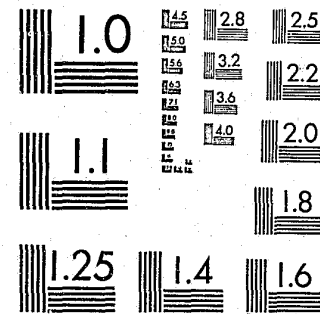


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A Design for Criminal
Appeals Disposition Reporting
By Intermediate Appellate Courts In
New York State

F. Coyne,
President and Task
Chairman

March 30, 1979

Robert Kaplan
Consultant

ECONOMIC DEVELOPMENT COUNCIL
OF NEW YORK CITY INC

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A Design for Criminal
Appeals Disposition Reporting
By Intermediate Appellate Courts
In New York State

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Economic Development Council
of New York City, Inc.

Richard F. Coyne, Vice President
and Task Force Chairman

March 30, 1979

Robert Kaplan
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- o The Economic Development Council acknowledges the assistance of the following individuals and their staffs in its field work: Joseph J. Lucchi, Esq., Chief Clerk, Appellate Division, First Department; Irving N. Selkin, Esq., Chief Clerk, Appellate Division, Second Department; John J. O'Brien, Esq., Chief Clerk, Appellate Division, Third Department; Mary F. Zoller, Esq., Chief Clerk, Appellate Division, Fourth Department; Charles H. Hohmann, Esq., Chief Clerk, Appellate Term, Supreme Court, First Department; Charles J. Heaney, Esq., Chief Clerk, Appellate Term, Supreme Court, Second Department. Office of Court Administration; Sue S. Johnson, Assistant Chief Administrator; Michael R. Juviler, Counsel; Management and Planning Office; Michael F. McEnemy, Director; Charles McFaul, George Bacolini, Gary Wigmore; James Lambert, Karl Behney.
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Richard F. Coyne
March 30, 1979

A Design for Criminal
Appeals Disposition Reporting
By Intermediate Appellate Courts
In New York State

I. Introduction

A. Purpose of the Design

The purpose of the design is to provide intermediate appellate courts* with a manual input reporting system, compatible with the existing New York State OBTS** project for trial courts, for reporting dispositions by charge of criminal appeals relating to individual offenders.***

In New York City this is an on-line system, operated through computer terminals. Clerks input identifying information and record data from the time the individual enters the court system, entering all subsequent activity, as well as final dispositional information. Data can easily be accessed and the computer interrogated to provide information, i.e., on what state in the process the offender happens to be at any time. Updated data is regularly added to the "Rap" sheet produced at arraignment by DCJS.

Upstate criminal trial courts, county, city, village, justice, are not on line nor do they use terminals. They have a manual input system, using NCR carbonized tear-off multipart forms: one for the superior (county) courts, the other for the lower (city, town and village) courts. See Exhibit 2. These give specific identifying data at the time the offender enters the system upon arraignment and the dispositional information on each charge as specified in the indictment or information. The top sheet completed at arraignment becomes the first tear off sheet sent to OCA.

* The present appellate court structure and their respective jurisdictions is set forth in Exhibit I, an extract from the 23rd Annual Report of the Judicial Conference (for the calendar year 1977).

** Offender based transaction statistics.

*** The appellant may be the defendant or "People" (The District Attorney).

The same identifying information appears on all subsequent sheets sent in as each event occurs.

Reporting from upstate criminal courts, as distinct from "on-line courts in New York City", is primarily on final disposition for each charge, not on intermediate hearing or adjournment data. The disposition is normally a two stage process -- judgement of conviction, and sentencing. The carbonized form containing the same indicative data is sent in to OCA upon occurrence of each of these events.

Once received at OCA in New York City, the trial court information is key-punched, processed, and input into the OCA computer in Albany, which, in turn, inputs this data, as well as the on-line computer data from New York City, into the DCJS computer, to update the individual offender's criminal history. The court component, run by OCA, is one part of a much larger system known as OBTS into which Police, Probation, Corrections, and Parole also input data.

The result is a complete individual offender history from the time he enters the criminal justice system until he leaves it. To develop such a system state wide is mandated and partially funded by LEAA.

It is planned that the six major urban counties outside New York City -- Erie, Monroe, Onondaga, Suffolk, Nassau, and Westchester will go onto the on-line terminal system now in operation in New York City in the Spring of 1979. The rest of the counties will remain on the manual input system as described.

We have described the upstate manual criminal trial disposition reporting system as the system contemplated for criminal appeals reporting will be a simplified version of this system, and can be integrated into existing programs.

Criminal court reporting to OBTS ends with the judgement of conviction and sentencing at the trial court level. There is no provision for reporting appeals, except those that may be reported in the on-line system by the trial court while the trial is in process prior to judgement, i.e., an appeal by the DA when a motion to suppress is granted. A judge, when he gets a "RAP" sheet now

has no information on dispositions of appeals on previous convictions. Aside from adding one more key element to the offender's history, as well as to the statistics of the Criminal Justice System, the design will provide information important to the judge, especially for predicate felony sentencing.

B. Scope of the Design

The design covers two major appeal processes:

1. Criminal appeals to the Appellate Divisions in each of the Four Departments.
2. Criminal appeals from lower criminal trial courts to the Appellate Terms of the Supreme Court in the First and Second Departments.

Not covered in the project (See agreement between OCA and EDC, dated May 24, 1978) are the following:

1. Appeals to the Court of Appeals, directly as of right, or by permission (certificate) from lower trial courts, or after decisions by the Appellate Divisions or Appellate Terms, including a small number of appeals returned to the Appellate Divisions by the Court of Appeals for rehearing. The Court of Appeals was not included in this study design.
2. Appeals to the upstate county courts from lower criminal courts, i.e., city, town, village, justice - it was not possible to include these in the 9 man weeks allotted to the study.

All of these will, however, have to be eventually addressed, if we are to have a complete design.

While present procedures in processing are in many respects similar, and civil appeals are reported monthly to OCA with no distinction from criminal appeals dispositions, they are excluded from the design, because the system is designed for input into a criminal offender history file.

The primary purpose of the court component of the OBTS project is to develop and keep current the individual offender's court

history in the criminal justice system. A second purpose is to develop from the same data base aggregate statistical reports of a management and operational nature. This is to assist court management both at the individual court and OCA levels in managing, planning, and evaluating their operations.

The project has not produced such management reports. However, these are planned for the future, similar to tables now appearing in the Annual Reports of the Judicial Conference. The OCA and presiding justices have not decided as yet what type of summary management-operational reports they will need for criminal appeals and EDC has been asked to make recommendations. In the design we have recommended for consideration several kinds of meaningful management-operational reports on appeals that can be generated initially from the data base. (See section VI, pages 20-22.)

II. The Present Reporting System

The agreement between OCA and EDC stipulated that, as a first task, the Economic Development Council was to "identify and analyze existing reporting systems used to report on the activity and disposition of criminal cases pending with the appellate divisions and the appellate terms of the Supreme Court of the State of New York...." What follows is a brief description of this system. As it is not designed to achieve the objective of individual offender history reporting as specific events occur, we have made it brief.

The present system has been in operation since 1962 with only minor changes over this period. It provides data for four summary tables appearing in the Judicial Conferences Annual Report, which appears after the end of the calendar year. It has nothing to do with updating individual offender history.

The present system consists of two parts: Reporting from the Four Appellate Divisions and from the Appellate Terms of the Supreme Courts, i.e., First and Second Departments.

A. Appellate Divisions

Reporting is on JC 105 cards (See Exhibit 3) by each Appellate Division on dispositions, sent monthly to the Statistics Unit of the Management and Planning Office of OCA at 270 Broadway, New York City. These cards contain, each court using its own internal court recording and counting system, the following

data on dispositions for each case, civil as well as criminal, showing such data as:

1. Whether the case was on the calendar as an enumerated or non-enumerated case - the definition of "enumerated" was found to differ somewhat among departments. The generally accepted definition was whether the disposition was a final disposition or an interim disposition pending final judgment, at the trial court level. Another definition given was that non-enumerated were "add on" cases.

2. Kind of Argument

Whether the case was by oral argument or by submission (i.e., Judge panels read the records and briefs only and do not hear oral arguments before rendering a decision.) Most cases - based on interviews with court personnel and data on the OCA tables, while allegedly inaccurate - are by oral argument.

3. Disposition - this is the key data reported.

Eight specific categories are listed (See Exhibit three, JC 105 card) plus one for "other". These entries, according to the OCA Statistics Unit, are often confusing, duplicative, and require editing before key punching. (See samples, Exhibit 3, of completed disposition cards from each department with editing by OCA indicated by lining out.) They do not cover all the possible dispositions as classified in the CPL.

4. Indicative data - the name of the case, i.e., for criminal cases, People vs. John Smith. No other indicative data except the indictment number is given which could tie it to the lower trial court judgment. The other numbers that appear are individual court calendar control numbers.

5. Number of judgments or orders appealed from - This is confusing as it can apply to orders, sentences, as well as specific charges. It is also edited judgmentally by the Statistics Unit official receiving the data, according to what he thinks is meant.

6. Date argued or submitted - and date of disposition. The latter is supposedly the date of the order but may be the date of the decision, which is then followed by the order. When this is entered, a remittitur is then prepared, sending the original papers back to the county clerk*, with the order to the original trial court for appropriate action.

7. Kind of opinion - This section states whether a full opinion was rendered, a per curiam opinion, (by the whole court, unsigned) or a memorandum opinion; and whether a dissent was written and by whom. Examination of a sample of monthly disposition cards indicates that this section is filled out only about half the time.

B. The Appellate Terms of the Supreme Courts, First and Second Departments

The Appellate terms of the Supreme Courts of the First and Second Departments which hear criminal and civil appeals from the lower courts have an entirely different reporting system. See Table 13 from 23rd Annual Report, Exhibit 4.

Each month a report is submitted containing information as indicated in Exhibit 5.

These intermediate appellate courts, special terms of the Supreme Court, First and Second Departments, hear criminal appeals as well as civil appeals, from lower courts. In the First Department appeals are from either the New York City Civil or Criminal Courts. In the Second Department they cover the following: civil appeals arising from County Courts (Since April 1, 1978 criminal appeals from county courts go directly to the Appellate Division); the New York Civil Court; the Criminal Court of New York City; the District courts; Courts in cities outside New York City; Town, Village and Justice courts. It was stated by the Deputy Clerk that, while 100% of appeals from the criminal court are obviously criminal, about 70% of appeals from courts outside New York City are also criminal.

The First Appellate Term includes only one Judicial District, the first, and two counties, New York, and the Bronx. The Second Appellate Term hears cases from almost 400 courts

* (To the Appeals Bureau in the respective Supreme Courts of the First and Second Departments.)

located in ten counties, including four Judicial Districts. The 2nd district includes Kings, and Richmond. The 11th includes Queens; the 10th includes Nassau, and Suffolk; the 9th includes Rockland, Westchester, Orange, Putnam, and Dutchess counties.

Appellate term appeals are from misdemeanor convictions. On the surface the reports, particularly in the Second Department, appear to include almost as many appeals received as some of the Appellate Divisions but field investigation indicates they include in the Second Appellate Term, (it is not clear in the First) notices of appeal filed as well as records on appeal filed. Notices of appeal are filed in almost 99% of criminal judgements. Only a fraction are pursued however.

Aside from these differences in Appellate Term reporting, from the Appellate Divisions, much of the subsidiary information reported is far more detailed than for the Appellate Divisions. All this must be summarized monthly by the statistics Unit clerk at OCA on worksheets and tabulated.

The Appellate Terms monthly reporting forms are shown in Exhibit 5. The Second Department submits one form for the second and eleventh judicial district, and one for the ninth and tenth judicial districts, data which have to be combined by the clerk at OCA, a laborious process.

C. Statements Required by Rule 5531 of the CPLR

A facet of the present reporting system which appears to serve no purpose, at least in reporting to OCA, is adherence to rule 5531 of the CPLR (Civil Practice Laws and Rules). See Exhibit 6. This requires the appellant's attorney when he files a record on appeal at the Appellate Division in both criminal and civil actions to include a statement with specified information about the case being appealed. This can be quite lengthy - see Exhibit 7. These are sent in monthly for each record filed from all departments except the fourth, and are accumulated in stacks and eventually warehoused. The Director of the Management and Planning Office states that these are first used for special research projects.

D. Other Problems

Interviews with the Statistics Unit officials at OCA responsible for collecting this information indicated the following problems in addition to those already mentioned:

- o The data is frequently incomplete, inaccurate, requires numerous judgemental decisions as to what is meant -- i.e., may have duplicative decisions for the same case.
- o By the time the data is prepared for the annual report, numerous changes have to be made, as the OCA official checks with the Appellate Divisions and Terms. Annual summaries are sent in by some of the departments which may not reconcile with the monthly card totals. (See Exhibit 3).
- o There is no breakdown in the tables between criminal and civil appeals.

The four basic tables in the annual report prepared from data collected are shown in Exhibit 4.

The four tables shown in Exhibit 4 combine several types of information.

For example, Table 10, in addition to data on records on appeals filed, motions filed and dispositions has data on admissions to the bar and attorney disciplinary proceedings.

Table 11 shows data on nature of dispositions. As with Table 10, civil and criminal dispositions are combined.

Table 12 indicates the kinds of opinions rendered.

Table 13, as noted, presents the data on the Appellate Terms of the Supreme Courts in the First and Second Departments in a completely different form.

While data is sent in monthly on JC 105 cards from the Appellate Divisions, the cards, after editing by the Clerk in charge at the OCA Statistics Unit, of the Management and Planning Office, are stored and key-punched only twice a year, for the summary reports in the annual Judicial Conference Report.

III. Estimated Dimensions of the Reporting Workload in the Proposed Design

Information gathered on the field trip indicated differences among the Divisions and the Appellate Terms as to when an appeal is to be considered filed. If we use the data in Table 10 from the Judicial Conference Annual Report (for 1977) for records on appeals filed* in the Appellate Divisions, in the four departments as well as for dispositions, the number is really quite small. The filing of a record on appeal is usually** prior to what is known as "perfecting the appeal" which is accomplished by the appellant's filing the required number of briefs within 120 days after receiving the record and transcript from the Appellate Division and serving the respondent, usually the district attorney.

7826 records on appeal were filed in 1977 according to OCA figures and there were 7744 dispositions in the four Appellate Divisions, (this excludes motions decided***, which for the most part were requests for poor person relief, i.e., assignment of counsel; as well as extensions of time to file or perfect an appeal, motions by the court or D.A. to dismiss appeals which haven't been perfected, etc.)

Approximately 55% of appeals in the Appellate Divisions were civil and 45% criminal, based on an analysis of decision sheets from the Appellate Divisions.

If we assume, based on the above, that the volume of appeals dispositions will be around 8,000, then we would have at a maximum

* As distinct from notices of appeal, filed in almost every case.

** In the Fourth Department the record is not ordered with transcripts until the briefs are filed. See Fourth Department procedures, Exhibit 8.

*** 15,275 decided in the four departments in 1977.

3600 criminal dispositions from the Appellate Divisions. Interviews with court personnel and analysis of decision sheets collected during the field trip indicate that approximately 90% of criminal appeals are affirmed with no change in the individual offender's criminal history. This would mean only about 360 inputs into the OBTS system annually that would change the offender's history. We are really dealing then with only the other 10%, reversals, modifications, etc.

The two Appellate Terms (First and Second Department Supreme Courts) should not increase the figure significantly. As these are misdemeanor offenses, one would not expect a high volume of criminal appeals, as the sentence would have already been served in many cases before an appeal could be pursued.

A letter dated October 13, 1978 to the EDC consultant from Mr. Thomas J. Casey, Confidential Clerk, Appellate Term of the Supreme Court, First Department, (see Exhibit 9) indicated that only 42 appeals were decided in the Appellate Term in 1977 that originated in the Criminal Court of New York City.

Thus we would probably be safe using a universe of about 8,000, even with the Appellate Terms.

