

SEPTEMBER 11TH: THE NEW YORK EXPERIENCE

Hon. Jonathan Lippman¹

How could any of us have been fully prepared for the events of September 11th?

While the New York State Court System did have emergency preparedness plans in place for disasters of all kinds, the sheer magnitude of this tragedy just could not have been anticipated. Like many other organizations, the courts were forced to rely on the strength and resiliency of our core organizational infrastructure. I am pleased to report that it served us well in the most traumatic and trying of times. Local Administrative Judges were in place in the 12 Judicial Districts throughout the State, Directors of the Office of Court Administration headed departments located in New York City and Albany, and there was a firm command structure overseeing the entire operation - - 20,000 judicial and non-judicial employees, 350 courthouses and related locations, and a \$1.8 billion annual budget.

Let me begin with September 11th itself, a fateful day for the Country and, obviously, for the New York State Court System. The leadership of the court system was in the State capitol of Albany that day, preparing for an important Statewide Access to Justice Conference. I was the scheduled opening speaker at lunch, and Chief Judge Kaye was the keynote speaker that evening.

When the first plane hit, I was in our downtown Albany office. As was the case

¹ Chief Administrative Judge of the Courts of the State of New York. This narrative had its genesis in remarks delivered on November 30, 2001, to the Conference of State Court Administrators at its midyear meeting in St. Simon, Georgia.

for so many around the Country, the first reports were sketchy and we believed that an errant plane had struck one of the Towers. We went about our business - - the talk at the Albany office was still about access to justice, although we were obviously distracted by the developing news story. While on the phone with OCA headquarters located at Beaver Street in lower Manhattan, the second plane hit and our people reported that the building shook mightily as a result of the impact just a few city blocks away. We knew then, unmistakably, that this would be no ordinary day.

In short order, we began hearing reports of the mayhem and early rescue efforts. The news dominated the air as we heard about the fall of the Twin Towers. The Chief Judge was at the Court of Appeals, also in Albany, and we immediately shared our consternation and talked about the importance of keeping the courts open – safety considerations permitting. At the same time, we gave instructions to evacuate the Beaver Street OCA headquarters based on its close proximity to the World Trade Center complex. We immediately mobilized our network of top security people and asked them to appraise and report on the situation at each court location in the downtown area so that we could better assess whether it was necessary to evacuate or close any of them. Communication was difficult, particularly in Manhattan, where regular phone service and vehicular traffic were immediately and severely disrupted, but cell phones provided lifelines to the different courts.

While overseeing the response of the courts to the evolving disaster, many of us, of course, were also dealing on another level with our own personal fears and anxieties. For myself, like countless others that day, I was greatly disturbed by my

inability to reach a loved one--my son--who worked at the Federal Courthouse on Pearl Street, just a few blocks from the World Trade Center. It was a great relief, finally, to locate him by cell phone at 11:30 that morning in the Union Square area of Manhattan, walking north, along with thousands of others, to his apartment uptown. While I was personally relieved to hear his voice, I was chilled by his description of the horrific scene upon emerging from the subway – the Towers in flames, human beings leaping from the higher floors, debris falling, police and emergency vehicles everywhere, people fleeing in fear and confusion. With that phone call my concern for the courts, our court family and the Country as a whole was grave indeed.

I consulted again with the Chief Judge that morning. We both agreed that the courts should remain open, both for practical and symbolic reasons. Taking advantage of the fact that the Administrative Judges from around the State were already in Albany for the conference that morning, I proceeded to the hotel and held an impromptu meeting with them before the program began. I told them that as long as it was safe and appropriate to do so, they should keep their courts open as long as possible that day, and to expect further direction upon returning to their posts and reporting back to me. That being said, they all left immediately to get to their respective courthouses, with cell phones again the basic means of communication until their arrival.

I then gave a quick interview to a television station, stating our intention to keep the courts open until further notice, even as I debated internally whether this was the wisest course. Events were unfolding so rapidly and the whole situation seemed so volatile and uncertain that it was very difficult to know just what to do.

