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THE EXCELLENCE INITIATIVE AND THE RULE OF LAW

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Thank you, Professor Oscar Chase, for your kind introduction. I would like to thank Dean Trevor Morrison, the Board of Directors of NYU School of Law, and the Institute for Judicial Administration (IJA) for the honor and privilege of delivering the IJA's Twenty-Fourth Annual William J. Brennan Jr. Lecture on State Courts and Social Justice. The impressive list of judges and legal experts who have delivered the Brennan Lecture is a testament to the significance of this lecture series, and to the enduring legacy of one of the greatest American jurists—William J. Brennan. Justice Brennan's career, as we know, began in the New Jersey state courts, and that experience was formative in leading him to devote much of his professional life to advocating for the independence of our state judiciaries and the robust interpretation of our state constitutions.¹

The IJA deserves credit for prioritizing and focusing scholarly attention on the work of America's state court systems. It is, indeed, in the state courts that the average American interacts with the justice system. State courts are where the vast majority of the nation's judi-

* Copyright © 2018 by Janet DiFiore, Chief Judge, New York Court of Appeals. An earlier version of this speech was delivered as the Twenty-Fourth Annual William J. Brennan Jr. Lecture on State Courts and Social Justice at the NYU School of Law on March 8, 2018.

¹ See Charles G. Curtis, Jr. & Shirley S. Abrahamson, *Brennan, William Joseph, Jr.*, in *THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES* (Kermit L. Hall ed., 2d ed. 2005), <http://www.oxfordreference.com.proxy.library.nyu.edu/view/10.1093/acref/9780195176612.001.0001/acref-9780195176612-e-0123?rsk=y=qLynGC&result=124>.

cial business is conducted,² and where many twenty-first century issues affecting the quality of life in our communities are being confronted head-on by judges working in the trenches to resolve some of the most intractable human problems of our time: opioid addiction and drug-related recidivism; domestic violence; child abuse and neglect; juvenile delinquency; and struggling tenants and families facing homelessness and foreclosure. Every day, in state courthouses in New York and across the country, we see dockets surging with cases that reflect, for better or worse, the current state of our society. And in every single one of these sensitive and often complex and nontraditional cases, our state courts are constitutionally bound to deliver fair, timely, and accessible justice services. That is a truly daunting challenge.

Here in New York, as many of you know, the position of Chief Judge carries with it two distinct roles and sets of responsibilities. The first is serving as the head of our state's judicial branch of government; a role that can be equated with serving as the CEO of a large public organization, which in this case has a \$3 billion budget, and over 15,000 nonjudicial employees as well as 3600 state and local judges handling around 3.5 million new case filings every year.³ The second set of responsibilities is the one associated, of course, with being the Chief Judge of the New York State Court of Appeals, sitting with my six colleagues in our magnificent courtroom in the state capital and hearing civil and criminal appeals throughout the year, as we work together to clarify and pronounce the law of our state on a broad range of novel constitutional, statutory, and common law issues.

In both of these roles, administrative and adjudicative, the challenge is much the same: ensuring that the machinery of our courts—and the meaning of our laws—keeps pace with the growing com-

² According to statistics published by the National Center for State Courts, 84.2 million cases were filed in the nation's state courts in 2016. See *Court Statistics Project: Number of Incoming Cases, by Case Category and Tier, 2016*, NAT'L CTR. FOR ST. CTS., <http://www.courtstatistics.org/~/-media/Microsites/Files/CSP/National-Overview-2016/EWSC-2016-Overview-Page-5-Table.ashx> (last visited July 13, 2018). According to statistics published by the federal judiciary, a little over 1.2 million cases were filed in the district courts, bankruptcy courts, and courts of appeals in 2016. See *Judicial Caseload Indicators – Judicial Business 2016*, U.S. CTS., <http://www.uscourts.gov/statistics-reports/judicial-caseload-indicators-judicial-business-2016> (last updated Sept. 30, 2016).