For this reason, the design recommendation that follows -- Section V -- is a relatively simple one. First, however, a brief outline of the appeals process:

IV. Basic Steps in Processing of Criminal Appeals

There follows a brief description of the basic steps in the criminal appeals process (see sections 450-470 of the CPL for a fuller description). We then spell out our recommended design in Section V. It was considered important to know the procedural context in which reporting would occur in order to determine:

- A. What was feasible in the context of how appeals are processed now.
- B. Where uniform reporting could be achieved with respect to time and definition.
- C. What would have the least impact on the workload of the clerk's office.

As illustrations of the process followed, we have also attached, Exhibit 8, the Third Department's check list, and an outline prepared for the consultant by the Fourth Department Chief Clerk.

The result of these field visits indicated that while functional responsibilities might be assigned differently among the Divisions and Special Terms, the same basic steps took place in the appeals process. There was not as much variety as we had anticipated, either in function or definitions. These are the basic steps in the appeals process:

1. Filing of notice of appeal with trial court within 30 days after judgement of conviction,* or application for permission to appeal to the Appellate Division.

2. Intake

Setting up a file on receipt of copy of notice of appeal by the Appellate Division from the clerk of the trial court.

3. Receipt by the Appellate Division of Request for Poor Person Relief (In large majority of cases)

Receipt of a request for poor person relief and placing same on a motion calendar, if no objection by the D.A. Request may come from appellant or appellant's counsel at lower trial court.

4. Processing applications for permission to proceed as poor person, assignment of counsel, and requests for transcripts and records.

On decision and order of the court granting the motion for poor person relief-assigning* of counsel, notifying the assigned counsel or bureau designated for assigning counsel (varies by county, may be legal aid, public defender, etc.); transmitting the order for the county clerk to produce the

* See sample order from First Department, Exhibit 10.

records and directing the stenographer to produce the required number of copies of the transcribed minutes.

5. Motion Calendars

Various motions asking for extension of time, requests for permission to appeal from interlocutory decrees by the lower trial court prior to final judgement, motion by the D.A. to dismiss for failure to pursue, etc.

6. Receiving the record with transcripts from the clerk of the lower trial court. (Note difference in timing in Fourth Department. See Exhibit 8.)

In the interim, following up on previous requests -- particularly delinquent stenographers*, checking for completeness, making copies, and transmitting same to appellant's attorney.

7. Perfecting the appeal

The attorney for the appellant has 120 days from the date he receives the record with transcripts from the Appellate Division to file briefs in the required number of copies, serving one on the respondent (District Attorney)** at the same time, with an affidavit that this has been accomplished. The appellant counsel may move for an enlargement of the time - the D.A. respondent can also ask for an extension.

When the brief is filed in the required number of copies with an Affidavit of Service on the District Attorney, the appeal is considered perfected.

NOTE: With private attorneys, i.e., no poor person relief, the procedure differs in that the private attorney arranges to get the record and transcript and is required to submit more copies of the brief.

* A major problem is getting the transcribed minutes, delaying the whole appeals process.

** Who has 30 days in which to file a respondent's brief. If he fails to do so or does not request an extension, the appeal will nevertheless be calendared without his brief. The respondent may also be in the lower courts the corporation counsel, city attorney, etc.

8. Calendaring the case at next available term

(See typical term calendar with deadline dates - Exhibit 11).

For submission or oral argument for a specific term and day. Here a variety of individual numbering systems are assigned to cases by the four Divisions, and two Appellate Terms.

9. Review of case by law assistant.

10. Hearing - Decision-Writing - the Opinion

Consultation among judges -- Specific days are assigned for judges' conferences, drafting the decision -- Assignment of opinion writing to a specific judge -- circulation by memoranda among the judges. NOTE: Judges sit in panels from 3 to 5.

11. Preparing and entering the dispositional order.

12. Editing the decision, and arranging for its publication

i.e., in the Law Journal -- usually the next day. Circulating order and opinion to parties and lower court.

13. Remitting the dispositional order and the original records back to the county clerk and dispositional order to the lower trial court for appropriate action.

V. The Recommended Design For Reporting to OBTS

A. Questions to be answered first before preparing the design.

After the field trips to the Chief Clerk's office in each intermediate Appellate Court, and reviewing interview notes and documentation collected, the consultant concluded that these principal questions had to be answered first before recommending a specific design:

1. At what point in the criminal appeals process should data input to OCA begin on an individual offender's appeal?
2. How can this input be tied back by charge to the judgment of conviction of the lower court? What identifying data is needed?
3. What events should be reported?
4. What method should be used to input the data to OCA?
5. How should dispositions be classified?
6. Should Habeas Corpus and Article 78 appeals, which are civil, nonetheless be included in the criminal appeals reporting system as they affect an individual offender's history?
7. Should appeals be included taken before final judgment of conviction -- i.e., while the trial is ongoing? i.e., an appeal taken by the D.A. when the judge grants a motion to suppress evidence.
8. Should appeals be included when there is a stay of execution of judgment pending appeal?
9. How should appeals be handled when a final disposition is held in abeyance pending rehearing in the lower court?
10. Should motions be included?
11. How should requests for appeal to the Court of Appeals or appeals sent back by the Court of Appeals for rehearing to the Appellate Division be handled?

B. The recommended answers to each of these questions follow. This is the basis for the recommended design.

1. Starting Point for inputting data to OCA OBTS

The appeal data is input manually when it is disposed

of* on new proposed reporting form OCA CADR 1 - See Appendix I.

2. Indicative Data - Tying back to lower court. At a minimum name of appellant, indictment number, county and court of conviction should be included with the record. Letter of transmittal of order to county clerk should specify this.

3. Events To Be Reported - For each charge or count appealed.

- a. Date records ordered, poor person relief ordered; date private counsel subpoena records from county clerk.**
- b. Date records received.
- c. Date appeal perfected.
- d. Date appeal submitted or argued.
- e. Date appeal disposed of.

These dates are important events in the appeals process and will provide the data base for both updating the offender history file and management - operational reports. The management reports, while not updating the individual offender's history, will give valuable information for evaluating the case management system, assist in decisions for resource allocation, and provide a more complete statistical base for the operation of the Criminal Justice System in New York State.

* This has the additional advantage of being able to input pending cases when implementation begins in April 1979 in the courts (See Section VII, page 22), as they are disposed of. The data to be input should already be in the court files. The only exception would be when private counsel requested the record which would have to be obtained separately.

** The County Clerk should be required to report the date when the records are subpoenaed by private counsel, by amendment of department rules, if necessary.

While input retroactively at disposition, an appeal becomes active when there is an indication that it will be pursued actively. After a request by the appellant the granting of poor person relief and request for records to the County Clerk or Appeals Bureau, or subpoena to the county clerk for records by private counsel (a small percentage of criminal appeals) is the logical triggering point.

- o To use the notice of appeal filed with the County Clerk with a copy to the Appellate Division as the starting date -- one option considered -- would be inputting data most of which never would be used.
- a. According to DCJS data there were 31,454 felony dispositions on indictment in New York State in 1977. This would mean according to our interviews about 30,000 notices of appeal filed* with the County Clerk's Office one copy of which goes to the appropriate Appellate Court.
- b. The data in Table 10 of the 23rd Annual Report of the Judicial Conference, (while they may not completely coincide with the data on monthly JC 105 cards submitted) indicated that there were 7,826 records on appeal filed in 1977 in the four Appellate Divisions -- that is cases where something was done about a notice of appeal (Note that many of these relate to notices of appeal filed several years back, not necessarily in 1977). If we assume that 45% of these were criminal, (see p 9) or 3,522, then they represented about 12% of potential notices of appeal filed in 1977.
- c. Most of these records on appeal eventually get perfected although, as noted, there may be long delays in getting transcripts, requiring motions

* Many of these are dismissed on motions calendars for failure to pursue according to the rules in individual departments. Time limits vary. There is no provision in the CPL on time limits for notices of appeal to be pursued.

for extension of time.

- d. For private counsel cases -- estimated, based on our interviews, to be about 1% of criminal cases, the private counsel normally gets the record and transcripts himself by subpoena.

Events to be recorded have easily identifiable dates. All the courts have logs or ledgers or control cards recording these dates for each case. Some events might be considered optional at this time as they do not affect the offender's history. However they will provide, as stated, a data base eventually for the second objective of the system -- management, operational reports -- See discussion in Section VI following, page .

Information on events such as date record received, date appeal perfected, date argued or submitted, date disposed of, are key dates in measuring time lapses for management reports to assist court management. It will be possible to document for example from this data the crucial time lapse between when the record and transcripts are ordered and when they are received.

The final date and type of disposition made is basic to updating the criminal offender history. We have provided for the input of data only at this point but include the other dates for use as the data base for management reports.

4. Method of Input

Method of input will be by means of a single copy (can be Xeroxed by the clerk if necessary for his records) form sent to OCA at time of disposition, recording indicative data, event dates, disposition data as described in paragraph 3 above.

See Appendix I for sample proposed form OCA - CADR 1* and procedures for completion.

* The sample represents the overall format and items to be included. The form finally to be used will be designed by technical design experts at OCA, taking into account entry sequence, space for items, etc.

5. Dispositions

- o Dispositions should be classified into as few major categories as possible of action taken, corresponding to the CPL breakdown, i.e., affirmation, reversal, modification.
- o We have been informed by OCA that they do not consider reasons necessary at this time.
- o The procedures for the proposed new OCA - CADR 1 should list the specific alternatives. They will be coded. See Appendix II.
- o Dispositions should separate out pre-judicial dispositions - i.e., dismissed on motion calendar prior to submission or argument for various reasons, principally failure to perfect.

The proposed disposition classification scheme is shown as Appendix II.

6. Habeas Corpus and Article 78 Proceedings

Habeas Corpus and Article 78 proceedings which are civil should not be included in the criminal history. Outcomes that affect the offender's history will be reported by other components of the justice system. They will, however, be included in the civil appeals reporting system being developed by OCA, thereby meeting the second objective of management reports.

7. Appeals on orders prior to final judgement in the lower trial court.

Information on the filing of these appeals and the results should be picked up in whatever interim data is being reported by the lower trial courts -- to the extent that the appeal affects the individual offender's history. OCA does not consider these interim appeals priority at this time for management report purposes. It is recommended that the criminal appeals reporting system initially not include these appeals as they do not affect the offender's

history until the final judgment*. They should however be considered for inclusion eventually to achieve the second objective of the system -- summary management reports on workload. They are an important part of the workload of the court. However, we have recommended an initial design that gives priority to events that affect the individual offender's criminal history.

8. Orders where execution of judgment has been stayed pending appeal.

This pertains to a judge's staying the execution of judgment pending appeal. It is recommended that these orders and motions for extension be excluded as the judgment stands, pending final disposition of the appeal on the judgment by the Appellate Division**.

9. Decisions by the Appellate Division held in abeyance pending rehearing in the lower courts.

This is an intermediate step. It is not a final disposition affecting the offender's history. It is recommended it not be included in the reporting system, at this time.

10. Motions

For the same reasons cited above, these are not final dispositions affecting the offender's history. They may be for a variety of reasons as already described.

* They also appear on a motions calendar initially for permission to appeal. As motions are excluded from this initial design, they would be excluded for this reason alone.

** While outside the scope of this study the OBTS system for trial courts might be programmed to notify the District Attorney when the 120 day period during which the appellant is out on bail pending perfection of his appeal is up. Otherwise, unless the D.A. has his own controls to move to dismiss and pick up the appellant, he will remain at large.

They should not at this time be included in the system, although we should consider including them eventually for summary management reports on workload.

An important exception is in the Second Department where according to Section 670.17 of that Department's Rules excessive sentence appeals are heard on motion with just the plea and sentence minutes. These motions should be included.

11. Appeals to the Court of Appeals and appeals sent back by the Court of Appeals for rehearing.

Appeals to the Court of Appeals from a decision of the Appellate Court can be taken on application either to the Appellate Division or to the Court of Appeals. Under certain circumstances (see CPL) the Court of Appeals can send back a case for rehearing to the Appellate Division. As the agreement between OCA and EDC did not include the Court of Appeals in the reporting design, we recommend that this component not be included now, but that it definitely should be in the future, along with the Appellate Terms of upstate county courts. Only in this way will we have a complete design.

VI. Management Reports

As already noted, this is a second objective of the OBTS system.

The data base we have recommended has the capability of generating a variety of reports. OCA has told us they are not sure what the courts or they might need and have asked us for our recommendations.

Accordingly we have listed in broad terms below the kinds of reports we regard as important initially to court management, to be implemented only after the OBTS system is tested and functioning. Our recommendations are based on our field trips to each Appellate Court and interviews with the chief clerk and his staff. We recommend that these be reviewed by

the presiding justices in each court for their management utility. We did not interview presiding justices in the field work as we were primarily interested in work flow in processing appeals.

These are the reports recommended for consideration -- they should be uniform for the Appellate Divisions and the two Appellate terms. We suggest they be printed out by computer quarterly, or semi-annually, and annually.

1. Number of active appeals - "Active" is, for this design, when the record is ordered. (Eventually these might be classified.)
2. Number of records of appeals received, including transcripts.
3. Average number of days between activation of appeal date and date of receipt of record, including transcripts.
4. Number of appeals perfected - Record and Briefs both on hand.
5. Average number of days between receipt of record and perfection of appeal.*
6. Average number of days between perfection and submission.
7. Number of dispositions - Classified by type (see Appendix II).
8. Average number of days between perfection and dispositional order.
9. Average number of days from arrest date to judgement of conviction, from judgement of conviction to appeals disposition in the appellate court. Average total days from arrest to final appeals disposition (does not

* There may have to be an exception in reporting this for the Fourth Department as briefs precede requesting the record.

include appeals to Court of Appeals). Part of this data will already be in the computer memory file from the lower trial court input.

VII. Implementation (Assuming February 1979 beginning. If later, months should be changed according to when implementation actually begins.)

Card system and Appellate Term Report should continue as parallel systems through 1979*.

- | | |
|---------------------|---|
| 1979 February | 1. Refine suggested form and reproduce, circulate. |
| | 2. Refine suggested procedures and reproduce, circulate. |
| March | 3. Visit and orient clerks for first test group. |
| April, May, June | 4. Test in First Appellate Division First Appellate Term, Third Appellate Division for all cases. |
| July | 5. Evaluate - make appropriate changes - visit courts. |
| August | 6. Implement appropriate changes. |
| | 7. Continue in First Department, First Appellate Term, Third |
| August**, September | 8. Visit and orient clerks for second test group. |
| October, November | 9. Add and test Second Appellate Division, Second Appellate Term, Fourth Appellate Division. |

* As there is normally downtime in August this would be a good time to begin orientation of clerks for second test group.

** Because of prior experience in testing 1st group, two months should be sufficient for second test group.

December 10. Evaluate, make appropriate changes - 1970 visit courts.

1980 January System completely operational all intermediate Appellate Courts.

April First quarterly printouts of management reports agreed to.

VIII. Costs (Estimated)

A. At Court Level

It is anticipated that there will be some additional costs at the court level, primarily clerical processing (weekly instead of monthly) and for additional postage. Clerical resources now used to prepare the JC 105 cards at the end of each month and annual summaries can be reallocated to prepare dispositional event data.

An estimated 3,600 criminal records on appeal will be filed in the four divisions and the 2 Appellate Terms, with a maximum of 3,600 disposition reporting events in the recommended design for each offender requiring input to OBTS. Indicative data, the key dates for processing, already described, will be entered just once for each charge and count appealed, as well as the final disposition as classified*.

These are as follows:

1. The date an appeal becomes active; assignment of counsel, poor people's order, order to produce the record, (date private counsel orders the record).
2. The date of receipt of records and transcripts.
3. The date when the appeal is perfected -- receipt of briefs.

* Information on charge and account appealed can be entered either when the brief is filed or when the decision and dispositional order is received. If the information on dates, etc. for each charge and count is the same, merely state same as number one in the charge line on OCA-CADR 1, Appendix 1.

4. The date submitted or argued.
5. The date of the dispositional order.
6. The disposition - As classified - See Appendix II.

The dates for each of these events is readily available already from individual ledgers, logs, and control cards now maintained for each offender at each court. No new records will have to be maintained. In fact a copy of the input form kept in file could replace the individual offender case flow information forms now maintained. Data can be entered at any time prior to disposition.