I prefaced my brief remarks at the conference by telling the attendees that the morning's events actually underscored the importance of working to ensure access to justice. The strength and well being of our nation depend on an orderly system of laws, which in turn requires a justice system perceived as fair and accessible to all, rich and poor alike. Chief Judge Kaye in her evening remarks emphasized that the courts are visible symbols of the rule of law; they, of all institutions, must remain strong and unwavering in the face of the terror attacks. She expressed our determination – consistent with the safety of court staff and the public – to keep the courts open and carry on with the administration of justice.

After the speech, I immediately headed downstate, cell phone in hand, talking to the Chief Judge, City and State officials, and, to the extent possible, court representatives around the City and State, as we tried to assess the situation and determine what our next steps should be. As the picture became clearer, we decided that the courts should close Statewide at 3:00 p.m. We had held firm to our intention of not succumbing to terror. However, at that point in the day, as the full scope of the catastrophe set in, we believed it was most important for our employees to be home with their families to deal with the traumatic impact of that terrible day. Furthermore, we were well aware that travel was very difficult, and we wanted to give employees a head start on what, for many, would be a long and circuitous trip home.

We determined that, until further notice, 24-hour security should be put in effect in all court facilities in the New York City metropolitan area, and that certain courthouses could be used as safe harbors for people coming over the bridges from

Manhattan. In the downtown Brooklyn courthouses people were already coming inside to seek shelter, rest and information.

Over the next few days there were many difficult decisions to be made. The next day, Wednesday, most New York City courthouses remained closed, although the courts were open in the rest of the State. Starting on the night of September 11th, and continuing for the entire week, we worked feverishly to communicate with the public and our court personnel via announcements over television, radio, Internet and on our own phone systems, detailing which courts would be open and instructing jurors on what they should do. We made emergency arrangements to conduct criminal arraignments in Manhattan at the Midtown Community Court, well north of the original “frozen zone,” extending from 14th Street down to the Battery at the southern tip of Manhattan, which was closed to all but authorized personnel and local residents. Similarly, civil court emergency applications were heard at the Appellate Division on 25th Street. Depending on which courthouses were involved, jurors and grand jurors were given varying instructions concerning whether and when to report. Remarkably, it was our universal experience that jurors appeared for duty in great numbers no matter what the instructions - - very much viewing jury service as a patriotic duty in this time of crisis.

On Thursday we opened the New York City courthouses outside Manhattan. The court system’s public information phone numbers were routed to Albany and to other phone numbers outside the area of disrupted service. We were constantly in touch with Federal, State and City law enforcement officials as to the exact nature of

the continuing threats. In the meantime, lower Manhattan, where the majority of the courts are located, remained a disaster area: there was virtually no one on the streets, no vehicular traffic, very limited subway service, and extremely poor air quality that required many to wear respiratory masks while walking the streets.

Throughout that first week we continued to have constant meetings with the Administrative Judges, Directors of the various OCA departments and leaders of the organized bar at various locations, depending on habitability - - Downtown Manhattan was not an option. At my chambers in White Plains, just north of the City, a quiet conference room was transformed overnight into a "war room" jammed around the clock with high-level court security personnel overseeing and managing the security presence in all the courts throughout the State based on updated information.

The next immediate issue we had to confront was whether or not to open the Manhattan courthouses at the beginning of the following week. We met with the Administrative Judges to discuss the primary question in this regard - - could they operate courthouses without telephones? Despite the obvious difficulties, the answer was yes. Everyone was game -- with or without cell phones.

Having breathed a sigh of relief that the first week was over, the Chief Judge and I went to visit the seven Manhattan courthouses on that first Saturday. We found the air quality extremely poor on the streets. Inside we found many of our Administrative Judges and employees planning for a possible Monday re-opening. Site engineers were busy changing air filters to ensure habitability. Court officers, many of them working 24-hour shifts, were on duty, alert and in good spirits. We also tried to

inspect the Office of Court Administration headquarters at Beaver Street, and made it as far as Broad Street (a block away) when we had to turn back as a result of a bomb scare at the Stock Exchange down the street. This resulted in the area being cordoned off, with hundreds of police officers and security personnel evacuating the area.