³ See N.Y. STATE UNIFIED COURT SYS., 2017 ANNUAL REPORT 43–57 (2017), https://www.nycourts.gov/reports/annual/pdfs/2017_UCS_Annual_Report.pdf [hereinafter 2017 ANNUAL REPORT]; *Administrative Directory – Executive Officers, Chief Administrative Judge Lawrence K. Marks*, N.Y. ST. UNIFIED CT. SYS., https://www.nycourts.gov/admin/directory/marks_lawrence.shtml (last visited June 30, 2018) (noting that New York has 3600 state and local judges and 15,000 nonjudicial employees in over 300 locations across the state).

plexity of litigation and the evolving needs and expectations of our modern, fast-changing society. On the administrative side, we are working to improve efficiency and implement new court approaches that enable us to respond more effectively to societal problems, such as opioid addiction and impending homelessness, that are inevitably reflected in our court dockets.

And on the adjudicative side at the Court of Appeals, we continue to provide guidance and clarification to the bar and the public on cutting-edge issues: from the reliability of cross-racial identifications⁴ to the proper statute of limitations in tort actions involving in vitro fertilization.⁵

The bottom line is that the delivery of justice in the state courts must continually evolve and improve to keep pace with the needs of our modern society. This process of constantly reforming and modernizing the administration of justice to meet public expectations is how we make certain that our work and our mission are valued and respected by our citizenry and our partners in government. It is how we do our part to strengthen and advance the rule of law. And that leads me to my topic tonight: the role of our state courts in advancing and supporting the rule of law.

The rule of law has been described in many ways, but I think everyone would agree with two basic and guiding principles: First, ours is a nation of laws promulgated openly, enforced equally, and interpreted and applied by independent judges. And second, all persons, institutions, and entities are accountable to the law, and no person, institution, or entity is above the law. As Thomas Paine put it, “in free countries the law ought to be King; and there ought to be no other.”⁶ Or as John Adams put it, we are “a government of laws, and not of men.”⁷

The rule of law has guided our democratic system and served us extraordinarily well, supporting a civil society that, despite serious flaws and historic injustices, has been characterized by freedom,

⁴ See *People v. Boone*, 91 N.E.3d 1194, 1196 (N.Y. 2017) (holding that if witness identification of a defendant is at issue, and the witness and defendant are of different races, trial courts are required on request to give a jury charge advising that some people have greater difficulty identifying members of different race).

⁵ See *B.F. v. Reprod. Med. Assoc. of N.Y., LLP*, 92 N.E.3d 766, 768 (N.Y. 2017) (holding that in a wrongful birth action alleging that a fertility center failed to properly screen an egg donor for chromosomal abnormalities, the statute of limitations ran from the date of birth rather than the date of malpractice).

⁶ THOMAS PAINE, *COMMON SENSE* 43 (1776).

⁷ *John Adams & the Massachusetts Constitution*, MASS.GOV, <https://www.mass.gov/guides/john-adams-the-massachusetts-constitution> (last visited June 30, 2018); see also MASS. CONST. art. XXX.

opportunity, and human progress. However, we cannot be complacent. The vibrancy, vitality, and viability of the rule of law can never be taken for granted. We find ourselves living in a historical moment—as the Brennan Center for Justice at NYU School of Law has documented so well⁸—when the rule of law is threatened on many fronts, including by unjust and irresponsible attacks on the independence of our judges and law enforcement institutions.

A recent article in the *New York Times* aptly summarized an increasingly combative environment of heated personal rhetoric that goes well beyond contesting the merits of judicial rulings to attempts at punishing judges who hand down unfavorable decisions by seeking to impeach, malign, or otherwise harm their status.⁹ Never in our lifetimes have so many long-cherished norms, once considered universal, been treated so dismissively or abandoned altogether by political leaders, leaving many of us who have devoted our professional lives to the law as judges, law professors, and members of the bar feeling deeply uneasy about the future of our democracy. As Ron Chernow, the biographer of Alexander Hamilton, observed: “democracy can be corrupted, not by big, blaring events, but by a slow, insidious, almost imperceptible process, like carbon monoxide seeping in under the door.”¹⁰

