

2014 ANNUAL REPORT

of the

New York State - Federal Judicial Council

The New York State-Federal Judicial Council respectfully reports on its activities for this past year as follows:

1. Scope of Waiver of Attorney-Client Privilege

The Subcommittee's "*Report on Discrepancies between Federal and New York State Waiver of Attorney-Client Privilege Rules*" proposed a legal framework for dealing with the waiver of privilege issue in New York in a way that is consistent with federal law. With the support of the New York State's CPLR Committee, a bill incorporating the work of this report is awaiting introduction as part of the OCA 2015 program bill package submitted to the legislature.

2. Plea Bargaining Committee

On May 21, 2014, Ms. Peerce and a statewide committee of judges, defense counsel and prosecutors held a follow-up to its 2013 program on plea bargaining. It was well attended. The U.S. Court of Appeals set up a live streaming video of the program to allow lawyers to attend remotely. It was agreed that the program would not be repeated for a few years to allow case law to develop.

3. CLE Committee

Despite delays and modifications caused by sequestration and budgetary issues, the CLE programs entitled "*Which Court? State or Federal and Why? /Selecting Your Jurisdiction,*" which began presentations in 2013, were completed across the state in Albany, Brooklyn, Buffalo, Rochester (via video), Syracuse and New York City in 2014. More than 1,000 attorneys and judges participated in these programs. Plans are underway for the 2015 program.

4. Court Continuity of Operations (COOP) Plans:

The Subcommittee continues to identify ways to improve cooperation among the state and federal courts across the State during a crisis such as the recent snowstorm in Buffalo and Super Storm Sandy, including in the areas of inter-court communications, communications with the public, transportation of court personnel, and sharing of court space.

5. Interpreters

Judge Dora Irizarry, Ms. Cohen and Ms. Peerce have prepared a report with best practices, hot topics and tips for working with interpreters. It is awaiting subcommittee final approval and then will be submitted to the Council for approval.

6. Pro Bono Committee

Chief Judge Skretny and Judge D'Agostino updated the Council on the needs of the courts in this area and efforts to recognize those who handle *pro bono* matters. The Council agreed that it would present CLE programs downstate and upstate on topics relating to the legal issues in *pro bono* cases in Spring 2015. It was agreed that the Council would work with the federal and state courts to seek volunteers to take *pro bono* cases.

7. Update on International Arbitration Project

Mr. Davis and the subcommittee recognize the limits of what can be done in this area but are working on a methodology to raise judges' awareness about deciding matters concerning international arbitration expeditiously.

8. Clerk Relations Group

Mr. Klein, Clerk of the New York Court of Appeals, Ms. O'Hagan-Wolfe, Clerk of the Court United States Court of Appeals for the Second Circuit and members of their senior staff

continue to meet to discuss issues of interest to both courts. In connection with those meetings, Judge Graffeo advised that the New York Court of Appeals has finalized a new bar admission form. The New York Court of Appeals has improved the processing of the bar admissions by three weeks.

9. *Pro Se* Committee

Ms. Milton reported that the Second Circuit Clerks endorsed holding a conference in 2015 for the *pro se* law clerks of the federal and state courts. The *Pro Se* Committee will begin to solicit topics for the conference and select a site for the meeting. Funding for the federal courts for this conference is dependent on Congress passing an appropriation for the federal courts.

10. Appointment of Judicial Adjuncts

Judge Preska would like the Council to sponsor a judicial training panel on judicial adjuncts in late Winter 2014/Spring 2015.

11. Habeas Corpus Project

In conjunction with the meetings referred to above Ms. O'Hagan-Wolfe and Mr. Klein have completed their work on the habeas topic.

Submitted: December 4, 2014