After inspecting the courts and speaking to the City's Criminal Justice Coordinator, who was traveling around the City with the Mayor, we made the decision to open the Manhattan courts on Monday morning and to get the word out through the media and our phone information lines. This was a milestone for the courts, reflecting the first time since the crisis began - - less than a week before - - that the entire court system Statewide would be up and running.

The next three months post-September 11th would prove to be, in so many ways, as taxing for the courts as that first trying week. The personal impact of September 11th on our court family was devastating. On that fateful day, approximately thirty of our court officers, most of whom were trained in EMS, rushed to Ground Zero to help in the rescue efforts. Most made their way to 5 World Trade Center, which housed the Manhattan branch of the State Court of Claims. Our judges and personnel in that courthouse were evacuated safely, and the court officers then joined in the general rescue effort. Three of those court officers, assisting in the evacuation of 5 World Trade Center, turned toward a group of stranded people. That selfless act proved fatal when areas of the building above them collapsed. The effect on all of us in the courts was painful, bringing home the tragic loss of life experienced first-hand by so many thousands on September 11th. What is so remarkable is that each of the court officers

was there by choice, not because they were directed to be there. They gave their lives voluntarily to save the lives of others in danger.

On Tuesday, September 18th, the Chief Judge and I visited the 5 World Trade Center site where our three missing court officers were last seen. We were escorted to Ground Zero by the court system's Chief of Security and by New York City Police and Fire Department officials. The conditions were still terrible. We needed respirators for the poor air quality and high carbon monoxide levels. Within minutes we were all covered with a very fine layer of white ash. The devastation, impossible to describe adequately, was something we will never forget. Nor will we ever forget the careful lettering on walls memorializing the exact times and dates of each search for our lost colleagues. While shaken and distressed by the experience, we came out with some hope that these three officers would still be found. We reported that to our court family and, most importantly, to the affected families still hoping that their loved ones would be rescued.

As a gesture of support, court personnel were assigned to be with the families of the three lost court officers on an around-the-clock basis. Eventually, of course, all our hopes were so greatly disappointed. None of us can ever again look into the eyes of our court officers when we enter State courthouses without thinking of those three heroes. There is a new appreciation for the people who do this work – men and women who may be called upon to risk their lives for us at a moment's notice.

By the Monday reopening, grief counseling had been scheduled in all of the courts to help people deal with the tragedy. As court employees arrived at the

courthouses, our Administrative Judges, Supervising Judges and Chief Clerks were at the entrances to greet them, hug them, share their pain and give psychological comfort. Being back at work in the courthouses clearly provided some catharsis for our court family. While many of us were in the bunker dealing with the crisis in those early weeks, we also made it our business -- the Chief Judge, myself, Deputy Chief Administrative Judges Pfau, Carey, Traficanti, Newton, and the rest of the leadership -- to take every possible opportunity to visit the courthouses and talk with our judges and non-judicial staff. Informally, on an ad hoc basis, we joined them for lunch and hosted informational meetings. At all times we did our best to rally the troops, boost morale and let everyone know exactly what was happening.

Eventually, memorial services were held for the three court officers who lost their lives. These were moving and dignified, with large attendance from judges and court employees, particularly, the uniformed court officers. More than seventy members of the court family -- both judges and non-judges -- lost loved ones in the tragedy. A fund was established called the "Court Family Assistance Fund" to help the families of the three lost court officers and the other families who lost loved ones. Contributions were received from court systems all over the country, for which we are most grateful.

The immediate and long-term security implications of September 11th were enormous and had a significant unanticipated impact on the court system's budget. In New York City, we have instituted 24-hour security patrols of the courts. In addition, we implemented a new magnetometer policy, which greatly increased the number of people going through magnetometers daily and required the purchase of many new

magnetometers and x-ray machines.