Every one of us must be vigilant in protecting our cherished democracy. Each one of us has an obligation to defend our democratic institutions against these attacks. And I commend the Brennan Center for Justice at NYU School of Law for establishing the National Task Force on Rule of Law and Democracy, consisting of leaders from across the political spectrum who understand the urgency of reaffirming the traditional norms and boundaries that have guided American political behavior for over 200 years.¹¹ Under the leadership of former United States Attorney for the Southern District of New York, Preet Bharara, and former New Jersey Governor, Christine Todd Whitman, the Task Force is focused on protecting the independence of law enforcement and the courts, preventing conflicts

⁸ See *Legislative Assaults on State Courts – 2018*, BRENNAN CTR. FOR JUST. (Feb. 6, 2018), <https://www.brennancenter.org/analysis/legislative-assaults-state-courts-2018> (cataloging proposed state laws which diminished the role or independence of the courts).

⁹ Michael Wines, *Judges Say Throw Out the Map. Lawmakers Say Throw Out the Judges.*, N.Y. TIMES (Feb. 14, 2018), <https://www.nytimes.com/2018/02/14/us/pennsylvania-gerrymandering-courts.html>.

¹⁰ *Ron Chernow: By the Book*, N.Y. TIMES (Oct. 26, 2017), <https://www.nytimes.com/2017/10/26/books/review/ron-chernow-by-the-book.html>.

¹¹ See NAT'L TASK FORCE ON RULE OF L. & DEMOCRACY, <https://www.democracymission.org/> (last visited June 30, 2018) (providing biographies for the task force's members).

of interest among our elected leaders, and ensuring a free and independent press.¹² This and other similar efforts are critical if we are to have a national dialogue leading to a better public understanding of why principles like judicial and prosecutorial independence are indispensable to a workable democracy.

I turn now to the courts and the question of what we can do to fortify the rule of law and to continue earning the public's trust and confidence. The World Justice Project, a nonprofit dedicated to advancing the rule of law around the world, publishes a Rule of Law Index.¹³ The Index ranks countries on eight different factors—from open government and anticorruption measures to the quality of a country's civil and criminal justice systems.¹⁴ Of concern for all of us is that the latest survey data reported earlier this year ranked the United States just nineteenth overall among thirty-five countries of similar wealth.¹⁵ One of the primary reasons we did not score well on the Rule of Law Index is because our civil and criminal justice systems were ranked only twenty-sixth¹⁶ and twentieth¹⁷ respectively, with our low ranking in the former partly attributable to a lack of “accessibility” and “affordability.”¹⁸

For those who practice regularly in the state courts, our ranking may not come as a surprise. Civil litigation has become so time consuming and expensive that it is basically unaffordable for many low-income, and working- and middle-class families, as well as small businesses. High litigation costs and long delays harm everyone: people seeking redress for their injuries in tort actions (the largest segment of our Supreme Court civil caseload),¹⁹ matrimonial litigants who want to move their lives forward, families and children seeking protection and stability, and the many others who often feel compelled to forego meritorious claims or enter into disadvantageous settlements just to avoid or put an end to the personal and financial burdens of litigation.

On the criminal side, delays in justice harm everyone: crime victims waiting for justice to be done, prosecutors who watch cases grow stale as witnesses move away and memories fade, and defendants, pre-

¹² *See id.*

¹³ *See* WORLD JUSTICE PROJECT, RULE OF LAW INDEX 2017–2018, at 5 (2018), https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition_0.pdf.

¹⁴ *See id.*

¹⁵ *Id.* at 3.

¹⁶ *Id.* at 38.

¹⁷ *Id.* at 39.

¹⁸ *See id.* at 13.

¹⁹ N.Y. STATE UNIFIED COURT SYS., NEW YORK UNIFIED COURT SYSTEM COURT STATISTICS: CIVIL COURTS (2018).

sumed innocent under the law, who too often languish in jail while their families and communities suffer the consequences.

When cases languish for years, litigants grow frustrated about the cost and length of litigation, and ordinary people feel as if justice is beyond their reach. And it is the rule of law that suffers because long delays and excessive costs lead to an inevitable loss of public respect for our justice system, along with increased receptivity to demagogues who attack our courts and institutions of justice for their own political ends.

