inquiries from Center lawyers that originate with the Town and Village Justices. The names of the lawyers contacted and other information would be disclosed as required by the relevant Ethics Canon to the parties in the cases in which the information is used.**

## **RECOMMENDATION 4**

**The Task Force recommends that OCA undertake a project of statewide publicity about the Center, encouraging the justices to call the Center for assistance, while emphasizing that the decisions made remain the responsibility of the justices.**

## **RECOMMENDATION 5**

**The Task Force recommends the establishment of regional offices, especially in areas where the justices are not lawyers; on-site assistance when dealing with difficult cases or issues; small group training sessions; and other face-to-face contacts between Center staff and the justices and court clerks.**

## RECOMMENDATION 6

**The Task Force recommends that the Center continue its work even if all the town and village justices are required to be lawyers because town and village justices, like judges of other courts, need such assistance.**

Task Force on Town and Village Courts

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