Nuanced decisions concerning which groups, if any, should be permitted to bypass the magnetometers were very difficult. The differing access requirements of all court employees and visitors had to be evaluated in order to implement a coherent policy - - Judges, court staff, lawyers, litigants, jurors, law enforcement, legal aid, probation, corrections, other agency workers, and even cleaning personnel. The decisions we made caused some brief unhappiness and grumbling among a few people, but with rare exceptions everyone quickly came to realize that heightened security is simply the new reality faced by all Americans at airports, government and private office buildings and even sports and entertainment venues.

We dealt with many variations on a theme, including lawyers who come in and out of the courthouse many times a day; jurors returning to court after lunch; what to do when magnetometer lines stretched outside exposing the public to inclement weather; and so many other day-by-day situations that continuously required careful resolution. In April we implemented "Secure Pass," a highly secure system which allows attorneys speedy, convenient access to courthouses throughout the state without subjecting them to magnetometer screening. Attorneys may utilize this system on a voluntary basis after undergoing a thorough security check that includes an electronic criminal history search. They then receive a special identification or "smart card" with enhanced security features based on cutting-edge technology. Of course, fail proof security is impossible in an open society, but we are trying to make good judgments that enhance public safety while limiting the level of inconvenience for those who depend on physical

access to the courts.

In the first month, bomb scares and anthrax hoaxes in our courthouses were very disruptive and frustrating daily occurrences: some courts were closed, parts were shut down, buildings were evacuated. To cope with these situations safely, we developed new mail and evacuation protocols to ensure that orderly procedures were in place to deal with these threats. Relying on the latest information from the Center for Disease Control and other experts, every issue was hashed out by administrators - - who opens the mail?, when does it have to be x-rayed?, and when are gloves and masks necessary?

In the first few weeks, Administrative Judges met constantly to discuss security and operations issues in detail and to relate the various experiences in the different courthouses. All the New York City courts were environmentally searched for traces of anthrax. We established internally a 24-hour communication system that strategically linked the court system's leadership with key security and operations personnel to enable a quick, coordinated response to any issue as it arose.

Throughout the last year, our uniformed court officers have been nothing short of spectacular, but they have also been stretched to the limit in covering the overtime shifts necessary to protect the courts, and we are very much struck by how critical it is for the State courts to have sufficient resources in this time of enhanced security.

We took great advantage of modern technology in dealing with the aftermath of September 11th. With the Verizon telephone system in the downtown area severely damaged for the foreseeable future, we decided in the third week of the crisis to install

an entirely new internet phone system. In a matter of days, and at a cost of \$600,000, court personnel programmed and installed 600 Internet phones in the affected courts, providing a reliable means of communication with the outside world that still remains operative today. The new phone numbers were immediately published in the *New York Law Journal*, the State's daily legal periodical, and the toughest obstacle to the resumption of normal operations was removed. Interruption of data services to the courthouses was corrected in a matter of days by creating wireless routes for the data to travel from site to site. The crisis clearly impressed upon all of us how technology can be a great asset in meeting the new challenges we face.

Court operations were dealt a severe setback as a result of the terror attacks. For the first few weeks, courts in the New York City metropolitan area were operating at 10 to 50 percent of capacity. In getting the courts back up to full activity (today we are finally working at 100 percent), we had to balance the need to keep the courts up and running with the sensitive treatment of litigants and lawyers adversely affected by the tragedy. Police officers were largely unavailable to testify in criminal matters, being tied up with security responsibilities. In regard to civil matters, lawyers faced tremendous dislocation. For at least one week, and in some areas much longer, up to 17,000 lawyers were unable to get into their offices in the original frozen zone between 14th Street and the Battery. Many, many lawyers, including 1400 who had their offices in the World Trade Center, had their offices and files destroyed.

The court system had to reschedule thousands of matters that could not be heard on the 11th and in the ensuing days. A central toll-free hotline was established to

help lawyers and members of the public needing special assistance. Lost files were reconstructed at no cost to lawyers and litigants, and computer runs of filed cases were made available to lawyers unable to return to their offices. As we worked to get back to “normal,” we were in constant touch with City and State officials, and we met regularly with the leadership of all of the major bar associations to keep everyone apprised of the latest developments.