There will then be a maximum of 3,600 mailings.

These of course, can be grouped as events occur. A weekly mailing for 10 months for dispositions (avg. 84) would probably suffice, substantially reducing mailing costs. There is already a mailing cost each month in the Appellate Divisions for approximately 770 disposition cards* (July-August are not included) plus at least 770 statements required by CPLR 5531. We recommend that this latter practice be stopped as there is no requirement to send them to OCA. These volumes and costs will vary of course by division.

The management reports suggested in section VI will require no additional costs for the courts as they will be produced by printout from data already in the computer.

B. At the OCA level

1. The input data will require one time programing costs. According to OCA OBTS personnel this should be minimal as it can be integrated with existing programs. We question whether this may not be too optimistic an assessment.

* Includes civil appeals also.

2. There will be additional key punching and clerical costs.
3. There will be continuing running time costs, depending on how frequently data is input and output to update the offender's history.
4. There will be one time programming costs for the management reports.
5. There will be continuing running time costs for management reports, depending on how frequently they are printed out, and their extent.
6. There will be one time costs for design, layout, and printing of the input form to be tested. We suggest a minimum number be printed initially.
7. There will be additional costs for orientation, and travel, debugging the system.
8. There will be the additional one time costs at both the OCA and court level of running parallel systems during 1979, for the JC 105 cards system and the OCA CADR I system.

In sum the additional costs for the new system will be primarily incurred at the OCA level. According to OCA OBTS personnel the cost would not be significantly less if we input just the 360 dispositions which will affect the offender's history (an estimated 90% of criminal dispositions are affirmed).* Such a system of exception reporting as has been proposed would also have the following disadvantages, according to OCA:

1. The error factor, dealing with only a small number of cases**, would probably be greater, requiring periodic

* We question this as key punching alone would be substantially less.

** We question this reason as with a smaller number of transactions, 10%, errors should be less. The only possible basis for this argument would be that this smaller group of cases would receive less attention by the clerks. We agree with the other two reasons.

checking by OCA to be sure all non-affirmed dispositions were being reported.

2. We would lose the data base for management reports of the type suggested. These could be done manually but would throw an extra burden on the clerk's office.

3. We would lose knowledge of an important component of criminal statistics, for a complete offender history system, the number of judgments affirmed.

AD _____ (1st)
AT _____ (1st Sup.)

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App. I

OCA CADR 1 (1/79)

No. _____
(Serial No.)

Intermediate Appellate Court Criminal Appeal Disposition Report
App. Name (Last, First, M.I.) Indictment # _____ (Docket # _____)
in Appellate Terms)

AKA _____ Court _____ County _____

Resp. (Last, First, M.I., Title)

Type Opinion (check)

Court Control # _____ NYSID # _____ Full _____
Date: Judgment of Conviction Per curiam _____
Month _____ Day _____ Year _____ Memo _____

Date: Notice of Appeal Filed None _____
Month _____ Day _____ Year _____ Dissent by _____

Type Counsel (check) Assg. _____ Ret _____ Pro Se _____

1) Charge appealed from _____ 2) (same format as 1)
Law Code: _____ Section _____ Counts # _____
(See attached)
Judgment _____ Sentence _____ Order _____

Date: Order Requesting Record
Month _____ Day _____ Year _____

Date: Record Received
Month _____ Day _____ Year _____

Date: Perfected
Month _____ Day _____ Year _____

Date: (check) submitted _____ argued _____
Month _____ Day _____ Year _____

Date: Disposed of
Month _____ Day _____ Year _____

Disposition Code:

If reduced charge, specify. (Not applicable to Appellate Terms)

If reduced sentence specify time, i.e., to _____ years

If number of counts reduced, specify
(Not applicable to Appellate Terms)

Other - specify

Date

Procedures For Completion Of Proposed OCA - CADR 1

Criminal Appeal Disposition Report

General

1. Complete at time of disposition and mail reports weekly (one copy) to:

Criminal Disposition Reporting Unit
State of New York
Office of Court Administration
270 Broadway, New York, New York 10007
You should Xerox copy for your file
2. Indicative and other processing
Dates can be completed at any time prior to disposition
3. Complete only for final criminal appeal disposition.
4. Do not include interlocutory decrees.
5. Do not include cases remanded for rehearing to lower court.
6. Do not include motions, except in the Second Department for excessive sentences which are appealed on a motions calendar according to the rules of that department.
7. Do not include Habeas Corpus or Article 78 proceedings.
8. Use supplementary sheets if necessary and attach. Copy appellant name, court, county and indictment number.

NOTE: If assistance is desired, call collect (212) 488-3832.

Specific Instructions

A. Indicative Information
Appellant's Name

As it appears in the record or brief
Note - may be D/A - If so specify county

AKA

As it appears in the record or brief.

Respondent's Name (usually D.A.)

As it appears in the record or brief
Note-may be defendant - if so indicate AKA, if available

Court Control #

Only if it appears in the record or brief.

NYSID #

Only if it appears in the record or brief.

Type Counsel

Check whether retained, assigned, or pro se

Indictment # or Docket # in Appellate Terms

As it appears in the record or brief.

Court and County

As it appears in the record.

Date-Judgment of Conviction - is date of sentencing.

Date - Notice of Appeal Filed

Date on copy in your file

Type Opinion

As indicated by the decision sheet
If a dissent-indicate by whom
If no opinion-so indicate

B. Case Processing Information

For each charge, where judgment or sentence, or order is being appealed, use separate block - (space for 2 on 1 sheet). Use supplementary sheet if needed.

1. Charge appealed from and # of counts as cited in dispositional order. If possible, use appropriate code - list attached.
2. Indicate whether an appeal from the judgment, the sentence, or an order. Check appropriate box.
3. Date: Record ordered, counsel assigned.
For poor person relief - date of order.
For retained counsel - to be supplied on request to county clerk or appeals bureau in First and Second Departments.
4. Date: Record with transcripts received, from your records.
5. Date: Perfected
From your records.
6. Date submitted or argued
(check which one)
From your calendars
7. Date of disposition
From date of dispositional order
8. Disposition code

From Appendix II

If case dismissed or withdrawn prior to submissions or argument, indicate date and appropriate code, and do not complete subsequent dates as per above.

If charge reduced to lesser charge specify which (Not applicable to Appellate Terms)

If sentence reduced, specify to what.

If number of counts reduced, specify to what (Not applicable to Appellate Terms)

If not in disposition code, ("o"), specify in remarks section.

If there is anything unusual about case, please indicate in remarks section.

Complete Listing of All Law Codes

ABC -- alcoholic beverage control law
AM -- agriculture & market law
BL -- banking law
CON -- conservation law
COR -- corrections law
CPL -- criminal procedure law
CR -- civil rights law
CS -- civil service law
DOM -- domestic relations law
ECL -- environmental conservation law
ED -- education law
EL -- election law
EX -- executive law
GB -- general business law
GML -- general municipal law
GOB -- general obligations law
IN -- insurance law
JUD -- judiciary law
LAB -- labor law
LL -- lien law
LOC -- local law
MD -- multiple dwelling law
MHY -- mental hygiene law
MIL -- military law
PHL -- public health law
PL -- penal law
POL -- public officers law
PPL -- personal property law
PRL -- parks & recreations law
RP -- real property law
RR -- railroad law
SW -- social services law
TAX -- tax law
UN -- unconsolidated law
VTL -- vehicle & traffic law

Criminal Appeals - Intermediate

Appellate Courts

Proposed Disposition Reporting Scheme And Code

<u>Dismissed prior to submission or argument</u>		
Failure to perfect	DP 1	
Other - specify	DP 2	
<u>Withdrawn</u>		
	WD	
<u>Affirmed</u>		
Both conviction and sentence	A 1	
Conviction only	A 2	
<u>Reversed</u>		
New trial - remit to lower court	R 1	
Dismiss accusatory instrument	R 2	
Accusatory instrument reinstated	R 3	
<u>Modified</u>		
Change to lower charge (specify by code if possible)	M 1	
Shorten sentence - by Appellate Div. (specify to what) -	M 2	
Remit to lower court for resentence	M 3	
<u>Other</u> - Specify in disposition block	O	

Note: It is possible to have more than one disposition - i.e., conviction only affirmed (A 2); short-
en sentence (M 2); both should be shown on the
disposition line.

Methodology

Appendix III.

The study was broken down into several tasks as indicated below, conducted by EDC consultant, Robert Kaplan.

It took a total of 45 man days.

There were these phases:

	Approximate No. of Man Days
1. Orientation at OCA on appeals process, present reporting system, OBTS familiarization	10
2. Field trips to the Four Appellate Divisions and Two Appellate Terms - document in each clerk's office processing of appeals	10
3. Review of notes and documentation from field trip	5
4. Develop initial design	5
5. Review with EDC management	1
6. Review with OCA	1
7. Make necessary changes in concept and design	4
8. Develop forms, procedures	1
9. Review 2nd draft with EDC management, make changes if required.	1
10. Review 2nd draft with OCA, make changes if required, and send report to chief clerks for comment.	1
11. Discuss comments by clerks, resolve differences, discuss with EDC, OCA, incorporate in report.	3
12. Prepare final report for reproduction and submission to OCA.	3

TOTAL

45 Man Days

1
Chapter 1

Introduction

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became operative September 1, 1962, effecting the first court reorganization in New York since 1894. Article VI provides for a "unified court system for the state" and specifies the organization and the jurisdiction of the courts in the state. It also establishes the method of selection and removal of judges and justices and the responsibilities for administrative supervision of the courts.

The objectives of the Judiciary are to (1) provide a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determine the legality of wills, adoptions, uncontested divorces and other undisputed matters submitted to the courts for review and approval; (3) provide legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; (4) regulate the admission of lawyers to the Bar and their conduct and discipline, and (5) conduct proceedings to suspend, admonish, censure, remove or retire judges and justices.

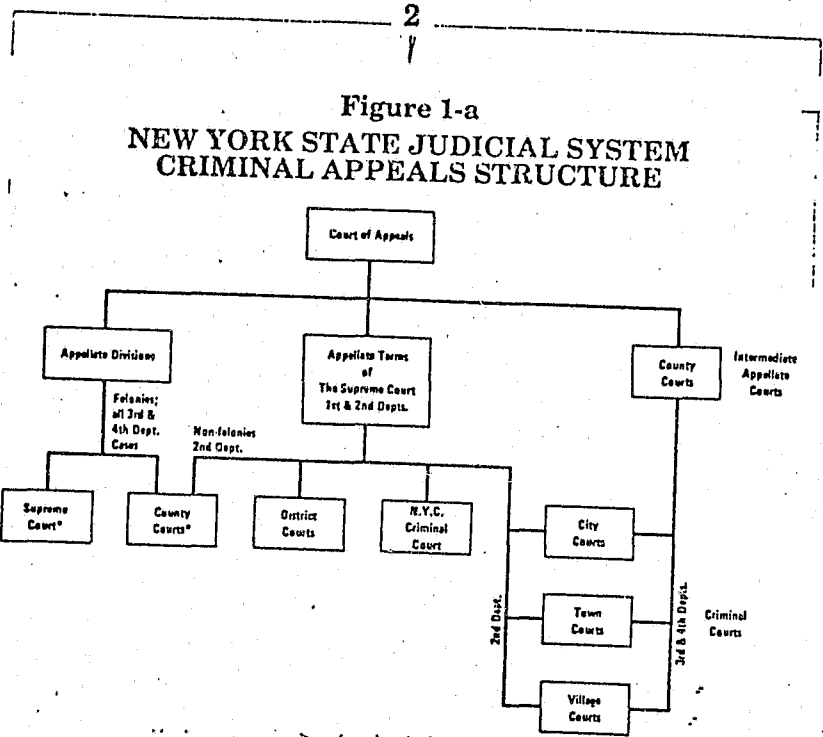
1.1 Court Structure

In New York State the courts of original jurisdiction, or trial courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

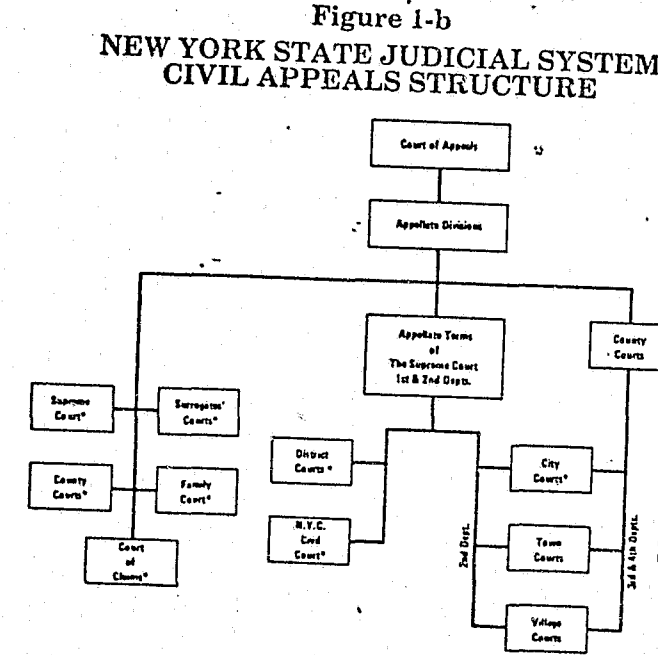
The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts. The *trial courts* of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York and, outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1-a and 1-b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. Until April 1, 1978, Court of Appeals judges were elected statewide for 14-year terms. After that date, as a result of approval of Amendment 1 at the general election of November 8, 1977, they will be appointed by the Governor, with the advice and consent



*Appeals involving death sentences must be taken directly to the Court of Appeals.



*Appeals from judgments of courts of record of original instance which finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United States Constitution may be taken directly to the Court of Appeals. Only some City Courts are courts of record.

of the Senate, from among persons found to be well-qualified by a commission on judicial nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or federal statute. In other matters, the Constitution provides that certain types of cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

The Appellate Divisions of the Supreme Court are established in each of the state's four judicial departments (see the map at the beginning of this chapter). Their responsibilities include:

- Resolving appeals from judgments or orders of the courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms.
- Conducting proceedings to admit, suspend, or disbar lawyers.

Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in county-level courts and original jurisdiction over selected proceedings. Where established by the Appellate Division, Appellate Terms exercise jurisdiction over civil and criminal appeals from various local courts and certain appeals from the County Courts.

As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor. The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are appointed for five-year terms or for the remainder of their terms of office, whichever period is shorter.

The Supreme Court has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

- Civil matters beyond the financial limits of the lower courts' jurisdiction;
- Divorce, separation, and annulment proceedings;
- Equity suits, such as mortgage foreclosures and injunctions; and
- Criminal prosecutions of felonies and indictable misdemeanors in New York City.

Supreme Court justices are elected by judicial district for 14-year terms.

The County Court is established in each county outside New York City. It is authorized to handle criminal prosecution of offenses committed within the county, although in practice, most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to \$10,000.

County Court judges are elected in each county for terms of 10 years.

The Surrogate's Court is established in every county and hears cases involving the affairs of decedents, including the probate of wills, the administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The Family Court is established in each county and the City of New York to hear matters involving children and families. The principal types of cases that it hears include:

- Juvenile delinquency;
- Child protection;
- Persons in need of supervision;
- Review and approval of foster-care placements;
- Paternity determinations;
- Family offenses;
- Adoptions (concurrent jurisdiction with Surrogate's Court); and
- Support of dependent relatives.

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The New York City Civil Court tries civil cases involving amounts up to \$10,000. It includes a Small Claims Part for informal disposition of matters not exceeding \$1,000 and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms.

The New York City Criminal Court conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: District, City, Town and Village Courts. These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The Court of Claims is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor with the consent of the Senate for nine-year terms.

The Court on the Judiciary was a special court convened by the Chief Judge to try charges that might result in the censure,

Exh. 1

5

suspension, removal or retirement of any judge or justice of any court in the unified court system.

The Court on the Judiciary consisted of five justices of the Appellate Division from judicial departments other than the department in which the judge or justice who was before the court had been elected, appointed or designated to sit.