There are many issues that divide Americans today, but there are some very basic things on which we should all be able to agree. We all desire well-functioning government institutions that are durable, efficient, fair, and accessible to all. That's where the Excellence Initiative comes in. First announced upon my assuming the position of Chief Judge two years ago in February 2016, the Excellence Initiative is our top institutional priority for the foreseeable future, focused as a threshold matter on improving court operations and case management, improving promptness and productivity, eliminating backlogs and delays, and seeking, ultimately, to promote high-quality justice services and support fairness and excellence in judicial decision making.²⁰

The Excellence Initiative is the vehicle by which our judges and court staff are working each and every day to earn the public's trust and confidence. Public perceptions of the rule of law are undoubtedly shaped by first-hand experiences with the justice system. The people we serve want better justice services, and they are right to judge us by our work.

Are we providing timely, efficient, accessible, dignified, and competent court services? Are we providing equal justice under the law to all our citizens, regardless of their economic status? When we succeed in meeting these obligations, we operate from a position of strength to withstand the cynical, politically motivated attacks on our courts that can undermine the rule of law. When we fail, we become easy prey for those who seek to subvert judicial independence for their own ends.

Last month, I delivered the second annual State of Our Judiciary Address at Court of Appeals Hall in Albany.²¹ In my address, I had the opportunity to summarize the encouraging progress we have made

²⁰ See N.Y. STATE UNIFIED COURT SYS., *THE STATE OF OUR JUDICIARY 2017, EXCELLENCE INITIATIVE: YEAR ONE*, at i (2017), <https://www.nycourts.gov/admin/stateofjudiciary/SOJ-2017.pdf>.

²¹ See Janet DiFiore, Chief Judge, New York Court of Appeals, *The State of Our Judiciary 2018* (Feb. 6, 2018), http://www.nycourts.gov/Admin/stateofjudiciary/A18_SOJ-Speech.pdf.

in a short time under the banner of the Excellence Initiative to speed the justice process in every corner of our state. Over and over again, the numbers show that our backlogs are shrinking and cases are being resolved more efficiently and promptly.²²

Our first order of business is to provide timely, affordable justice—the most basic of our constitutional obligations. Our court leaders, trial and appellate judges, and court staff recognize and appreciate this imperative and are working with a strong sense of purpose to improve the overall quality of justice. We all understand the need to earn the trust and respect of our communities by delivering smart, cost-effective services that directly address the underlying problems of the millions of litigants who appear before us every year in over 300 locations throughout the state.²³

The ultimate goal of the Excellence Initiative is to achieve excellence in judicial decisionmaking and to deliver fair and effective justice outcomes that make a positive difference in the lives of the litigants who appear before us. I can think of no better example than our response to the opioid epidemic now ravaging our state and the entire country. According to the latest numbers from the Centers for Disease Control and Prevention, over 63,000 people died from drug overdoses in the United States in 2016,²⁴ more than the number of American lives lost during the entirety of the Vietnam War.²⁵

Last May, in Buffalo, we opened the Opioid Intervention Court, the first of its kind in the nation.²⁶ In this court, we have put in place a structure in which charged offenders at high risk of opioid overdose are quickly screened and linked to intensive treatment within twenty-four hours of arrest.²⁷ Consenting participants represented by counsel are placed in a medication assisted treatment program, followed by up to ninety days of daily court monitoring, with the District Attorney agreeing to defer prosecution pending successful completion of treat-

²² See N.Y. STATE UNIFIED COURT SYS., THE STATE OF OUR JUDICIARY 2018, EXCELLENCE INITIATIVE: YEAR TWO, at i (2018), http://ww2.nycourts.gov/sites/default/files/document/files/2018-03/B18_SOJ-Report.pdf.

²³ *Administrative Directory – Executive Officers*, *supra* note 3.

²⁴ See *Opioid Overdose: Understanding the Epidemic*, CENTERS FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/drugoverdose/epidemic/index.html> (last visited June 30, 2018).

²⁵ According to the national archives, the number of U.S. military casualties of the Vietnam War was 58,220. See *Vietnam War U.S. Military Fatal Casualty Statistics*, NAT'L ARCHIVES (Jan. 11, 2018), <https://www.archives.gov/research/military/vietnam-war/casualty-statistics>.