A telephone call-in system was set up for jurors, enabling us to better calibrate the number of jurors needed with the level of court operations, which was so unpredictable during the early period of the crisis.

A case processing system to ensure the issuance of death certificates for World Trade Center victims within a 24-hour period was put into place by the courts in conjunction with City and State authorities. Expedited procedures were established in Family Court and Housing Court to aid the victims.

The efforts of the organized bar during this period were exemplary by any standard. In the week immediately after September 11th, the Association of the Bar of the City of New York held a training session for pro bono volunteer lawyers to help victims of the tragedy. The Chief Judge and I happened to be in another part of the building meeting with State Bar leaders at the same time when we were called outside to address hundreds upon hundreds of disappointed lawyers crowding every inch of the hallways and stairs of the Bar building, with lines out the door and around the street. The training room was capable of holding 500 lawyers. There were at least twice that many who could not get in and who only wanted to do something, anything, to help the

victims. This outpouring reflected the overall spirit of the Bar in New York City and State.

Members of the Bar also served at the Family Assistance Center - - a huge football field of a meeting area set up at a pier on the west side. They helped family members obtain death certificates and provided legal assistance for any other legal problems faced by the victims' families. The volunteers were from big firms, small firms, individual practitioners, corporations and every other part of the profession. The different Bar groups joined together to provide volunteers with special expertise in many different areas of the law, such as housing, family and commercial. The New York State Trial Lawyers put together a volunteer effort to create, in essence, a unique public interest law firm to assist victims applying for compensation under the new federal claims process. All in all, the aftermath of September 11th has been a shining moment for the Bar in this State, demonstrating the true selfless spirit of pro bono.

The events of the last year have also had a significant impact on court facilities. The condition of many of the buildings had to be carefully assessed after the attacks with regard to their structural soundness and ventilation systems. Courthouse design has now become a significant issue as we struggle to implement new security arrangements despite the constraints of many different, and sometimes difficult, courthouse configurations. Each courthouse has been examined closely for its susceptibility to terrorist activities, including the number and placement of building entrances, and the presence of underground parking facilities, many of which have since been closed off to the public. Design plans for future courthouses, and those

presently under construction, are now being given a careful review.

The court system's budget was dealt a severe blow. In the last fiscal year, the court system spent 20 million unanticipated dollars during a three-month period to deal with security issues growing out of the attacks. For the current year's budget, which began April 1st, we requested and received \$215 million for security alone. In fact, the entire budget request for this year was revamped in the weeks following September 11th in light of the State's fast-emerging fiscal crisis. We operate now under a 15-month hiring freeze, with severe restrictions on all kinds of spending. While it is an austere budget, we are confident that it allows us to keep the judiciary strong and secure.

The legislative priorities of the court system have also been reevaluated in light of the new realities we face. The need for an increase in rates for assigned counsel, and for constitutional restructuring of the court system's archaic organizational framework has never been more apparent than in this time of crisis. If September 11th has taught us nothing else it is that a justice system that works and works well is what differentiates us from those who seek to destroy our way of life.

One year later, the court system has returned to some level of "normalcy," though many things will never be the same. Like the rest of society, we recognize that the judiciary operates today in a world far different than the one we knew on September 10, 2001. We feel very proud of our judges and non-judicial personnel, all of whom rose to the occasion in spectacular fashion. While no one could have prepared fully for what transpired, we were able to move people into action effectively, work in coordination with many different State and City agencies, communicate with our

employees and the public, and keep the courts up and running under very difficult circumstances. At all times we received outstanding cooperation from the City, the State and the organized Bar.

We in the courts had the opportunity, in our everyday work, to contribute in small but significant ways to the well-being of our Country, City and State, just as did the volunteers cleaning up the rubble or working at the Family Resource Center. Everyone needed to be a part of the effort, to make some contribution, and we feel extremely fortunate that we were able to do our part by keeping the justice system operative and strong in the face of enormous challenges. The experience was simultaneously draining and energizing. Let us fervently hope that we are never again called upon to meet another like challenge, but let us also make every preparation for whatever challenges may lie ahead.