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The State Courts Post-Sept. 11

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REFLECTIONS ON TERROR AND LIBERTY



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At our annual alumni luncheon in New York City, held this year on Jan. 25, alumni from across the state heard a compelling speech by **Hon. Jonathan Lippman**, the chief administrative judge of New York.

The state courts post-Sept. 11

By Hon. Jonathan Lippman

Let me begin by giving you a sense of what unfolded for the courts that fateful day. The chief judge and I, and most of the court system's administrators, were in Albany for a conference. Hearing about the first plane, most of us concluded it must be an accident caused by a small aircraft that had strayed off course. While I was on the phone talking to our central offices in lower Manhattan, the second plane hit. There was a pause. Finally, my counsel, clearly unnerved, got back on the line, explaining that the building was literally shaking – from what we now know was a tremendous impact just hundreds of yards away. From that moment on, I knew we were in uncharted territory.



ting, but that our offices just a few blocks south of the World Trade Center should be evacuated. I vividly remember speaking to the last court official remaining in the lobby of our building as it was being evacuated, and worrying how our employees would find their way home in the chaos of that day.

Before leaving Albany, I met with the administrative judges at the conference, and sent them back to their respective districts around the state, cell phones in hand, all of us in constant touch with security personnel. Ironically, we communicated more easily with each other than if we had been at our desks. For as the morning progressed and the towers fell, there was no phone service in downtown Manhattan, no computer access, no cars on the street, no public transportation – even subway service was brought to a standstill. The air was full of smoke, the streets full of ash, and soon, eerily deserted. I headed downstate.

As the day wore on – it seemed interminable – we decided that the courts should close statewide at 3 p.m. so everyone could get home to their families. Some courts remained open as a refuge, particularly in downtown Brooklyn, where people were streaming over the bridges, often with difficult or impossible routes home.

The enormity of what was happening began to sink in. The chief judge and I fought to put aside our shock, our dismay and our personal concerns to focus on what needed to be done in the courts. We knew how important it was, both on a practical and a symbolic level, to keep the courts functioning during a time of crisis and national emergency.

There are many state courts in lower Manhattan: The Court of Claims was located in 5 World Trade Center, while others are just blocks from the site. We decided that the courts would remain open as long as possible, safety permit-

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“As fire and smoke and unthinkable images filled the sky, among the first to see and comprehend the horrific sight were our court officers.”



Chiao Sai Cheong / AP

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By 8 p.m., after consulting with the mayor and the governor, we decided to close New York City courts the next day, but reopen courts elsewhere. We worked hard to get this information out, with TV and radio announcements. Even so—and despite great transportation difficulties—many New Yorkers felt it was their patriotic duty to appear for jury duty in those first few days. It was a heartening sight.

All that first day, while dealing with the crisis institutionally, we each had our personal dramas, our unease about the whereabouts of loved ones—in my case, about my son, clerking in the federal District Court just blocks from the World Trade Center. I tried over and over again to reach him on his cell phone. I became more and more frantic until he finally, finally responded just before noon to a message I had left on his voice mail. He described coming out of the subway that morning, seeing the towers burning and people throwing themselves out of the windows to escape the fire. My eyes welled up as I tried to visualize that sight and what must have been going through the mind and heart of my el-

dest—the new lawyer on his first job.

The next few days were nonstop: arranging for emergency arraignments outside the frozen zone in lower Manhattan; finding locations for emergency civil applications; tightening security in courts around the state.

On Thursday, courts in the outer boroughs reopened. We established a statewide “war room” in my White Plains chambers. On Friday, we breathed a sigh of relief that we had survived the week, but were still uncertain about opening courts in lower Manhattan on Monday.

Saturday morning, the chief judge and I surveyed the eight court locations in the frozen zone. The air quality was horrendous, requiring masks in many areas. We found, to our amazement—and God knows how they got there—administrative judges, clerks and other personnel in the courts, preparing for the possibility of opening Monday. Court security personnel were vigilant but in good spirits despite what they had been through, some of them part of the rescue effort. City personnel were cleaning every air filter in each building to ensure that the air was suitable for the courts to reopen.