²⁶ See Timothy Williams, *This Judge Has a Mission: Keep Defendants Alive*, N.Y. TIMES (Jan. 3, 2018), <https://www.nytimes.com/2018/01/03/us/buffalo-heroin-opioid-court.html>.

²⁷ *Buffalo Opioid Intervention Court Summary Brochure*, NAT'L ASS'N OF WOMEN JUDGES (Apr. 13, 2018), https://www.nawj.org/uploads/files/midyear_conference/materials/opioid_crisis/buffalo_opioid_intervention_court_brochure.pdf.

ment.²⁸ What makes the Opioid Intervention Court so unique, in addition to its aggressive treatment protocol, is that it prioritizes treatment over prosecution in order to save lives.²⁹

The Buffalo Opioid Court was created following a tragic week in 2016 when three defendants in the Buffalo City Court fatally overdosed before they could receive appropriate treatment.³⁰ Our judges and court personnel understood the need to do better. Their bold and thoughtful leadership brought together the District Attorney, the defense bar, the treatment community, and the United States Department of Justice in order to respond more effectively to a changing dynamic dramatically reflected in our court docket.

The Buffalo Opioid Court is administering justice tempered by compassion and mercy, and the results speak for themselves. Since opening on May 1, 2017, in a jurisdiction that experienced the overdose deaths of dozens of defendants over the course of several years, the court has experienced just two overdose deaths among its 345 participants.³¹ The work of this court is saving lives, promoting sobriety, and strengthening public safety in our communities.

We are moving quickly to expand this successful approach to New York City, where we recently started the Bronx version of an Opioid Treatment Court for misdemeanor offenders at high risk of opioid overdose.³² Bronx County District Attorney Darcel Clark wisely decided to suspend prosecution of cases at arraignment for those defendants who enter treatment immediately.³³ This smart approach also incentivizes treatment, as the District Attorney has agreed that upon successful completion of the program, the criminal case will be dismissed and her office will move to seal the record of the defendant's arrest.³⁴ The Opioid Court protocols recognize that opioids are incredibly addictive and require a new approach of early intervention and aggressive treatment.

Our Opioid Intervention and Treatment Courts are at the cutting edge nationally and are being watched closely by federal and state

²⁸ Edward Helmore, *He's Trying to Save Lives: The Ex-Addict Judge on the Frontline of the Opiate Crisis*, *GUARDIAN* (Aug. 20, 2017), <https://www.theguardian.com/us-news/2017/aug/20/opioid-crisis-america-buffalo-new-york-trump-national-emergency>.

²⁹ See *Buffalo Opioid Intervention Court Summary Brochure*, *supra* note 27.

³⁰ Helmore, *supra* note 28.

³¹ Information from Jeff D. Smith, Project Dir., Buffalo Opioid Intervention Court (July 27, 2018) (on file with author).

³² Press Release, Bronx Cty. Dist. Attorney, NYS Courts Announce New York City's First Court Offering Pre-Plea Treatment to Offenders at Risk of Opioid Overdose (Jan. 29, 2018), <http://bronxda.nyc.gov/downloads/pdf/pr/2018/08-2018%20Overdose%20Avoidance%20and%20Recovery.pdf>.

³³ See *id.*

³⁴ See *id.*

policy makers and court leaders around the country. On a broader level, they reflect how state court systems are laboratories of reform, with judges and court staff increasingly taking on leadership roles in bringing the necessary players to the table in order to foster collaborative, cross-agency solutions to the complex societal problems reflected in our court dockets. Where, as here, courts succeed in devising and implementing smart reforms that make wise use of our resources and taxpayer dollars and actually produce better outcomes for litigants and society, we gain credibility with the public and our partner branches of government and put ourselves in a stronger position to defend and advance the rule of law.