Effective April 1, 1978, owing to approval of Amendment 3 at the general election of November 8, 1977, the Court on the Judiciary was abolished, and disciplinary authority over judges and justices was vested in a reconstituted State Commission on Judicial Conduct and the State Court of Appeals.

Table 1 shows the authorized number of judges in the New York State judicial system.

1.2 Court Administration

Until April 1, 1978, the constitutional authority for the administrative supervision of the unified court system was vested in the Administrative Board of the Judicial Conference, consisting of the Chief Judge of the Court of Appeals as chairman and the Presiding Justices of the four Appellate Divisions. The same constitutional provision that granted the Administrative Board the power "to establish standards and administrative policies for general application throughout the state" also provided that the four Appellate Divisions shall "supervise the administration and operation of the courts in their respective departments" in accordance with these standards and policies. This responsibility could be exercised through the designation of administrative judges.

The Chairman of the Administrative Board, with the approval of the Board, could appoint either a State Administrator or a State Administrative Judge, who was empowered to establish an Office of Court Administration to assist him and the Administrative Board in exercising their administrative functions. The State Administrative Judge exercised the powers and the responsibilities of the State Administrator as head of the Office of Court Administration and Secretary to the Administrative Board. He was also responsible, in consultation with the Appellate Divisions, for overseeing and coordinating the operations of the various administrative judges designated by the Appellate Divisions including the New York City Administrative Judge, who had been designated to supervise all trial-level courts in the City of New York except the Surrogates' Courts. (See Figures 2 and 3.)

Since April 1, 1978, as a result of approval of Amendment 2 at the general election of November 8, 1977, the authority for administrative supervision of the court system has been vested in the Chief Judge of the Court of Appeals, who appoints a Chief Administrator of the Courts with the advice and consent of the Administrative Board of the Courts. The Chief Administrator, on behalf of the Chief Judge, is responsible for the administration and operation of the trial courts and for the direction of the Office of Court Administration. The Chief Judge establishes

DISTRICT ATTORNEY/SUPERIOR COURT CRIMINAL DISPOSITION REPORT Exh. 2

OCA-540A (6/77)

CASE DATA	SERIAL #	CASE #	OTHER CASES <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	DEFENDANT'S NAME (LAST, FIRST, M.I.) LATELY, JOHNNY COME	
	00187831			D.O.B. or AGE	
	COUNTY CODE AND NAME 31101K	ARREST DATE 6/7/77		DISTRICT ATTORNEY/GRAND JURY ACTION	
	NYSID #	COURT CONTROL #	FOR OCA USE 01	ENTER DATE, CHECK ONE BOX AND ENTER TOP CHARGE IN SECTION 3 BELOW	
			<input checked="" type="checkbox"/> DIRECT INDICTMENT		
	COURT OF ORIGINAL JURISDICTION	DATE OF ACTION 7/1/77	<input checked="" type="checkbox"/> INDICTMENT		
	ADA'S NAME	<input type="checkbox"/> SUPERIOR COURT INFORMATION			
	ARRAIGNMENT COURT CODE AND NAME 31101K	<input type="checkbox"/> REFERRED TO LOCAL CRIMINAL COURT		NAME OF COURT	
	DATE ARRAIGNED 6/1/77	COUNSEL TYPE	RELEASE STATUS	<input type="checkbox"/> DISMISSED/NO BILL ENTER ALL CHARGES IN SECTION 3 BELOW	
	BAIL AT ARRAIGNMENT \$	CASH/\$	BOND	DATE TRIAL BEGAN 6/7/77	TRIAL TYPE JT
INTERIM DISPOSITION					
DATE OF ACTION		DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION
DISPOSITION CODE		DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE
DATE OF ACTION		DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION
DISPOSITION CODE		DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE
DATE OF ACTION		DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION
DISPOSITION CODE		DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE
ARRAIGNMENT CHARGE # 1					
LAW CODE VT2	SECTION # 501	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS 2	
DESCRIPTION					
FINAL DISPOSITION ON CHARGE # 1					
LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS	
DESCRIPTION					
DATE OF ACTION	DISPOSITION CODE	ALL OTHER COUNTS DISMISSED <input type="checkbox"/>			
ADJOURNED TO DATE	COVERED BY CASE #	FOR OCA USE			
SENTENCE ON CHARGE # 1					
DATE SENTENCED	SENTENCE CODE				
FINE AMOUNT	PROBATION TIME <input type="checkbox"/> 1 YEAR <input type="checkbox"/> 3 YEARS <input type="checkbox"/> 5 YEARS <input type="checkbox"/> LIFE				
CUSTODY TIME	INSTITUTION	CONCURRENT	CONSECUTIVE	INTERMITTENT	
COND FELONY FENDER	PERSISTENT FELON	ADJUDICATED Y.O.	CERTIFIED ADDICT	DRIVER'S LICENSE SUSPENDED or REVOKED	
COMPLETED BY					
WHITE COPY	RETURN PRINTS AND PHOTOS TO:				
YELLOW COPY					
PINK COPY					
OLD COPY					
MAIL TO: CDRU OFFICE OF COURT ADMINISTRATION 100 BROADWAY - 13th FLOOR NEW YORK, N.Y. 10007					
3 ARRAIGNMENT CHARGE # 2					
LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS	
DESCRIPTION					
4 FINAL DISPOSITION ON CHARGE # 2					
LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS	
DESCRIPTION					
DATE OF ACTION	DISPOSITION CODE	ALL OTHER COUNTS DISMISSED <input type="checkbox"/>			
ADJOURNED TO DATE	COVERED BY CASE #	FOR OCA USE			
5 SENTENCE ON CHARGE # 2					
DATE SENTENCED	SENTENCE CODE				
FINE AMOUNT	PROBATION TIME <input type="checkbox"/> 1 YEAR <input type="checkbox"/> 3 YEARS <input type="checkbox"/> 5 YEARS <input type="checkbox"/> LIFE				
CUSTODY TIME	INSTITUTION	CONCURRENT	CONSECUTIVE	INTERMITTENT	
SECOND FELONY OFFENDER	PERSISTENT FELON	ADJUDICATED Y.O.	CERTIFIED ADDICT	DRIVER'S LICENSE SUSPENDED or REVOKED	
8 REMARKS					

LOCAL COURT CRIMINAL DISPOSITION REPORT

Exh. 2

OCA-540 (6/77)

CASE DATA	SERIAL #	CASE #	OTHER CASES <input type="checkbox"/> Y <input type="checkbox"/> N	DEFENDANT'S NAME (LAST, FIRST, M.I.)		
	COURT CODE, NAME AND JUDGE'S NAME			ALIAS (AKA)	D.O.B. or AGE	
	NYSID #	ARREST DATE	FOR OCA USE	RELEASE STATUS	BAIL AT ARRAIGNMENT \$ CASH/\$ BOND	
	COURT CONTROL #	ARRAIGNMENT DATE	COUNSEL TYPE	DATE TRIAL BEGAN	TRIAL TYPE	
	DISPOSITION JUDGE (IF DIFFERENT)		ADA'S NAME	ARRESTING AGENCY		
LOCAL USE	ADJOURNED TO MO/DAY MO/DAY MO/DAY	REASON	DEFENSE ATTORNEY PHONE # CODEFENDANTS	ARRESTING OFFICER/COMPLAINANT ADDRESS PHONE #		

INTERIM DISPOSITION		BW - BENCH WARRANT ISSUED MIST - MISTRIAL/HUNG JURY		T730 - TEMPORARY ORDER OF OBSERVATION - CPL 730.40(1) TRANS - CASE TRANSFERRED (SPECIFY COURT)		
DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE	DATE OF ACTION	DISPOSITION CODE	TRANSFER TO COURT

ARRAIGNMENT CHARGE # 1					ARRAIGNMENT CHARGE # 2				
LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS	LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS
DESCRIPTION					DESCRIPTION				

FINAL DISPOSITION ON CHARGE # 1					FINAL DISPOSITION ON CHARGE # 2				
LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS	LAW CODE	SECTION #	SUBSECTION #	ATTEMPT <input type="checkbox"/>	# OF COUNTS
DESCRIPTION					DESCRIPTION				
DATE OF ACTION		DISPOSITION CODE		ALL OTHER COUNTS DISMISSED <input type="checkbox"/>	DATE OF ACTION		DISPOSITION CODE		ALL OTHER COUNTS DISMISSED <input type="checkbox"/>
ADJOURNED TO DATE		COVERED BY CASE #		FOR OCA USE	ADJOURNED TO DATE		COVERED BY CASE #		FOR OCA USE

SENTENCE ON CHARGE # 1					SENTENCE ON CHARGE # 2						
DATE SENTENCED		SENTENCE CODE			DATE SENTENCED		SENTENCE CODE				
FINE AMOUNT		PROBATION TIME <input type="checkbox"/> 1 YEAR <input type="checkbox"/> 3 YEARS			FINE AMOUNT		PROBATION TIME <input type="checkbox"/> 1 YEAR <input type="checkbox"/> 3 YEARS				
CUSTODY TIME		INSTITUTION	CONCURRENT <input type="checkbox"/>	CONSECUTIVE <input type="checkbox"/>	INTERMITTENT <input type="checkbox"/>	CUSTODY TIME		INSTITUTION	CONCURRENT <input type="checkbox"/>	CONSECUTIVE <input type="checkbox"/>	INTERMITTENT <input type="checkbox"/>
ADJUDICATED Y.O. <input type="checkbox"/>		CERTIFIED ADDICT <input type="checkbox"/>		DRIVER'S LICENSE SUSPENDED or REVOKED <input type="checkbox"/>		ADJUDICATED Y.O. <input type="checkbox"/>		CERTIFIED ADDICT <input type="checkbox"/>		DRIVER'S LICENSE SUSPENDED or REVOKED <input type="checkbox"/>	

6 COMPLETED BY		7 SEAL ORDER (use rubber stamp)		8 REMARKS	
WHITE COPY					
YELLOW COPY					
PINK COPY					
OLD COPY					
MAIL-TO: CDRU OFFICE OF COURT ADMINISTRATION 10 BROADWAY - 13th FLOOR NEW YORK, N.Y. 10007					

Exh. 3

Office of Court Administration
270 Broadway, New York, N.Y. 10007

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. _____

Department _____

1. Calendar: Enumerated ☐
Non-enumerated ☐
2. Oral Argument: Yes ☐
No ☐

Disposition:

3. Affirmance ☐
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title _____

11. Number of Judgements or Orders appealed from _____

12. Date argued or submitted _____

13. Date of disposition _____

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Disposition

Exh. 3

Court Case No. 45/1146

1. Calendar: Enumerated ☒ Non-enumerated ☐

2. Oral Argument: Yes ☐ No ☒

Disposition:

3. Affirmance ☐

4. Reversal ☐

5. New Trial ☐

6. Modification ☐

7. Dismissal ☐

8. Withdrawal ☐

9. Other (specify if more than one type of disposition) Remanded for sentence

10. Title People v. Edwin Chambers

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted JUN 1 1978

13. Date of disposition JUL 11 1978

Opinion:

14. Full Opinion by

15. Per Curiam ☐

16. Memorandum ☒

17. Dissent by

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Disposition

Court Case No. 44/808

1. Calendar: Enumerated ☒ Non-enumerated ☐

2. Oral Argument: Yes ☐ No ☒

Disposition:

3. Affirmance ☐

4. Reversal ☒

5. New Trial ☐

6. Modification ☐

7. Dismissal ☐

8. Withdrawal ☐

9. Other (specify if more than one type of disposition)

10. Title People v. Ernest Singleton

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted JUN 1 1978

13. Date of disposition JUL 11 1978

Opinion:

14. Full Opinion by

15. Per Curiam ☐

16. Memorandum ☒

17. Dissent by Justice J. M. C. Jones

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Disposition

Court Case No. 45/373

1. Calendar: Enumerated ☒ Non-enumerated ☐

2. Oral Argument: Yes ☒ No ☐

Disposition:

3. Affirmance ☒

4. Reversal ☐

5. New Trial ☐

6. Modification ☐

7. Dismissal ☐

8. Withdrawal ☐

9. Other (specify if more than one type of disposition) 2 judgments

10. Title People v. Louis Harris

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted JUN 8 1978

13. Date of disposition JUL 6 - 1978

Opinion:

14. Full Opinion by

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Disposition

Exh. 3

Court Case No. 45/264

1. Calendar: Enumerated ☒ Non-enumerated ☐

2. Oral Argument: Yes ☒ No ☐

Disposition:

3. Affirmance ☐

4. Reversal ☐

5. New Trial ☐

6. Modification ☐

7. Dismissal ☐

8. Withdrawal ☐

9. Other (specify if more than one type of disposition)

10. Title People v. Joe Rodriguez

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted JUN 8 1978

13. Date of disposition JUL 6 - 1978

Opinion:

14. Full Opinion by

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Disposition

Court Case No. 45/973

1. Calendar: Enumerated ☒ Non-enumerated ☐

2. Oral Argument: Yes ☐ No ☒

Disposition:

3. Affirmance ☒

4. Reversal ☐

5. New Trial ☐

6. Modification ☐

7. Dismissal ☐

8. Withdrawal ☐

9. Other (specify if more than one type of disposition)

10. Title People v. Yvonne Cines

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted JUN 6 1978

13. Date of disposition JUL 6 - 1978

Opinion:

14. Full Opinion by

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Disposition

Court Case No. 44-1163

1. Calendar: Enumerated ☒ Non-enumerated ☐

2. Oral Argument: Yes ☒ No ☐

Disposition:

3. Affirmance ☒

4. Reversal ☐

5. New Trial ☐

6. Modification ☐

7. Dismissal ☐

8. Withdrawal ☐

9. Other (specify if more than one type of disposition) 2 judgments

10. Title People v. Nelson Diaz

11. Number of Judgements or Orders appealed from 2

12. Date argued or submitted JUN 14 1978

13. Date of disposition JUL 13 1978

Opinion:

14. Full Opinion by

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by

JC-105 (Rev. Nov. 1975)

151DE, 151IE, 1512E, 1512AE
 SUPREME COURT APPELLATE DIVISION 2nd Exh. 3
 Court Case No. 33515
 DISPOSITION
 Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
 2. Oral Argument: Yes ☐ No ☒
 Disposition:
 3. Affirmance ☒ 4 sentences
 4. Reversal ☐
 5. New Trial ☐
 6. Modification ☐
 7. Dismissal ☐
 8. Withdrawal ☐
 9. Other (specify if more than one type of disposition) ☒ *provisional*

10. Title *People v. Rodriguez, Albert*
 11. Number of Judgments or Orders appealed from *-4-*
 12. Date argued or submitted *6-13-78*
 13. Date of disposition *JUL 3 1978*
 Opinion:
 14. Full Opinion by _____
 15. Per Curiam ☐
 16. Memorandum ☐
 17. Dissent by _____

JC-105 (Rev. Nov. 1975)

1194E
 194AE
 SUPREME COURT APPELLATE DIVISION 2nd Exh. 3
 Court Case No. 33206
 DISPOSITION
 Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
 2. Oral Argument: Yes ☒ No ☐
 Disposition:
 3. Affirmance ☒ Judgment & Order
 4. Reversal ☐
 5. New Trial ☐
 6. Modification ☐
 7. Dismissal ☐
 8. Withdrawal ☐
 9. Other (specify if more than one type of disposition) _____

10. Title *People v. Trapp, Michael A.*
 11. Number of Judgments or Orders appealed from *1-1*
 12. Date argued or submitted *5-23-78*
 13. Date of disposition *JUL 24 1978*
 Opinion:
 14. Full Opinion by _____
 15. Per Curiam ☐
 16. Memorandum ☒
 17. Dissent by _____

JC-105 (Rev. Nov. 1975)

181E
 33275
 SUPREME COURT APPELLATE DIVISION 2nd Exh. 3
 Court Case No. 33275
 DISPOSITION
 Department

