

NOT A MUTE SWAN

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Judith Kaye's determination to get it right, to make the changes she knows are necessary, and to focus our attention on what needs to be fixed, is legendary. Nowhere was this determination better captured than in what she called her "swan song,"¹ her final State of the Judiciary address, which she delivered at New York University, her law school alma mater, this past November. Most people who retire, especially those with a history of accomplishment, use such occasions to remind people of what they have done. Chief Judge Kaye reviewed the past, of course, but chose to focus on her "newest efforts, on important unfinished business, [and] on the 'state,' or condition, of the Judiciary" that she was leaving to her successor.² She pushed for action on the delays that face parties in Family Court. She recommended the expansion of a Queens-based program to address mortgage foreclosures. She lauded recent initiatives for adolescents and spoke about ongoing reforms related to jury service. She drew attention to the need to consolidate and upgrade New York State's Town and Village Courts, to the use of probation for youths in Family Court, and to the future of indigent defense services. And, of course, she continued to make the case for an increase in judicial salaries, frozen now for eleven years. In that speech, Chief Judge Kaye noted that she was "not the mute swan."³ No one who knows her would imagine otherwise. The poetry in her own assessment and the elegance of her understatement leave the rest of us standing in awe and admiration (and with regret about mandatory retirement) as she exits this particular stage.

The scope of Judith Kaye's achievements as Chief Judge is truly outstanding. I know her best through the lens of the New York State

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¹ Judith S. Kaye, Chief Judge of the State of N.Y., *The State of the Judiciary 2008: A Court System for the 21st Century* 3 (Nov. 12, 2008), available at <http://www.courts.state.ny.us/admin/stateofjudiciary/soj2008.pdf>.

² Kaye, *supra* note 1, at 4. Jonathan Lippman was appointed her successor by Governor David Paterson and confirmed by the New York State Senate on February 11, 2009. Jeremy W. Peters, *Senate Confirms Top Judge on State Court of Appeals*, N.Y. TIMES, Feb. 12, 2009, at A32.

³ Kaye, *supra* note 1, at 31.

Permanent Judicial Commission on Justice for Children (PJCJC), which I had the honor of co-chairing with Chief Judge Kaye from 1991–1999. I want to share some reflections from that particular experience as a way of highlighting how remarkable she is. As she noted in her report on the Commission’s accomplishments from 1991–2006, “[f]rom Day One, the Commission resolved to use its energies and resources to produce results, not reports.”⁴ And results we produced.

One example in particular illustrates the broad thinking and creative impulses behind so much of Chief Judge Kaye’s legacy. When we began, we realized young children across the state were routinely brought to court as their parents or caregivers litigated whatever issues they faced—because their parents had no place else to leave them. These children sat, cried, or fidgeted, listening to all that went on. We knew this wasn’t good for children, their parents, or the courts. And then the lightbulb went on. We suddenly realized that these children, who we were trying to figure out how to move out of the courtroom, were the very same children that the social service system was trying to reach, and that we might be able to connect them. Chief Judge Kaye and the PJCJC, through its extraordinarily talented executive director, Sheryl Dicker, created first one and now thirty-four children’s centers in courthouses across the state, solving and resolving multiple issues. The children were spared from having to witness litigation and discussion that would have been upsetting and inappropriate. Furthermore, these centers were attuned to the development of the children they served and able to recommend appropriate educational and developmental services to their parents. These thirty-four centers had fifty-five thousand visits in 2007 and made seven thousand service referrals to such places as Early Intervention and Head Start, among others.⁵ It was an extraordinary shift in perspective and in operations.

There are equally compelling stories about the role of Chief Judge Kaye and the Commission in passing New York State’s Early Intervention Laws of 1992 and 1993 and reshaping the working alliance between the courts and local child welfare agencies, which resulted in faster adoptions and the development of new tools to better focus on the individual and developmental needs of children in foster care. Although its early work focused on younger children, ages zero through three, the Commission has now turned its attention to the experience of older children and the ways in which their lives

⁴ N.Y. STATE PERMANENT JUDICIAL COMM’N ON JUSTICE FOR CHILDREN, ACCOMPLISHMENTS: 15 YEAR REPORT 4 (2006), *available at* [http://www.nycourts.gov/ip/justiceforchildren/PDF/Final Booklet to Print.pdf](http://www.nycourts.gov/ip/justiceforchildren/PDF/Final%20Booklet%20to%20Print.pdf).

⁵ Kaye, *supra* note 1, at 5–6.

are touched by the courts. Whatever the project, however, there are common threads in how Chief Judge Kaye approaches a challenge. First is her collaborative style. In her work with the PJCJC, she brought together people from all over the state: judges, lawyers, advocates, doctors, as well as state and local officials. On other issues and projects, she brought together other groups and strategies, but the common thread is the extent and the level of her engagement. Second is her instinct to start small with a pilot somewhere (attending to the regional variation across the state and the availability of partners), see how that first experiment goes, learn from it, and then expand. Third is her ability and eagerness to learn from and share with others. On the PJCJC, she was constantly asking about and encouraging visits to models of excellence elsewhere, in order to learn from the best practices of others. This open-spiritedness went both ways. As evidence of her eagerness to learn from others, she has been extraordinarily generous in hosting delegations from around the country and internationally, in her roles as president of the Conference of Chief Justices and chair of the Board of the National Center for State Courts.

Although the Commission's work was truly transformative, I would be remiss if I acknowledged her accomplishments only in that area. I thought I knew Chief Judge Kaye's record of accomplishments fairly well, but as I have participated in a number of tributes over the past several months, even I have been stunned by their number and breadth. I am now dean of NYU's Wagner Graduate School of Public Service. As I speak to current and prospective students about their own aspirations, their hopes for broad impact, and their wishes to make a difference, I reflect on all Judith Kaye has done and marvel at her capacity to occupy her roles so fully and so brilliantly. She had at least two full-time jobs. She was, of course, Chief Judge of the Court of Appeals for the State of New York, a court that has had illustrious jurists and national recognition. The importance of that role cannot be overstated and, not surprisingly, she filled it with wisdom, erudition, balance, and perspective. It's the second job, her administrative and leadership role in the courts, in which her performance has rocked the world. Truly. She energized the judiciary and inspired others to make broad changes. She has been a virtual innovation machine, leaving no part of the system untouched. Not a mute swan now or ever, she has set an amazing standard and deserves our gratitude, our admiration, and the best appreciation of all—a raise for the judiciary.