As we seek to promote and achieve better outcomes for litigants, it is difficult to think of a worse outcome than losing one's home. Yet we know that New York City has been experiencing its highest levels of homelessness since the Great Depression.³⁵ Last year, I appointed a Commission on the Future of the New York City Housing Court in order to improve the court's ability to deal with the troubling reality of increased homelessness in our city, address complaints about crowded and chaotic court conditions, and take full advantage of the welcome enactment of the Universal Access to Legal Services Law, which promises to eventually provide legal assistance to all low-income tenants facing eviction in New York City.³⁶ With the benefit of the Commission's excellent report and recommendations, issued this February, we will begin to transform the entire Housing Court litigation experience. New court rules and forms will institutionalize legal representation of tenants; Housing Court facilities will be relocated and redesigned to improve the dignity of the court process and the flow of people and cases; access to justice enhancements will be introduced; and technology, alternative dispute resolution, and court security will be expanded and upgraded.³⁷

The New York City Housing Court, one of the busiest, most overburdened courts in the nation, serves as the first and only contact that many New Yorkers have with our justice system. The litigants in this court, many of whom are low-income tenants frightened of losing their homes or frustrated by living conditions that threaten the health

³⁵ Jillian Jorgensen, *Population at City Homeless Shelters Hits Record High of 63,495, Study Shows*, N.Y. DAILY NEWS (Mar. 14, 2018), <http://www.nydailynews.com/new-york/population-city-homeless-shelters-hits-record-high-63-495-article-1.3872792>; *New York City Homelessness: The Basic Facts*, COALITION FOR THE HOMELESS (2018), http://www.coalitionforthehomeless.org/wp-content/uploads/2018/06/NYCHomelessnessFact-Sheet_4-2018_citations.pdf.

³⁶ N.Y.C. ADMIN. CODE § 26-1301 et seq. (West 2017).

³⁷ See SPECIAL COMM'N ON THE FUTURE OF THE N.Y.C. HOUS. COURT, REPORT TO THE CHIEF JUDGE 2 (2018), <https://www.nycourts.gov/publications/housingreport2018.pdf>.

and well-being of their families, deserve a fair, accessible, dignified, and orderly justice process.

Another of our high-volume urban courts, the New York City Family Court, which handles over 200,000 new case filings each year, recently became the largest paperless court in the state and, to the best of our knowledge, the largest in the country.³⁸ When I began my judicial career many years ago sitting in the Westchester County Family Court, I came to understand firsthand the critical importance of providing timely justice services to vulnerable litigants who come to our courthouses in times of great crisis. I have never forgotten the weight of that responsibility. Nor have I forgotten how delays and inefficiencies prolonged and amplified the harm and trauma the families and children appearing in that court were experiencing.

That is why I am so pleased that the New York City Family Court has gone entirely digital.³⁹ Technology has made the Family Court more accessible by allowing parties to “view and print . . . signed orders and petitions remotely.”⁴⁰ It has also streamlined the case commencement process, improved our ability to efficiently manage the court’s staggering caseload, and expedited finality and closure for the benefit of children and families.⁴¹

Technology has revolutionized society and the way in which we live our personal and professional lives. The public rightly expects the courts to keep pace with the latest technology in order to deliver our services and carry out our work efficiently and effectively. In our fast-moving electronic age, public confidence is not fostered by images of court staff pushing carts piled high with documents, clerks physically searching for case folders in vast record rooms, or staff manually searching for relevant case information buried within stacks of paper filings. Paperless family courts enable us to better serve the needs of our litigants through modern, updated services supported by the latest technology—exactly as it should be.

We have also implemented new technology to enhance the safety of victims of domestic violence. Our Remote Order of Protection Program enables petitions for temporary orders of protection to be filed electronically, with the initial *ex parte* hearings required in these cases conducted via remote video conference from safe havens such as

³⁸ See 2017 ANNUAL REPORT, *supra* note 3, at 48.

³⁹ Press Release, N.Y. State Unified Court Sys., New York City Family Court Becomes State’s Highest-Volume Court to Go Fully Digital (June 5, 2017), https://www.nycourts.gov/press/PDFs/PR17_07.pdf.