1. Calendar: Enumerated ☐ Non-enumerated ☒
 2. Oral Argument: Yes ☒ No ☐
 Disposition:
 3. Affirmance ☒ Judgments (two) - one to each of them
 4. Reversal ☐
 5. New Trial ☐
 6. Modification ☐
 7. Dismissal ☐
 8. Withdrawal ☐
 9. Other (specify if more than one type of disposition) _____

10. Title *People v. Disenough, Willie & Garrison, Willie*
 11. Number of Judgments or Orders appealed from *-2-*
 12. Date argued or submitted *5-18-78*
 13. Date of disposition *JUL 31 1978*
 Opinion:
 14. Full Opinion by _____
 15. Per Curiam ☐
 16. Memorandum ☒
 17. Dissent by _____

JC-105 (Rev. Nov. 1975)

638E
 33940
 SUPREME COURT APPELLATE DIVISION 2nd Exh. 3
 Court Case No. 33940
 DISPOSITION
 Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
 2. Oral Argument: Yes ☒ No ☐
 Disposition:
 3. Affirmance ☒ Affirmance
 4. Reversal ☐
 5. New Trial ☐
 6. Modification ☒ Judgment
 7. Dismissal ☐
 8. Withdrawal ☐
 9. Other (specify if more than one type of disposition) *Case remitted to Criminal Term to determine if probation or for further proceedings*

10. Title *PEOPLE v. BORRERO, ABDA*
 11. Number of Judgments or Orders appealed from *-1-*
 12. Date argued or submitted *6-13-78*
 13. Date of disposition *JUL 10 1978*
 Opinion:
 14. Full Opinion by _____
 15. Per Curiam ☐
 16. Memorandum ☐
 17. Dissent by _____

JC-105 (Rev. Nov. 1975)

409E
 33552
 SUPREME COURT APPELLATE DIVISION 2nd Exh. 3
 Court Case No. 33552
 DISPOSITION
 Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
 2. Oral Argument: Yes ☒ No ☐
 Disposition:
 3. Affirmance ☒ Judgment
 4. Reversal ☐
 5. New Trial ☐
 6. Modification ☐
 7. Dismissal ☐
 8. Withdrawal ☐
 9. Other (specify if more than one type of disposition) *provisional*

10. Title *People v. Boggs, James*
 11. Number of Judgments or Orders appealed from *-1-*
 12. Date argued or submitted *6-15-78*
 13. Date of disposition *JUL 10 1978*
 Opinion:
 14. Full Opinion by _____
 15. Per Curiam ☐
 16. Memorandum ☐
 17. Dissent by _____

JC-105 (Rev. Nov. 1975)

47E
 33098
 SUPREME COURT APPELLATE DIVISION 2nd Exh. 3
 Court Case No. 33098
 DISPOSITION
 Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
 2. Oral Argument: Yes ☒ No ☐
 Disposition:
 3. Affirmance ☐
 4. Reversal ☐
 5. New Trial ☐
 6. Modification ☒ Judgment
 7. Dismissal ☐
 8. Withdrawal ☐
 9. Other (specify if more than one type of disposition) *Let may make motion to discontinue the present warrant etc.*

10. Title *PEOPLE v. TRANCHI, SALVATORE*
 11. Number of Judgments or Orders appealed from *-2-*
 12. Date argued or submitted *4-20-78*
 13. Date of disposition _____
 Opinion:
 14. Full Opinion by _____
 15. Per Curiam ☐
 16. Memorandum ☒
 17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Court Case No. 33200 DISPOSITION 3rd Department Exh. 3

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:
3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title People vs ANTHONY GOODWIN
11. Number of Judgments or Orders appealed from 1
12. Date argued or submitted 6-21-78
13. Date of disposition 7-20-78

Opinion:
14. Full Opinion by _____
15. Per Curiam ☐
16. Memorandum ☒
17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Court Case No. 33027 DISPOSITION 3rd Department _____

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:
3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title People v KEITH BASTION
11. Number of Judgments or Orders appealed from 1
12. Date argued or submitted 6/19/78
13. Date of disposition 7-20-78

Opinion:
14. Full Opinion by _____
15. Per Curiam ☐
16. Memorandum ☒
17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Court Case No. 33052 DISPOSITION 3rd Department _____

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:
3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title People v Riley Robinson
11. Number of Judgments or Orders appealed from 1
12. Date argued or submitted 6/19/78
13. Date of disposition 7-20-78

Opinion:
14. Full Opinion by _____
15. Per Curiam ☐
16. Memorandum ☒
17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Court Case No. 32652 DISPOSITION 3rd Department Exh. 3

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☐ No ☒

Disposition:
3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title People vs BRIAN BABCOCK
11. Number of Judgments or Orders appealed from 1
12. Date argued or submitted 6/20/78
13. Date of disposition 7-20-78

Opinion:
14. Full Opinion by _____
15. Per Curiam ☐
16. Memorandum ☒
17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Court Case No. 32710 DISPOSITION 3rd Department _____

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:
3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title People vs JAMES COFFEY
11. Number of Judgments or Orders appealed from 1
12. Date argued or submitted 5/25/78
13. Date of disposition 7-20-78

Opinion:
14. Full Opinion by _____
15. Per Curiam ☐
16. Memorandum ☒
17. Dissent ing name by [signature]

JC-105 (Rev. Nov. 1975)

Supreme Court Appellate Division
Court Case No. 32461 DISPOSITION 3rd Department _____

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:
3. Affirmance ☐
4. Reversal ☐
5. New Trial ☐
6. Modification ☒
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) _____

10. Title People vs THOMAS C. WOOD
11. Number of Judgments or Orders appealed from 1
12. Date argued or submitted 6/21/78
13. Date of disposition 7-20-78

Opinion:
14. Full Opinion by _____
15. Per Curiam ☐
16. Memorandum ☒
17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Office of Court Administration
270 Broadway, New York, N.Y. 10007

Exh. 3

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 380 Department 4th

1. Calendar: Enumerated ☒ Entered 11/15/77
Non-enumerated ☐

2. Oral Argument: Yes ☒
No ☐

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition)

10. Title People v. Louis E. Riemer

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted 5/12/78

13. Date of disposition 7/12/78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Office of Court Administration
270 Broadway, New York, N.Y. 10007

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 379 Department 4th

1. Calendar: Enumerated ☒ Entered 11/15/77
Non-enumerated ☐

2. Oral Argument: Yes ☒
No ☐

Disposition:

3. Affirmance ☐
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) Reversed and remitted for further proceedings

10. Title People v. George Rivera

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted 5/12/78

13. Date of disposition 11/12/78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☒

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Office of Court Administration
270 Broadway, New York, N.Y. 10007

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 350 Department 4th

1. Calendar: Enumerated ☒ Entered 10/1/75
Non-enumerated ☐

2. Oral Argument: Yes ☐
No ☒

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition)

10. Title People v. William C. Lano

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted 5/10/75

13. Date of disposition 7/12/75

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Office of Court Administration
270 Broadway, New York, N.Y. 10007

Exh. 3

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 351 Department 4th

1. Calendar: Enumerated ☒ Entered 10/1/75
Non-enumerated ☐

2. Oral Argument: Yes ☐
No ☒

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition)

10. Title People v. Jackson & Wilson

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted 5/10/78

13. Date of disposition 7/12/78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Office of Court Administration
270 Broadway, New York, N.Y. 10007

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 352 Department 4th

1. Calendar: Enumerated ☒ Entered 11/12/76
Non-enumerated ☐

2. Oral Argument: Yes ☐
No ☒

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition)

10. Title People v. William S. Jackson

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted 5/10/78

13. Date of disposition 11/12/78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Office of Court Administration
270 Broadway, New York, N.Y. 10007

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 475 Department 4th

1. Calendar: Enumerated ☒ Entered 10/18/76
Non-enumerated ☐

2. Oral Argument: Yes ☒
No ☐

Disposition:

3. Affirmance ☐
4. Reversal ☐
5. New Trial ☒
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition)

10. Title People v. Albert S. Sichel

11. Number of Judgements or Orders appealed from 1

12. Date argued or submitted 5/10/78

13. Date of disposition 11/12/78

Opinion:

14. Full Opinion by Sichel

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

SUPREME COURT APPELLATE DIVISION
DISPOSITIONCourt Case No. 326523rd Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People vs
Brian Babcock11. Number of Judgments or Orders appealed from 112. Date argued or submitted 6/20/7813. Date of disposition 7-20-78

Opinion:

14. Full Opinion by ☐15. Per Curiam ☐16. Memorandum ☒17. Dissent by ☐

JC-105 (Rev. Nov. 1975)

SUPREME COURT APPELLATE DIVISION
DISPOSITIONCourt Case No. 327103rd Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People vs
JAMES COFFEY11. Number of Judgments or Orders appealed from 112. Date argued or submitted 5/25/7813. Date of disposition 7-20-78

Opinion:

14. Full Opinion by ☐15. Per Curiam ☐16. Memorandum ☒17. Dissent by ing memo by [signature]

JC-105 (Rev. Nov. 1975)

SUPREME COURT APPELLATE DIVISION
DISPOSITIONCourt Case No. 324613rd Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☒ No ☐

Disposition:

3. Affirmance ☐
4. Reversal ☐
5. New Trial ☐
6. Modification ☒
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People vs
THOMAS C. WOOD11. Number of Judgments or Orders appealed from 112. Date argued or submitted 6/21/7813. Date of disposition 7-20-78

Opinion:

14. Full Opinion by ☐15. Per Curiam ☐16. Memorandum ☒17. Dissent by ☐

JC-105 (Rev. Nov. 1975)

SUPREME COURT APPELLATE DIVISION
DISPOSITIONCourt Case No. 3514th Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☐ No ☒

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People v. Jackson
Wilson11. Number of Judgments or Orders appealed from 112. Date argued or submitted 5/10/7813. Date of disposition 7/4/78

Opinion:

14. Full Opinion by ☐15. Per Curiam ☐16. Memorandum ☐17. Dissent by ☐

JC-105 (Rev. Nov. 1975)

JC-105 (Rev. Nov. 1975)

SUPREME COURT APPELLATE DIVISION
DISPOSITIONCourt Case No. 3524th Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☐ No ☒

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People v. William S.
Jackson11. Number of Judgments or Orders appealed from 112. Date argued or submitted 5/10/7813. Date of disposition 7/4/78

Opinion:

14. Full Opinion by ☐15. Per Curiam ☐16. Memorandum ☐17. Dissent by ☐

JC-105 (Rev. Nov. 1975)

SUPREME COURT APPELLATE DIVISION
DISPOSITIONCourt Case No. 4754th Department

1. Calendar: Enumerated ☒ Non-enumerated ☐
2. Oral Argument: Yes ☐ No ☒

Disposition:

3. Affirmance ☐
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People v. Robert [signature]11. Number of Judgments or Orders appealed from 112. Date argued or submitted 7/24/7813. Date of disposition 11/2/78

Opinion:

14. Full Opinion by ☐15. Per Curiam ☐16. Memorandum ☐

Exh. 3

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 380 Department 4th

1. Calendar: Enumerated ☒ Entered 11/15/77
Non-enumerated ☐

2. Oral Argument: Yes ☒
No ☐

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People v. Louis B. Perone

11. Number of Judgments or Orders appealed from 1

12. Date argued or submitted 5/13/78

13. Date of disposition 7/1/78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Exh. 3

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 379 Department 4th

1. Calendar: Enumerated ☒ Entered 11/15/77
Non-enumerated ☐

2. Oral Argument: Yes ☒
No ☐

Disposition:

3. Affirmance ☐
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☒ Per Curiam
Dismissal of Petition for Habeas Corpus
Procedural

10. Title People v. George Rivera

11. Number of Judgments or Orders appealed from 1

12. Date argued or submitted 5/12/78

13. Date of disposition 7/12/78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☒

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Exh. 3

SUPREME COURT APPELLATE DIVISION
DISPOSITION

Court Case No. 353 Department 1st

1. Calendar: Enumerated ☒ Entered 10/1/75
Non-enumerated ☐

2. Oral Argument: Yes ☐
No ☒

Disposition:

3. Affirmance ☒
4. Reversal ☐
5. New Trial ☐
6. Modification ☐
7. Dismissal ☐
8. Withdrawal ☐
9. Other (specify if more than one type of disposition) ☐

10. Title People v. William J. Green

11. Number of Judgments or Orders appealed from _____

12. Date argued or submitted 5/1/75

13. Date of disposition 7-78

Opinion:

14. Full Opinion by _____

15. Per Curiam ☐

16. Memorandum ☐

17. Dissent by _____

JC-105 (Rev. Nov. 1975)

Exh. 3

APPELLATE DIVISION
1st DEPT

JAN. 1, 1977 THRU DEC. 31 1977

General Information

MOTIONS DECIDED -	4,281
ADMISSION TO BAR	
MALE -	962
FEMALE -	416
DISBARMENTS -	7
STRUCK FROM ROLL -	9
SUSPENSIONS -	8
CENSURES -	none
CHARGES DISMISSED -	none
REINSTATEMENT -	13
RECORDS ON APPEALS FILED -	2,461

APPELLATE DIVISION - FOURTH DEPARTMENT
SUPREME COURT, STATE OF NEW YORK
501 Hall of Justice
Rochester, New York 14614

Attorneys admitted July 1, 1977 through December 31, 1977

On certificate of State Board of Law Examiners:

Men 89

Women 17

106

On motion

Men 2

Women 0

2

Pro Hac Vice (18 months admission)

Men 0

Women 0

0

Legal Consultant

Men 0

Women 0

0

108

Attorneys disciplined July 1, 1977 through December 31, 1977

Name struck from Rolls on consent 0

Name struck from Rolls after conviction
of felony 0

Disbarred 1

Suspended for definite period 0

Suspended for indefinite period 0

Censured 1

Reinstated after suspension 0

Reinstated after disbarment 0

STATE OF NEW YORK
SUPREME COURT APPELLATE DIVISION
THIRD DEPARTMENT
ALBANY, N.Y. 12224

Area Code 518 474-3609

TO THE OFFICE OF COURT ADMINISTRATION:

JUDICIAL STATISTICS: Dec. 1:1:77
1977 12:31:77

Records on Appeal Filed 105 1504

Number of Dispositions
of Judgments or Orders
Appealed From 292 1485

Full Opinions 35 204

Majority 30 168

Concurrence 0 4

Dissent 5 32

Per Curiam 0 1

Memo Opinions 209 1111

Dissent 12 55

Appeals Argued 153 707

Appeals Submitted 86 635

Motions Decided 141 2018

Admissions to Bar(1.male) 1 320

Disbarments 0 1

Struck From Roll 0 1

Suspensions 0 7

Censures 1 7

Charges Dismissed 0 0

Reinstatements 0 0

Dated: January 3, 1978

JOHN J. O'BRIEN, CLERK

RECEIVED
JAN 3 1978

Table 10
APPELLATE DIVISIONS OF THE SUPREME COURT
Matters Submitted and Decided and General Information on Proceedings
by Judicial Department
Jan. 1, 1977 through Dec. 31, 1977

Department	Records on Appeal Filed	Motions Decided	Oral Arguments	Dispositions of Judgments or Orders Appealed from ¹	Admissions to Bar		Attorney Disciplinary Proceedings					
					Men	Women	Charges Dismissed	Censures	Suspensions	Struck from Roll	Disbarments	Reinstatements
1st	2,461	4,281	911	2,366	962	416	0	0	8	9	7	13
2nd	2,764	7,331	1,396	2,790	1,308	288	2	12	8	16	12	3
3rd	1,504	2,018	829	1,499	259	61	0	7	7	1	1	0
4th	550	998	868	1,089	51	17	0	1	0	0	1	0
State Total ...	7,279	14,028	4,004	7,744	2,820	782	2	20	23	26	21	16

¹Includes Articles 78 and original proceedings; also includes appeals dismissed or withdrawn before argument or submission.

4th.....	1,097	1,645	OK	OK	345	77	OK	2	1	1	2	OK
State total	7,826	15,275	OK	OK	2,874	842	OK	21	24	27	22	OK

51

Exhibit 4
As corrected by
OCA on January 26, 1979.

