

# DISTRICT ATTORNEYS ASSOCIATION OF THE STATE OF NEW YORK



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JANET DiFIORE  
WESTCHESTER COUNTY

March 14, 2012

Mr. Ronald P. Younkins, Esq.  
Chief of Operations  
Office of Court Administration  
25 Beaver Street, 11<sup>th</sup> Floor  
New York, New York 10004

Dear Mr. Younkins:

Thank you for the opportunity to provide comments on behalf of the District Attorneys Association of New York State on the first draft of OCA's report on Electronic Filing in Criminal Actions and Proceedings.

The Association is composed of the 62 elected District Attorneys in New York State and represents many diverse jurisdictions that differ greatly in size and resources. The District Attorneys' offices run the gamut from tiny Hamilton County with a population of 5,000 and a single Part-time District Attorney on staff to Kings County with a population of 2.5 million and over 500 attorneys. We are rural, suburban and urban offices. More than 40 of our District Attorneys have 10 or fewer assistants on staff and 29 of these offices have 5 or fewer attorneys on staff. The resources available to each of these counties and their technological abilities and challenges vary significantly.

The Association welcomes the opportunity to work with the Office of Court Administration to explore electronic filing in criminal actions and "carefully work through the unique issues and problems presented by different courts and areas of the law" (Draft report, Page 20). As the draft report states (page 19), the best and most responsible way to move forward is to "expand e-filing in an incremental but steady manner that does not cause disruption to litigants, attorneys, state and local governments and the courts themselves." To that end, the four District Attorney's Offices represented on the Advisory Committee - Westchester, Franklin, Onondaga and Kings - which represent a cross section of small, medium and large offices both downstate and upstate have all agreed to participate in voluntary electronic filing pilot programs. These pilot programs should provide us with invaluable information about how e-filing can work in criminal actions and proceedings, the impact it will have and challenges it will pose in different parts of the State as well as the additional personnel and technological resources needed to transition to and utilize electronic filing. We share the serious concerns expressed by some of the institutional providers of defense services that electronic filing may strain the resources of many already overburdened defense and prosecutors' offices and may require additional support staff, updated printers or scanners, greater information technology resources and modifications to office case management systems. It is our understanding that electronic filing will not be implemented on a statewide basis until the pilot program have tested these issues and a careful evaluation has been conducted of the results by OCA with input from all of the affected stakeholders.

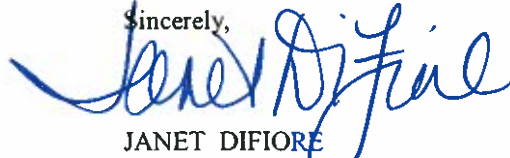
We believe that it would be prudent to begin these pilot programs on a very limited basis both in volume and scope. Consequently, we urge that any pilots be limited, as the Advisory Committee has discussed, to felony cases filed in superior court only. In addition, issues of some complexity that can impact on public safety and witness protection should not be included in the initial pilot programs. Thus, we urge that discovery materials not be included as well as documents now sealed by law, such as search warrants and wiretap applications and records, ex parte applications, sealed indictments, sealed confessions under CPL 710.30 and other documents that could compromise the security of witnesses.

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We would suggest that during the pendency of the pilot programs, efforts be made to provide broader education, training and technical assistance not just to counties participating in the pilot programs but to stakeholders throughout the criminal justice system about the functioning of the electronic filing system in preparation for electronic filing, to obtain information and feedback about the current status of information technology in various parts of the State and to conduct ongoing discussions and dialogue about collaborative efforts to enhance the resources available for participation in electronic filing.

After the conclusion of the pilot programs, all of the stakeholders should discuss and evaluate appropriate next steps in light of the information and experience we have gathered. We support legislation that would give the Chief Administrative Judge authority to continue to implement and expand consensual electronic filing to additional parts of the State where, after consultation with all essential local stakeholders, it is agreed that the counties have the human and technical resources necessary to successfully implement the program.

Sincerely,



JANET DIFIORE  
District Attorney, Westchester County  
President, DAASNY

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March 14, 2012

Honorable Michael Coccoma  
Deputy Chief Administrative Judge  
Empire State Plaza  
4 ESP, Suite 2001  
Albany, New York 12223-1450

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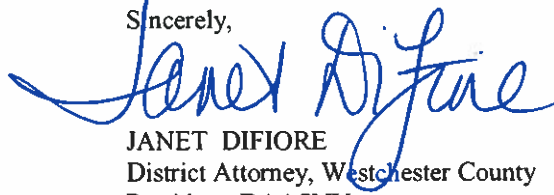
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