On Monday, Sept. 17, the court system was back in full operation. Emotions were high as administrative judges and supervisors greeted employees with hugs and kisses, relieved to see the familiar faces. We looked ahead with determination, but also with great uncertainty. For the next several months, everything we did was directly or indirectly affected by what had transpired on Sept. 11.

The most devastating impact was, of course, on our people. On the day of the attacks, 27 court officers had rushed to the World Trade Center to lend a hand. As fire and smoke and unthinkable images filled the sky, among the first to see and comprehend the horrific sight were our court officers. Some of them ran almost halfway up the North Tower to help the evacuation effort. What they did is beyond my comprehension. They helped save many people that day, bringing medical assistance and a sense of calm and order. We are very grateful that most of them returned to us and to their families.

But fate separated a number of them as they helped lead the wounded and dazed to safety. Three were on the lower level of 5 World Trade Center, helping those who had taken refuge there, when the South Tower fell, partially crushing the building. They were never seen again.

We held out hope for weeks, clinging to the talk about pockets of air where people might still be alive. The Monday after the attacks, the chief judge and I visited ground zero to see for ourselves exactly where the officers had last been seen. Nothing could have prepared us for what we saw: the devastation – and the dedication of the rescue workers, as they guided us with masks and hard hats to the spot where they searched repeatedly for our missing. Each time, they noted the date and time on the wall, so the next team would know precisely when and where the last search had taken place. We left covered with white ash.

The missing court officers were very much on everyone's mind when the courts reopened, and during the weeks that followed as we waited for word. There was another blow: Over 70 people in the courts had lost immediate family members – children, siblings, parents – and some more than one. Grief counselors were in every courthouse. Weeks later, we were moved by the tremendous outpouring from our community – and from court employees around the country who, unsolicited, sent contributions to help the affected families.

The profound effect of these events on our people is mirrored in the new reality that we face in operating the courts. Many courthouses around the state have 24-hour security and permanent perimeter-watch assignments. Magnetometers and X-ray machines are everywhere. We grapple with a fundamental question: At what point do security concerns erode our way of life as an open society, a justice system committed to providing access for all?

In the first weeks, New York City courts were at 10 to 50 percent of operational capacity. In trying to resume full activity, we had to balance the need to get the courts running with sensitivity to litigants and lawyers, many directly affected by the tragedy. On the criminal side, the police were largely unavailable to testify, stretched to the limit with security, rescue and recovery responsibilities. On the civil side, there was tremendous dislocation of lawyers, including major institutional litigants, with 14,000 to 17,000 lawyers locat-

ed in the original hot zone below 14th Street, and 1,400 who had offices in the World Trade Center. We immediately offered assistance in providing copies of court files, but it has taken these past months to get back on track, especially in Manhattan.

You should be aware, also, of the spectacular efforts of the organized bar. The week after the attacks, the city Bar Association held a training session for volunteer lawyers to help victims of the tragedy. Far more lawyers showed up for the training session than could possibly be accommodated. The chief judge and I spoke to the crowd, which filled every inch of the hallways and stairs, trailing out the door and down the street. The training room could hold 500 lawyers, and there were at least two to three times that many.

Attorneys served at the Family Assistance Center – a facility on a West Side pier as big as a football field – helping people obtain death certificates and with other legal problems. Volunteers were from big firms, small firms, solo practices, corporations. Bar groups joined to provide volunteers with different specialties – housing, family, small business, and on and on. The State Trial Lawyers put together a volunteer ef-



"Over 70 people in the courts had lost immediate family members," says Hon. Jonathan Lippman.

fort to create, in essence, a public-interest law firm for victims using the federal claims process.

The courts have now returned to some level of "normality" – a new normality. Like the rest of society, we know that we operate in a framework far different than the one that existed Sept. 10. Tempering that sober recognition, however, is a feeling of immense pride in the court and legal community. It was through the strength and resiliency of those communities that we accomplished our task of keeping the courts open and running. Everyone felt the need to contribute, in their own way, to the well-being and stability of our city and our nation. They needed to be part of the effort to show we were as strong as ever. The experience was both draining and energizing at the same time.