Table 11
APPELLATE DIVISIONS OF THE SUPREME COURT
Dispositions of Judgments or Orders by Nature and by Judicial Department
Jan. 1, 1977 through Dec. 31, 1977

Department	Nature of Disposition						Total Disposition of Judgments or Orders Appealed from*
	Dismissals	Affirmances	Modifications	New Trials	Reversals Not Including New Trials	Other	
1st	136	1,358	267	42	272	291	2,366
2nd	147	1,651	325	111	524	32	2,790
3rd	13	1,178	100	0	183	25	1,499
4th	44	737	104	31	157	16	1,089
Total State	340	4,924	796	184	1,136	364	7,744

*Includes Article 78 and original proceedings; also includes appeals dismissed or withdrawn before argument or submission.

Table 12
APPELLATE DIVISIONS OF THE SUPREME COURT
Opinions by Type and by Judicial Department
Jan. 1, 1977 through Dec. 31, 1977

Department	Type of Opinion ¹		
	Full	Per Curiam	Memorandum
1st	93	12	1,089
2nd	59	1	2,024
3rd	193	1	1,277
4th	104	4	543
Total	449	18	4,933

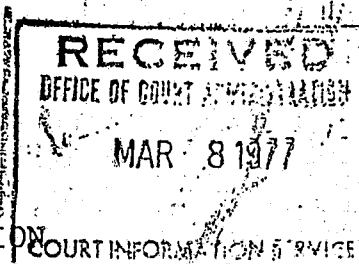
¹ Concurring and dissenting opinions not included.

Table 13
APPELLATE TERMS OF THE SUPREME COURT
 Activity of the Court by Judicial Department
Jan. 1, 1977 through Dec. 31, 1977

Activity	First Depart- ment	Second Depart- ment	Total
1. Total appeals received ¹	350	2,080	2,430
a. County Courts	0	134	134
b. The Civil Court of the City of New York	295	593	888
c. The Criminal Court of the City of New York	55	191	246
d. The District Courts	0	761	761
e. Courts in cities outside New York City	0	152	152
f. Town Courts & Village Courts	0	249	249
2. Motions heard or submitted	1,289	1,978	3,267
3. Total appeals disposed of	348	1,510	1,858
a. Discontinued	15	48	63
b. Dismissed on calendar call under Rule 3 or 8 (civil)	8	318	326
c. Dismissed on calendar call under C.P.L. 460.70 (criminal)	3	88	91
d. Remitted	2	0	2
e. Decided after argument or submission	320	1,056	1,376
4. Total decisions rendered	320	1,056	1,376
a. Dismissed, discontinued, withdrawn or remanded	11	46	57
b. Affirmed	161	497	658
c. Modified	55	147	202
d. Reversed	93	366	459
5. Opinions filed	0	0	0
6. Per curiam opinions	239	1,010	1,299
7. Memoranda written, not filed	31	43	74

¹ Notices of appeal dismissed on calendar call C.P.L. 460.70 (Criminal): 190 in First Department and 521 in the Second Department.

APPEALS TERM SUIT ME RT kh.



2 & 11 JUDICIAL DEPARTMENT
January TERM 19677

TO: OFFICE OF COURT ADMINISTRATION
THE JUDICIAL CONFERENCE
OF THE STATE OF NEW YORK
270 Broadway, New York 7, N.Y.

Number of Justices sitting this term

1. Total appeals received..... 56
a) From Civil Court, N.Y.C..... 35
b) From Criminal Court, N.Y.C... 21
c) From City Courts
outside N.Y.C..... 0
d) From District Courts..... 0
e) From County Courts..... 0
2. Notices of appeals dismissed on
Calendar call under C.C.P. 535 (Criminal) 33
3. Total appeals disposed of..... 58
a) Dismissed on calendar call
under Rule 3 (Civil)..... 14
b) Dismissed on calendar call
under C.C.P. 535 (Criminal) 0
c) Discontinued..... 2
* d) Remitted..... 0
e) Decided after argument
or submission..... 42

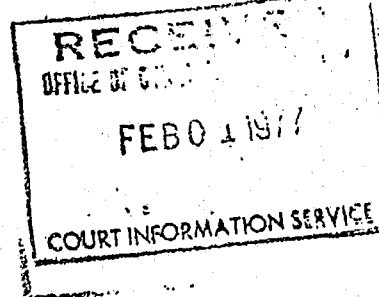
4. Total decisions rendered..... 42
a) Affirmed..... 14
b) Reversed..... 17
c) Modified..... 7
d) Dismissed or
discontinued..... 4
5. Opinions filed..... 0
6. Per curiams filed..... 38
7. Memoranda written, not filed.... 4
8. Motions heard or submitted..... 81

PREPARED BY Antonia F. Mangano

TITLE DEPUTY CHIEF CLERK

*Accounted for under reversals.

EX-5



Exh. 5

1st JUDICIAL DEPARTMENT
January TERM 1967

TO: THE JUDICIAL CONFERENCE
OF THE STATE OF NEW YORK
270 Broadway, New York 7, N.Y.

Number of Justices sitting this term 3

1. Total appeals received.....	43	4. Total decisions rendered.....	27
a) From Civil Court, N.Y.C.....	31	a) Affirmed.....	12
b) From Criminal Court, N.Y.C....	12	b) Reversed.....	11
c) From City Courts	-	c) Modified.....	4
outside N.Y.C.....	-	d) Dismissed or	-
d) From District Courts.....	-	discontinued.....	-
e) From County Courts.....	-		
2. Notices of appeals dismissed on	-	5. Opinions filed.....	-
Calendar call under C.C.P. 535 (Criminal)	-		
3. Total appeals disposed of.....	30	6. Per curiams filed.....	27
a) Dismissed on calendar call	-		
under Rule 3 (Civil).....	-		
b) Dismissed on calendar call	-	7. Memoranda written, not filed....	-
under C.C.P. 535 (Criminal).....	-		
c) Discontinued.....	3		
d) Remitted.....	-		
e) Decided after argument	-	8. Motions heard or submitted.....	97
or submission.....	27		

PREPARED BY Thomas J. Casey

TITLE Confidential Clerk
January 31, 1977

1545

Rule 5530. Filing record and briefs; service of briefs

(a) Generally. Within twenty days after settlement of the transcript or after settlement of the statement in lieu of stenographic transcript or after approval of the statement in lieu of record, the appellant shall file with the clerk of the court to which the appeal is taken the record on appeal or statement in lieu of record, and the required number of copies of his brief, and shall also serve upon the adverse party three copies of his brief. The respondent shall file and serve a like number of copies of his brief within fifteen days after service of the appellant's brief. The appellant may file and serve a like number of copies of a reply brief within ten days after service of the respondent's brief.

(b) Upon cross-appeal. Unless the court to which the appeals are taken otherwise orders, where both parties take an appeal from the same judgment or order, the plaintiff, or appellant in the court from which the appeal is taken, shall file and serve his brief first. The answering brief shall be filed and served within fifteen days after service of the first brief and shall include the points and arguments on the cross-appeal. A reply brief shall be filed and served within fifteen days after service of the answering brief, and shall include answering points and arguments on the cross-appeal. A reply brief to the cross-appeal may thereafter be served and filed within ten days after the service of the reply to the first brief.

(c) Special rules prescribing times for filing and serving authorized. The appellate division in each department may by rule applicable in the department prescribe other limitations of time different from those prescribed in subdivisions (a) and (b) for filing and serving records on appeal, or statements in lieu of records, and briefs in appeals taken therein. As amended L.1963, c. 730, § 3.

Federal Rules of Appellate Procedure

Filing and service of briefs, see Rule 31, 28 U.S.C.A.

Rule 5531. Description of action

The appellant shall file together with the record on appeal, in both criminal and civil actions, a statement containing the following information listed and numbered in the following order:

1. the index number of the case in the court below,
2. the full names of the original parties and any change in the parties,
3. the court and county in which the action was commenced,
4. the date the action was commenced and the dates on which each pleading was served,
5. a brief description of the nature and object of the action,

33491
1.

NEW YORK SUPREME COURT

APPELLATE DIVISION - THIRD DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

ALFRED LaVARE, JR.,

Defendant-Appellant.

STATEMENT PURSUANT TO RULE 5531 CPLR

1. Index No. of the case in the court below:

78-29.

2. The full names of all original parties were as shown in the title of the case above and there has been no change of parties.

3. The action was commenced in the County Court, Franklin County.

4. The action was commenced by Indictment Number I-69-78 of the February, 1978 term of the Grand Jury of the County of Franklin.

5. The nature and object of the indictment was to accuse the defendant of the crimes of Assault in the second degree and Violation of Section 120.05 (1) of the Penal Law; the crime of Assault in the second degree and Violation of Section 120.05 (4) of the Penal Law; and

2.

the crime of Endangering the Welfare of a Child in violation of Section 261.10 (2) of the Penal Law. Note that the designation of Section 261.10 (2) was a typographic error, and was amended on motion by the District Attorney on March 6, 1978, to 260.10 (2).

6. This appeal is from a Judgment of the County Court, Franklin County, rendered March 27, 1978, sentencing the defendant-appellant to one-year in the Franklin County Jail, upon a plea of guilty to the crime of Endangering the Welfare of a Child in violation of 260.10, Subdivision 2 of the Penal Law of the State of New York. (Jan Plumadore, J.)

7. The appendix method of appeal is not being used.

CAREY, LaROCQUE, PIASECKI & CLARK
Attorneys for Defendant-Appellant
161 East Main Street
Malone, New York 12953
Telephone: (518) 483-2550

Form CPL-1-76

Revised 9-1-77

New York Supreme Court
Appellate Division, Third Department
Albany, New York

APPEALS TO APPELLATE DIVISION PURSUANT TO CRIMINAL PROCEDURE LAW

Check-off List and Timetable

1. Appellant: file two copies of notice of appeal with county clerk and serve one copy on adversary within 30 days from judgment of conviction (CPL, §460.10 [1]). If permission to appeal is necessary, file application for permission within 30 days after service of copy of order sought to be appealed (CPL, §460.10 [4]). If permission is granted, file certificate granting leave to appeal together with notice of appeal with county clerk and serve copy of notice of appeal upon adversary within 15 days after issuance of certificate (CPL, §460.10 [4]).
2. County Clerk: within 10 days after filing notice of appeal, forward one copy to Appellate Division (CPL, §460.10 [1]); after service upon county clerk of copy of decision of Appellate Division granting defendant permission to proceed as a poor person, order two copies of trial transcript from court reporter.
3. Court Reporter: where defendant is granted permission to proceed as a poor person, the court reporter shall promptly file with the criminal court two transcripts of the stenographic minutes of such proceedings as the Appellate Division shall direct (CPL, §460.70 [1]). (For content and form of transcript, see Rules of App. Div., 3d Dept., Rules of Practice, §800.6.)
4. County Clerk: upon receipt of two transcripts of the stenographic minutes, promptly furnish without charge to poor person one copy of transcript and one copy of any other paper or document on file in his office which are material and relevant to the appeal. When directed by this court, send the second copy of the transcript to the clerk of this court, who shall attach it to the single copy record upon which the appeal shall be prosecuted (§800.4 [c]).
5. Appellant: within 60 days after the last day for filing a notice of appeal, file single copy record and 7 copies of brief and appendix, with proof of service of one copy on appellant and respondent. Record shall comply with §§800.5 and 800.14 as to form and content and §800.7 (b) as to stipulation, settlement or certification. Brief and appendix shall comply with §800.8 (§800.14 [b]). Appellant's brief shall indicate on the cover either that the appeal will be argued, together with the name of counsel and the time requested for argument, or that the appeal will be submitted (§§800.14 [d], 800.10).

-2-

6. Clerk of Appellate Division: mail to respondent a demand requiring respondent either to serve and file brief and appendix within 30 days from date of service of appellant's brief, or within 10 days from date of service of appellant's brief, to apply to clerk for extension of time in which to do so (§800.9 [b]).
7. Respondent: within 30 days after service of appellant's brief and appendix, file 7 copies of a brief and appendix, with proof of service of 2 copies upon appellant's counsel, who shall forthwith furnish a copy to appellant (§800.14 [b]); or, within 10 days from date of service of appellant's brief, apply to the clerk for an extension of time in which to file respondent's brief (§800.9 [b]). If the appeal is to be argued, respondent's brief shall contain the name of counsel who will argue and the time requested for argument (§§800.14 [d], 800.10).
8. Clerk of Appellate Division: schedule appeal for argument or submission at the next term commencing more than 30 days after service and filing of record on appeal and appellant's brief and appendix, unless an extension to file respondent's brief shall have been granted (§800.14 [b]); and give counsel notice of the date on which case will be argued or submitted (§800.11).
9. When Only Sentence in Issue: when the sole question raised on appeal concerns the legality, propriety or excessiveness of the sentence imposed, the appeal may be heard upon a shortened record on appeal consisting of the notice of appeal and sentencing minutes, which shall be clearly labeled "Record on Appeal from Sentence". The record shall contain a statement pursuant to CPLR 5531 and shall be stipulated to or settled in the manner provided in §800.7 (b). The appeal shall be prosecuted, and may be scheduled for oral argument or submission, in the manner provided in §800.14 (b). A copy of the presentence investigation report shall be filed with the clerk (§800.14 [g]).
10. Decision and Order: Upon receipt of court's decision, the prevailing party shall prepare and submit a proposed order in triplicate (§800.22). Upon entry of the order, the original record on appeal shall be remitted to the clerk of the criminal court with a certified copy of the order (§800.14 [e]).

-3-

11. Briefs and Appendices: The brief shall contain a cover sheet, table of contents of both the brief and appendix, followed by the brief proper and the appendix. The cover sheet shall contain the title of the action; if the appeal is to be argued, the name of counsel who will argue and the time requested; and shall be entitled "Appellant's Brief and Appendix" or "Respondent's Brief and Appendix", as the case may be, together with the name and address of appellant's or respondent's attorney of record. The table of contents shall be in substantially the following form:

Table of ContentsBriefPage

Preliminary Statement
 Questions Presented
 Statement of Facts
 Argument (List Points of Argument.)
 Conclusion

AppendixPage

Indictment
 Motion to suppress evidence
 Affidavit of , sworn to
 " " " "
 " " " "
 " " " "
 Decision of , J., dated
 Excerpts from trial testimony (List witnesses.)
 Excerpts from jury charge
 Minutes of sentencing on
 Exhibits:
 People's Ex. 1 (describe)
 " " 2 "
 Defendant's Ex. A "
 " " B "

-4-

The preliminary statement of the brief shall be in substantially the following form:

Defendant appeals from a judgment of the County Court, County, rendered, upon his conviction, after trial (or upon a plea of guilty) of the crime(s) of . Defendant is presently serving his sentence in Correctional Facility (or was released on bail pending appeal by order dated).

The questions presented on appeal shall follow the preliminary statement and precede the statement of facts. The points of argument shall follow the statement of facts and shall be followed by the conclusion which shall specify the relief to which appellant deems himself entitled. Appellant's brief (and respondent's brief) shall otherwise comply with CPLR 5528-5529 as to content and form. Appellant's appendix shall also comply with section 800.8 (b) of the Rules of Practice.

John J. O'Brien, Clerk

-5-

SAMPLE TABLE OF CONTENTS OF RECORD ON APPEAL

TABLE OF CONTENTS - VOL. I OF II

	<u>Page No.</u>
Transcript of suppression hearing had _____	1 - 46
Decision of _____, J., dated _____, denying motion to suppress	47
Order of _____, J., dated _____, denying suppression	53
Notice of motion for suppression of evidence dated _____	55
Affidavit of _____, sworn to _____ by _____ in support of motion to suppress	57

TABLE OF CONTENTS - VOL. II OF II

Stenographic trial transcript	1 - 200
(Stenographer's index to testimony of witnesses, exhibits offered and received in evidence, charge, verdict, motions and sentencing of _____ follow this Table of Contents.)	
Statement pursuant to CPLR 5531	201
Notice of appeal	202
Indictment No. _____, dated _____	203
Stipulation by and between counsel with respect to record on appeal and exhibits	204

The tables of contents on a multi-volume record shall appear at the front of each volume and each volume shall be numbered on its cover.