⁴⁰ See *id.*

⁴¹ See *id.* (detailing the benefits of digitizing the case management system).

shelters and hospitals.⁴² The program is operational in fifteen courts in eleven counties and will be expanded statewide within the year.⁴³

The fairness, effectiveness, and accuracy of our criminal justice system logically has an enormous impact on public trust and confidence in the courts. Over the last nine years, the New York State Justice Task Force, a group dedicated to criminal justice reform and the prevention of wrongful convictions, has issued recommendations leading to an extraordinary body of reforms, including expansion of the DNA Databank; greater access to postconviction DNA testing by defendants; legislation requiring videotaping of custodial interrogations; improvement of identification procedures used by police and prosecutors; and admission of properly administered photographic identifications into evidence.⁴⁴

In November 2016, based on the most recent Task Force recommendations, the Administrative Board of the Courts—the New York State judiciary’s policymaking body consisting of the Chief Judge and the four Presiding Justices of the Appellate Division—adopted a new rule that requires judges presiding over criminal trials to issue standing orders advising prosecutors and defense counsel of their professional obligations and responsibilities.⁴⁵ Significantly, the order addresses two common causes of wrongful convictions: *Brady* violations and ineffective assistance of counsel.⁴⁶ The order is intended to change the culture of criminal practice in New York State, with judges affirmatively reminding counsel of their professional and constitutional obligations. This measure puts New York on the cutting edge of reforms advancing confidence in our criminal justice system and the rule of law.

CONCLUSION

The Excellence Initiative, with its emphasis on getting back to the basics of delivering timely justice, may not sound exciting as a con-

⁴² Press Release, N.Y. State Unified Court Sys., Chief Judge Announces Pioneering New Program to Promote Access to Justice for Victims of Domestic Violence (Nov. 4, 2016), https://www.nycourts.gov/press/PDFs/PR16_14.pdf.

⁴³ Information from Audrey Stone, Counsel, Office of the Statewide Coordinating Judge for Family Violence (July 27, 2018) (on file with author).

⁴⁴ *Task Force Recommendations*, N.Y. ST. JUST. TASK FORCE, <http://www.nyjusticetaskforce.com/recommendations.html> (compiling a list of reports on the Task Force’s recommendations) (last visited July 1, 2018).

⁴⁵ See N.Y. COMP. CODES R. & REGS. tit. 22, §§ 200.16, 200.27 (2018).

⁴⁶ See *Government Misconduct*, INNOCENCE PROJECT, <https://www.innocenceproject.org/causes/government-misconduct/> (last visited July 1, 2018); *Inadequate Defense*, INNOCENCE PROJECT, <https://www.innocenceproject.org/causes/inadequate-defense/> (last visited July 1, 2018).

cept, but I can assure you that our work—and it is hard, grinding work—is precisely what needs to be done to ensure that cases are decided expeditiously, courts are accessible and affordable to all people, and the public’s tax dollars are used in smart, cost-effective ways to achieve fair and effective outcomes for all litigants and communities.

Bringing the state courts closer to the people we serve and earning the public’s respect and goodwill strengthens our ability to defend the rule of law and deflect the slings and arrows of those who seek to undermine our courts and our institutions of justice in the service of their own political agendas.

No one understood the connection between well-functioning courts and the rule of law better than our very first president, George Washington, who famously wrote to his Attorney General, Edmund Randolph, in 1789, that “the due administration of justice is the firmest pillar of good government . . . essential to the happiness of our country and to the stability of its political system. . . .”⁴⁷

I am most grateful for the opportunity to be here this evening. All of us appreciate and admire the work and legacy of Justice Brennan, who famously stated that the “law cannot stand aside from the social changes around it.”⁴⁸ Together, we can carry on Justice Brennan’s legacy by working to ensure that the meaning of our laws—and the machinery of our courts—always keep pace with the needs and expectations of our changing society.

In the New York state courts, we are intently focused on improving the many ways in which our court system interacts with and directly affects the lives of our citizens and our communities. This is how we will ensure that our justice system remains the firmest pillar of good government.

Thank you so much.

⁴⁷ Letter from George Washington to Edmund Randolph (Sept. 28, 1789), <https://founders.archives.gov/documents/Washington/05-04-02-0073>.

⁴⁸ P. Robert Rigney, *Crime in the Fields: The Forgotten American in Michigan*, 2 *NEW DIMENSIONS LEGIS.* 1, 83 (1971) (attributing this quote to Justice Brennan).