-6-

SAMPLE STIPULATION

STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-vs-

Appellant.

It is hereby stipulated by and between the undersigned, that the foregoing copies are true and correct copies of the papers used in the _____ Court, _____ County, including the notice of appeal, indictment, and minutes of the trial, as filed in the office of the Clerk of _____ County, and of the whole thereof; and the appeal in this case may be heard on said papers without certification thereof, which is hereby waived.

It is further stipulated that the exhibits offered or received in evidence upon the trial may be omitted from this record on appeal and shall be filed with the parties' briefs.

Dated:

Attorney for Appellant_____
District Attorney

-7-

Excerpts From Pertinent Rules of Practice of App. Div., 3rd Dept.§800.14 Appeals in criminal cases.

An appeal authorized by the Criminal Procedure Law shall be prosecuted by the appendix method authorized by section 800.4 (b) of this Part. The single copy record in a criminal case shall comply with section 800.5 of this Part, except that, in addition to the relevant items listed in section 800.5 (a) of this Part, it shall also contain the indictment, hearing and trial transcripts, motion papers, if any, and sentencing minutes. When the clerk of the trial court has been directed, pursuant to section 800.4 (c) of this Part, to furnish a copy of a transcript to this court, the transcript may be omitted from the single copy record.

(a) Briefs and appendixes. Briefs and appendixes shall comply with CPLR 5528 and section 800.8 of this Part.

(b) When to be heard; service of briefs. Unless appellant's time is enlarged by order, appellant's counsel shall file the single copy record and seven copies of a brief and appendix within 60 days after the last day for filing a notice of appeal, with proof of service of one copy upon the appellant and one copy upon respondent. Respondent, within 30 days after service of appellant's brief and appendix, shall file seven copies of a brief and appendix, with proof of service of two copies upon appellant's counsel, who shall forthwith furnish a copy of respondent's brief to appellant. The clerk shall schedule the appeal for argument or submission at the next term of court commencing more than 30 days after the service and filing of the record on appeal and appellant's brief and appendix, unless an extension to file respondent's brief shall have been granted pursuant to section 800.9 (b) of this Part.

(c) Enlargement of time. Application by appellant for an enlargement of time in a criminal case shall be by motion on notice and shall be accompanied by an affidavit satisfactorily explaining the delay. The affidavit shall state (1) the date of conviction; (2) whether by trial or plea; (3) whether appellant is free on bail; (4) the date the notice of appeal was filed; (5) the date the trial transcript was ordered; (6) whether the transcript has been filed; (7) if the complete transcript has not been filed, the date it is expected to be filed; and (8) the date appellant's brief and appendix will be filed.

-8-

(d) Oral argument. Unless otherwise ordered by the court, appeals may be submitted without oral argument. The time allowed for oral argument shall be as provided in section 800.10 in this Part.

(e) Remittitur. Upon entry of the order on this court's decision, the original record on appeal shall be remitted to the clerk of the criminal court with a certified copy of the order.

(f) Reargument of appeal. Motions for reargument must be made within 60 days after service upon the moving party of a copy of the court's order, with written notice of its entry, except that when a party has entered the order, the time shall be computed from the date of entry.

(g) Where only sentence in issue. When the sole question raised on appeal concerns the legality, propriety or excessiveness of the sentence imposed, the appeal may be heard upon a shortened record on appeal consisting of the notice of appeal and sentencing minutes, which shall be clearly labeled "Record on Appeal from Sentence". The record shall contain a statement pursuant to CPLR 5531 and shall be stipulated to or settled in the manner provided in section 800.7 (b) of this Part. The appeal shall be prosecuted, and may be scheduled for oral argument or submission, in the manner provided in subdivision (b) of this section. A copy of the presentence investigation report shall be filed with the clerk.

§800.4 Alternative methods of prosecuting appeals and review proceedings.

(b) Appendix method. When the appendix method is used, appellant shall file with the clerk a single copy of the papers constituting the record on appeal or record on review prepared in accordance with section 800.5 of this Part, with proof of service of a copy upon each adverse party or, in lieu thereof, appellant may file with the clerk proof of service of a notice upon each adverse party that the single copy of the record has been filed in the office of the clerk of this court. In the alternative, when serving appellant's brief, appellant may serve the single copy of the record upon respondent and shall so state in an affidavit of service. A respondent upon whom the single copy of the record has been served shall file the record with the clerk of this court within 30 days from the date of its service upon him. When there are two or more adverse parties, appellant shall obtain instructions from the clerk for use of a single record by respondents and its filing with the clerk.

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(c) Appeals by indigent parties. An appeal in a criminal case, or in a civil case by a person who has been granted permission by this court to proceed as a poor person, may be prosecuted by the appendix method authorized by subdivision (b) of this section. Appellant shall file seven copies of a typewritten brief and appendix with proof of service of one copy upon each adversary. Respondent may likewise file seven copies of a brief with proof of service of one copy upon each adversary. The clerk of the court from which the appeal is taken shall, within five days after service upon him of a copy of the decision of this court, furnish without charge to a person granted permission to proceed as a poor person one copy of a stenographic transcript of trial or hearing minutes and one copy of any other paper or document on file in his office which is material and relevant to the appeal. In a criminal case, the court may, where such is necessary for perfection of the appeal, direct the clerk of the criminal court to send the second copy of the stenographic transcript of trial or hearing minutes on file in his office to the clerk of this court, who shall attach it to the single copy record upon which the appeal shall be prosecuted.

§800.5 Record on appeal or review.

(a) Form and content. A record on appeal or record on review shall be on good quality, white, unglazed paper and shall comply with CPLR 5529 as to size and form. Carbon copies will not be accepted. Bulky records shall be divided into volumes not to exceed one and one-half inches in thickness and shall be bound on the left margin with a flat clasp or similar type of fastener. The record shall contain, in the following order, so much of the following items as shall be applicable to the particular appeal or proceeding:

- (1) a soft cover containing the title and the names, addresses and telephone numbers of attorneys;
- (2) a table of contents which shall list and briefly describe each paper included in the record, each witness' testimony and each exhibit. The part relating to a transcript of testimony shall separately state as to each witness the page at which direct, cross, redirect and recross examination begins. The part relating to exhibits shall briefly describe each exhibit and shall indicate the page where admitted in evidence and whether the exhibit has been omitted from the record;

-10-

(3) a statement pursuant to CPLR 5531;

(4) the notice of appeal or order of transfer, judgment or order appealed from, judgment roll, corrected transcript or statement in lieu thereof, any affidavits and relevant exhibits or copies of them, and any opinion or decision in the case;

(5) a stipulation or order settling the transcript pursuant to CPLR 5525 (c);

(6) a stipulation dispensing with reproducing any exhibits. Exhibits may be omitted from the record pursuant to stipulation of counsel or by permission of the presiding justice. Omitted exhibits which are material to the issues raised on appeal shall be filed when briefs are filed. All exhibits, whether omitted from the record or not, shall be listed and briefly described in the table of contents;

(7) the appropriate certification or stipulation as required by section 800.7 of this Part.

(b) Exhibits. Exhibits which are material to the issues raised by any party shall be made available to the court. Exhibits not relevant, as well as bulky, dangerous or irreplaceable exhibits, need not, however, be filed unless the clerk otherwise directs. Except in appropriation cases, appellant when filing his brief shall also file the original or a certified copy of each exhibit upon which he relies or has reason to believe a respondent will rely. Exhibits under a respondent's control or under the control of a third person shall be filed either pursuant to a five-day written demand served by appellant upon a respondent or pursuant to a subpoena duces tecum issued in accordance with CPLR, article 23. Appellant shall also file with his brief proof of service of such a demand or subpoena, together with a list of all relevant exhibits. In appropriation cases, each party shall file with his brief two copies of each appraisal report upon which he relies.

§800.7 Certification of record.

(b) Single copy of record. When the appendix method is used, the single copy of the record must be stipulated to by the parties or, if the parties are unable to stipulate, settled by the judge before whom the proceedings were held. The procedure for settlement of a single copy record shall be in the manner provided by CPLR 5525 (c), except that if respondent shall fail to make any proposed amendments or

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objections to the record within ten days after service of it upon him, the record, certified as correct by appellant's or petitioner's attorney, shall be deemed correct and may be filed with an affirmation by appellant certifying to his compliance with the requirements of this section and respondent's noncompliance.

§800.8 Form and content of brief and appendix.

(a) Briefs. Briefs shall comply with CPLR 5528 and 5529 shall contain on the cover the name and address of counsel who will argue the appeal and the estimated time of argument, and shall be on good quality, white, unglazed paper. Carbon copies will not be accepted.

(b) Appendixes. An appendix shall comply with CPLR 5529 and may be bound in the brief or separately. Appellant's appendix shall contain such parts of the record on appeal as are necessary to consider the questions involved, including at least the following:

- (1) notice of appeal;
- (2) judgment, decree or order appealed from;
- (3) decision and opinion of the court or agency, and report of a referee, if any;
- (4) pleadings, if their sufficiency, content or form is in issue or material; in a criminal case, the indictment;
- (5) relevant excerpts from transcripts of testimony or averments in motion papers upon which appellant relies or has reason to believe respondent will rely; in addition, in a criminal case, the sentencing minutes;
- (6) charge to the jury; and
- (7) copies of critical exhibits, including photographs, to the extent practicable.

(c) Inadequate appendix. If an appendix fails to comply with this section, the adverse party, within 10 days from its receipt, may move to compel a party to file a further appendix. A respondent may also file an appendix to respondent's brief containing relevant portions of the record omitted from appellant's brief.

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§800.9 Filing and service of papers.

(b) Respondent's brief; extension of time. After the record on appeal and appellant's brief, or brief and appendix, have been filed, with proof of service, the clerk shall mail to each respondent a demand which shall require respondent either to serve and file respondent's brief within 30 days from the date of service of appellant's brief or, within 10 days from the date of service of appellant's brief, to apply to the clerk for an extension of time in which to do so. A respondent who does not apply for an extension within the time allowed shall file and serve respondent's brief within 30 days from the date of service of appellant's brief. A respondent who obtains an extension shall file and serve his brief on or before the date to which his time has been extended. An appropriate extension may be granted by the clerk, as necessary, but not more than one extension may be granted. Each respondent shall file the same number of copies of his brief as appellant shall have filed, with proof of service of one copy upon each appellant.

§800.10 Oral argument.

Each counsel shall notify the clerk whether he will argue or submit, and if he desires to argue, shall indicate on the cover of his brief the amount of time desired. Unless otherwise ordered, each side shall be allowed not more than 30 minutes for oral argument on appeals from judgments, actions on submitted facts, and in special proceedings transferred to or instituted in this court; 15 minutes on appeals from nonfinal orders; and 15 minutes on workmen's compensation and unemployment insurance appeals.

§800.22 Orders; settlement; costs.

The prevailing party shall submit a proposed order in triplicate for entry by the clerk. When a decision directs settlement of an order, the order shall be settled on five days' notice. The orders, appointments, assignments and directions of the court shall be signed by the presiding justice or the clerk of the court. Costs in workmen's compensation and unemployment insurance appeals shall be taxed by the clerk in accordance with CPLR 8403.

Form CPL-2-76

NEW YORK SUPREME COURT
APPELLATE DIVISION, THIRD DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK :

v.

: Application for Leave to
: Appeal Pursuant to CPL,
Defendant. : §460.15

Please take notice that, pursuant to CPL, §460.15, application will be made to a justice of the Supreme Court, Appellate Division, Third Department, at the next motion day of said court more than eleven days after service hereof, at the Justice Building in the City of Albany, New York, for an order granting leave to appeal from the order of the County Court, County, which denied a post-conviction motion.

AFFIDAVIT

STATE OF NEW YORK
COUNTY OF

_____ being duly sworn, deposes and says:

A. He seeks leave to appeal from an order of the County Court of _____ County, dated _____, which denied an application for post-conviction relief. Attached are copies of:

1. Defendant's application to the County Court, dated _____
2. Affidavit of _____, dated _____, in opposition.
3. Decision of _____ J., dated _____, which denied application.

4. Order dated _____ and entered _____.

B. Defendant contents that denial of his post-conviction application was error for the following reasons: _____

C. Defendant states that the contentions which he will raise on this appeal, if leave is granted, have not previously been presented and passed upon by this or any other appellate court.

D. A copy of this application is being sent by mail to the District Attorney of _____ County, this _____ day of _____ 19 _____

Sworn to before me
this _____ day of _____ 19 _____

Notary Public



Clerk's Office
Mary F. Zeller, Clerk

Supreme Court

Appellate Division

Fourth Department

*501 Hall of Justice
Civic Center Plaza*

Rochester, N. Y. 14614

Re: _____

Dear Sir:

The Court has received papers from the above named defendant, asking permission to prosecute an appeal from a judgment of the _____ Court, entered _____, as a poor person, and for other relief.

The Court requests that you send the following information:

1. The date the judgment was rendered (trial or plea?).
 2. Were there any co-defendants in this case? Were they convicted, and if so, has any of them appealed from the judgment? If so, please state the name(s) and present addresses(es).
 3. The date on which your office received a Notice of Appeal.
 4. The date the defendant filed a Notice of Appeal in the County Clerk's Office.
- Please reply on or before _____.

If you oppose the motion, the Court will consider your objections upon the return of an appropriate motion, or upon your filing an opposing affidavit, if the objections do not require a motion.

You will be advised if the Court requires anything further on this application.

CLERK'S OFFICE

TITLE

-v-

JC

CN

HC

OTHER:

APPEAL FROM _____ of _____ Court

entered _____

NOTICE OF APPEAL _____

MOTION FOR _____

RETURNABLE _____

PAPERS FILED:

MOVING _____

OPPOSING _____

REPLY _____

COPY OF MOTION SERVED _____

NOTES:

DECISION:

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

The appellant herein having made application for an order granting leave to prosecute an appeal from _____ of the _____ Court, entered

_____, as a poor person, and for other relief.

Now, upon reading and filing the affidavit of _____, sworn to

with proof of service thereof

It is hereby ORDERED, That said application be, and the same hereby is, granted to the extent that the appeal herein may be prosecuted upon the original papers and seven copies of appellant's brief, reproduced in accordance with CPLR 5529; and

_____, Esq.,

of _____, New York,
is hereby assigned as counsel to conduct the appeal, and otherwise the application is hereby denied.

Entered:

MARY F. ZOLLER, Clerk

Supreme Court
 APPELLATE DIVISION,
 Fourth Judicial Department,
 Clerk's Office, Rochester, N. Y.

I, MARY F. ZOLLER, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.



IN WITNESS WHEREOF, I have hereunto set
 my hand and affixed the seal of said Court at
 the City of Rochester, New York, this

.....
 Clerk.

**NOTICE OF APPLICATION FOR POST CONVICTION RELIEF
 AND REQUEST FOR INFORMATION** (Please Print or Type)

JC USE

Exh. 8

1. Petitioner's Name _____		(LAST)	(FIRST)	(M.I.)
2. Petitioner's NYSIS(DCI) No. _____		(Always Complete)		
4. Type of Application <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Coram Nobis <input type="checkbox"/> Other (Specify) _____		3. Date Application Received mo. / day / year		
5. District or Circuit (Federal Court) Or County (State Court) _____				
6. Judge's Name _____		7. Court _____		
8. Court Address _____		P.O. and State _____ Zip Code _____		
9. Docket, File or Index No. _____ of Court Where Application is Made _____		<div style="border: 1px solid black; padding: 5px;"> FOR APPELLATE COURT USE ONLY 10. <input type="checkbox"/> Please check this box if this is a notice of an appeal from the denial or granting of an application. </div>		

Authorized Signature _____

Dated _____

(Complete and Send To)
 THE JUDICIAL CONFERENCE OF
 THE STATE OF NEW YORK
 P.O. BOX 3135
 CHURCH STREET STATION
 N.Y. N.Y. 10008

JC-770
 (Rev. Mar., 1977)

Exh. 8

NOTICE OF APPLICATION FOR POST CONVICTION RELIEF
AND REQUEST FOR INFORMATION (Please Print or Type)

JC USE

1. Petitioner's Name _____ (LAST) (FIRST) (M.I.)		3. Date Application Received mo. / day / year
2. Petitioner's NYSIIS(DCI) No. _____ (Always Complete)		
4. Type of Application <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Coram Nobis <input type="checkbox"/> Other (Specify) _____		5. District or Circuit (Federal Court) Or County (State Court) _____
6. Judge's Name _____	7. Court _____ Zip Code _____	
8. Court Address _____	P.O. and State _____	
9. Docket, File or Index No. _____ of Court Where Application is Made _____	<div style="border: 1px solid black; padding: 2px;"> <p>FOR APPELLATE COURT USE ONLY</p> <p>10. <input type="checkbox"/> Please check this box if this is a notice of an appeal from the denial or granting of an application.</p> </div>	

(Complete and Send To)
THE JUDICIAL CONFERENCE OF
THE STATE OF NEW YORK
P.O. BOX 3139
CHURCH STREET STATION
N.Y., N.Y. 10008

JC-770
(Rev. Mar., 1971)

Authorized Signature _____
COURT, APPELLATE DIVISION, FOURTH JUDICIAL DEPARTMENT

INSTRUCTIONS

Item 2 -- NYSIIS Number -- Always enter this number in item 2. This is a unique, fingerprint-related number assigned by the New York State Identification and Intelligence System to individuals who have been arrested for printable crimes. Once it is assigned, an individual retains the same number regardless of the number of times he is arrested. It is a maximum of 7 digits and might appear with an additional alphabetic suffix. Always enter the digits and, if present, the alphabetic suffix. Applications for post conviction relief information cannot be processed unless they carry the petitioner's NYSIIS number.

Item 10 -- Place a check in the box if the proceeding before your court is an appeal from the denial or granting of an application for post conviction relief.

JC-770 (Reverse, Oct., 1970)

Form 5, DAILY RECORD CORP.

SUPREME COURT OF THE STATE OF NEW YORK Exh. 8
Appellate Division, Fourth Judicial Department

In the Matter of the Assignment of Edward J. Nowak, Esq.
to Represent Indigent Appellants.

Applications having been made for an order granting leave to prosecute appeals as poor persons and for other relief,

Now, upon reading and filing the applications made by or on behalf of each of the appellants below named with proof of service thereof,

It is hereby ORDERED, That said applications be, and the same hereby are granted to the extent that the appeals from each of the judgments captioned below may be prosecuted upon the original papers and seven copies of appellant's brief, reproduced pursuant to CPLR 5529 and Edward J. Nowak, Esq., 36 West Main Street, Rochester, New York, 14614, is hereby assigned as counsel to conduct each appeal.

Appellant

Judgment rendered

Court

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

The appellant herein having made application for an order granting leave to prosecute an appeal
from _____ of the _____ Court, entered

, as a poor person, and for other relief.

Now, upon reading and filing the affidavit of
sworn to _____

with proof of service thereof

It is hereby ORDERED, That said application be, and the same hereby is, granted to the extent
that the appeal herein may be prosecuted upon the original papers and seven copies of appellant's brief,
reproduced in accordance with CPLR 5529; and

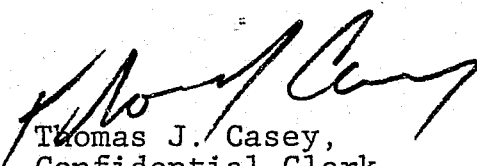
_____ Esq.,
of _____, New York,
is hereby assigned as counsel to conduct the appeal, and otherwise the application is hereby denied.

Entered:

MARY F. ZOLLER, Clerk

Mr. Robert Kaplan
Economic Development Council
60 Lafayette Street
New York, NY 10013
October 13, 1978
Page Two

<u>Dismissed</u>	-	1
People v.	-	Ernest Montuoro
<u>Modified</u>	-	1
People v.	-	Robert Leverette
<u>Remanded</u>	-	2
People v.	-	Angelo Grieco Felix Ressa


Thomas J. Casey,
Confidential Clerk,
Appellate Term,

MEMORANDUMOFFICE PROCEDURES FOLLOWED IN CRIMINAL APPEALS

The following is a summary of the procedures followed by this office in processing a criminal appeal.

The attorney representing the particular defendant in the court where the judgment of conviction was rendered files a notice of appeal in duplicate in the county clerk's office of the county of the conviction. The county clerk forwards to this office a copy of that notice of appeal, whereupon the notice of appeal is placed in a folder which is labeled with the name of the defendant, the court and county of the conviction and the year that the conviction was rendered. The folder is then placed in the file drawer until an application from the defendant or his attorney is received requesting permission to conduct the appeal as a poor person and for the assignment of counsel. Of course, there are a certain number of cases where the defendant has retained his own attorney and in that case no such application is made. Once the poor person application is received a "white sheet" is prepared (a copy is attached to this memorandum) and a letter to the district attorney notifying him of the application and requesting certain information is mailed (a copy of this letter is attached to this memorandum). (The procedure is the same if the appeal is taken from a judgment denying an application for a Writ of Habeas Corpus or a proceeding pursuant to CPLR Article 78 except that instead of a letter to the district attorney the letter is mailed to the attorney general. Additionally, in those cases, a NYSIIS number for the individual seeking poor person permission is obtained and a card (JC-770 a copy of which is attached to this memorandum) is sent to the Office of Court Administration. The Office of Court Administration returns form JC-771 which is completed when the appeal is decided.)

The district attorney or attorney general returns the letter sent to him with the information requested thereon. If it appears that the appeal has been timely taken and the district attorney or attorney general

counsel and permitting the appeal to be prosecuted on the original papers and seven briefs. In certain counties in the Fourth Department a public defender or a legal aid society is assigned to handle all criminal appeals. However, in other counties where there is no public defender or legal aid society the name of an attorney is picked from an assigned counsel list. Copies of the order assigning counsel are forwarded to the defendant, attorney assigned, the district attorney and the administrative court reporter. (The order is sent to the administrative court reporter in order that he may cause to be transcribed the minutes of the trial or any proceedings had below.) Samples of the order assigning counsel are attached to this memorandum. In Monroe and Erie counties a "blanket order" is used. This order permits the assignment of several cases in one order.

Counsel assigned prepares and submits seven copies of his brief. Upon receipt thereof the record on appeal consisting of a transcript of all proceedings had below and the judgment roll is ordered by this office from the county clerk's office. The district attorney has 30 days from the date of service of appellant's brief to file and serve his brief and the case is marked on the calendar for the next available term. After the case has been argued or submitted and decided, a remittitur order is prepared and is returned, together with the record, to the county clerk's office. A copy of the order is served on each attorney. The file in this office is then dismantled. In all cases, civil or criminal, a JC-105 card is mailed to the Office of Court Administration to indicate the disposition of the case. (A copy of that card is attached to this memorandum.)

Supreme Court
of the
State of New York



Charles H. Hohmann
Clerk

Exh. 9

APPELLATE TERM OF THE SUPREME COURT
FIRST JUDICIAL DEPARTMENT
(Room 401)
NEW YORK COUNTY COURT HOUSE
60 CENTRE STREET
NEW YORK, N. Y. 10007

October 13, 1978

Mr. Robert Kaplan
Economic Development Council
Task Force
60 Lafayette Street
New York, NY 10013

Dear Mr. Kaplan:

During the year of 1977 the Appellate Term, First Department, decided 42 appeals which originated in the Criminal Court, one of which was by the District Attorney*, New York County.

The breakdown on decisions is as follows:

Affirmed	-	28**
Reversed	-	10*
Dismissed	-	1
Modified	-	1**
Remanded	-	2

Attached cases:

Reversed - 10

People v. - Toni Smith
Donald Orr
Kermit Arnold
Francis Andrews
Juan Rodriguez
Roy Killengs
Herman Thomas
Peter Wyer
Violet Johnson
Roberto Gonzalez

* People v. Toni Smith, (Cal. No. 092)
appeal by People

** People v. Robert Leverette (Cal. Nos. 380/381)
one case partly affirmed, partly modified

Sample

Exh. 10

Form 1A

At a term of the Appellate Division of the Supreme Court held in
and for the First Judicial Department in the County of New York,
on June 1, 1978

Present—Hon. Francis T. Murphy, Jr., Presiding Justice
Theodore R. Kupferman
Vincent A. Lupiano
Harold Birns
Samuel J. Silverman, Justices

THE PEOPLE OF THE STATE OF NEW YORK

Respondent.

M-1763

vs.

George Bottoms,

Defendant-Appellant.

Ind. No. 863/77

The above-named defendant-appellant having moved for leave to prosecute, as a poor person, his appeal from the judgment of the Supreme Court, Bronx County,

entered on April 26, 1978, and for leave to have the appeal heard on the original record and upon typewritten appellant's points; and for other relief,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the affidavit of George Bottoms

in support of said motion, and after hearing Mr. George Bottoms appearing pro se, for the motion and no one appearing in opposition thereto,

It is ordered that said motion be and the same hereby is granted insofar as to permit the appeal to be heard on the original record, except that a certified copy of the indictment shall be substituted in place of the original indictment,

and upon reproduced appellant's points, on condition that the appellant serves one copy of the reproduced appellant's points upon the District Attorney, Bronx County, and files twelve reproduced

copies of appellant's points, together with the original record, with this Court.

The stenographer of the trial court is directed pursuant to statute (CPL § 460.70)

to make, certify and file, within twenty days from the date of service of a copy of

is order upon such stenographer, two typewritten transcripts of the stenographic

minutes of the proceedings of plea, sentence and, if applicable, trial and any pro-

ceedings pursuant to CPL § 210.20, Art. 710 and Art. 730. The Clerk shall furnish

copy of such transcripts to appellant's counsel, without charge, said transcripts

be returned to this Court when the appellant's points are filed.

Artin Erdmann, Esq., 18th Floor, 15 Park Row, New York, N.Y. 10038, is assigned

counsel for defendant-appellant for the purposes of the appeal. The time within

in which appellant shall perfect this appeal is hereby enlarged until 120 days from the

date of filing of the record.

ENTER:

ycap, [Signature]
Cl-ck.

1978 Court Calendar

Appellate Division — Fourth Department

Hon. Mary F. Zoller, Clerk

501 Hall of Justice — Rochester, New York 14614

Tel. No. 232-6220 (Area Code 716)

Criminal Appeals
Filing proof of service
of APPELLANTS' briefs

Civil Appeals
APPELLANTS' records
and briefs

ALL RESPONDENTS
Briefs and
all exhibits

TERMS
OF
COURT

November 28, Mon.
January 3, Tues.
February 13, Mon.
April Term*
March 27, Mon.
June Term**
July 24, Mon.
September 11, Mon.
November Term***
October 20, Fri.

December 6, Tues.
January 10, Tues.
February 23, Thurs.
April 6, Thurs.
August 3, Thurs.
September 20, Wed.
October 31, Tues.

December 27, Tues.
January 30, Mon.
March 15, Wed.
April 26, Wed.
August 23, Wed.
October 10, Tues.
November 20, Mon.

JANUARY 9, Mon.
FEBRUARY 13, Mon.
MARCH 29, Wed.
APRIL 3, Mon.
MAY 10, Wed.
JUNE 28, Wed.
SEPTEMBER 6, Wed.
OCTOBER 24, Tues.
NOVEMBER 1, Wed.
DECEMBER 4, Mon.

*Continuance of March Term.

**For decisions and motions only.

***Continuance of October Term.

(All records, briefs and exhibits to be filed at least 14 days
before Term of Court date)

COURT OF APPEALS

Hon. Joseph W. Bellacosa, Clerk

Court of Appeals Hall — Albany, New York 12207

Tel. No. 474-3211 (Area Code 518)

TENTATIVE SESSIONS

January 3, 4, 5, 6, 9, 10, 11, 12, 13
February 6, 7, 8, 9, 10, 13, 14, 15, 16, 17
March 20, 21, 22, 23, 27, 28, 29, 30, 31
April 24, 25, 26, 27, 28
May 1, 2, 3, 4, 5, 30, 31
June 1, 2, 5, 6, 7, 8, 9

July 5*, 6*, 7*
September 11, 12, 13, 14, 15, 18, 19, 20, 21, 22
October 16, 17, 18, 19, 20, 24, 25, 26, 27
November 27, 28, 29, 30
December 1, 19*, 20*, 21*

*Reserved as conference days and the Court will not sit to
hear appeals on these dates.

Additional dates or changes, as the need may arise, will be
announced.

Appellate Division — Third Department

Hon. John J. O'Brien, Clerk

South Mall Justice Bldg. — Albany, New York 12223

Tel. No. 474-3609 (Area Code 518)

Term

*JANUARY 4-13
FEBRUARY 1-10
*MARCH 13-23
APRIL 17-28
*MAY 15-26
JUNE 19-20
**JULY 11
***AUGUST 21
*SEPTEMBER 1-14
OCTOBER 10-20
*NOVEMBER 13-22

*Including Workmen's Compensation cases.

**Decisions and admissions only.

***S... cases only.

1978 Court Calendar

Appellate Division — First Department

27 Madison Avenue

Tel. No. 532-1000 (Area Code 212)

New York, New York 10010

The calendar will be called at 2:00 P.M. except Fridays at 10:00 A.M.

Term	Term Begins	Last day to file Records, Appls. Points and Notes of Issue	Last day to file Respts. Points	Last day to file Appls. Reply Points	Last day to file stipulation of adjournment and time for argument
JANUARY	January 3	November 29	December 14	December 21	December 15
FEBRUARY	January 31	January 3	January 18	January 25	January 19
MARCH	February 28	January 31	February 15	February 22	February 16
APRIL	March 28	February 28	March 15	March 22	March 16
MAY	April 25	March 28	April 12	April 19	April 13
JUNE	May 23	April 25	May 10	May 17	May 11
SEPTEMBER	September 5	August 1	August 16	August 23	August 17
OCTOBER	October 3	September 5	September 20	September 27	September 21
NOVEMBER	October 31	October 3	October 18	October 25	October 19

NOTE — ADJOURNMENT APPEALS: In appeals which are adjourned to any Term, the last day to file Respondent's Points, Appellant's Reply Points, Stipulations of Adjournment or Requests for Time for Argument shall be one (1) week prior to the day that is indicated in this chart.

NOTE — TIME REQUEST FOR ORAL ARGUMENT: Time requests need be filed in writing, showing number of minutes desired after consultation, for all parties, not later than 12 days before first day of Term.* Time permitted, except when court shall otherwise order, is not more than 30 minutes for either side on enumerated appeals; and not more than 15 minutes for each side on non-enumerated appeals in which oral argument is permitted. (Rule 600.11, subd. f)

* Except for the January and September Terms, when they need be filed 19 days before the first day of the Terms.

Appellate Division — Second Department

45 Monroe Place

Tel. No. TR 5-1300 (Area Code 212)

Brooklyn, New York 11201

The Calendar for all Appeals will be called at 10:00 A.M.

Term	Opening Day of Term	Appellants' last day to file Record/Appendix, Brief Note of Issue and Exhibits (Brief 50 pp. limit)	Respondents' last day to file briefs	Appellants' last day to file reply briefs (20 pp. limit)
JANUARY	January 3	Criminal November 10 Civil November 25	December 9	December 16
FEBRUARY	January 30	Criminal December 9 Civil December 23	January 6	January 13
MARCH	February 20	Criminal December 30 Civil January 13	January 27	February 3
APRIL	March 20	Criminal January 27 Civil February 10	February 24	March 3
MAY	April 17	Criminal February 24 Civil March 10	March 24	March 31
JUNE	May 15	Criminal March 24 Civil April 7	April 21	April 28
SEPTEMBER	September 5	Criminal July 14 Civil July 28	August 11	August 18
OCTOBER	October 9	Criminal August 18 Civil September 1	September 15	September 22
NOVEMBER	November 6	Criminal September 15 Civil September 29	October 13	October 20

NOTE: Appellant's Main Papers consist of Record or Appendix, Brief, Note of Issue and Exhibits.

NOTE: If the appendix method is being used, appellant must subpoena or requisition the original record from the court so that it is filed with the Appellate Division on or before the due date for Appellant's Main Papers.

END