

5. JUDICIAL BRANCH

COURTS

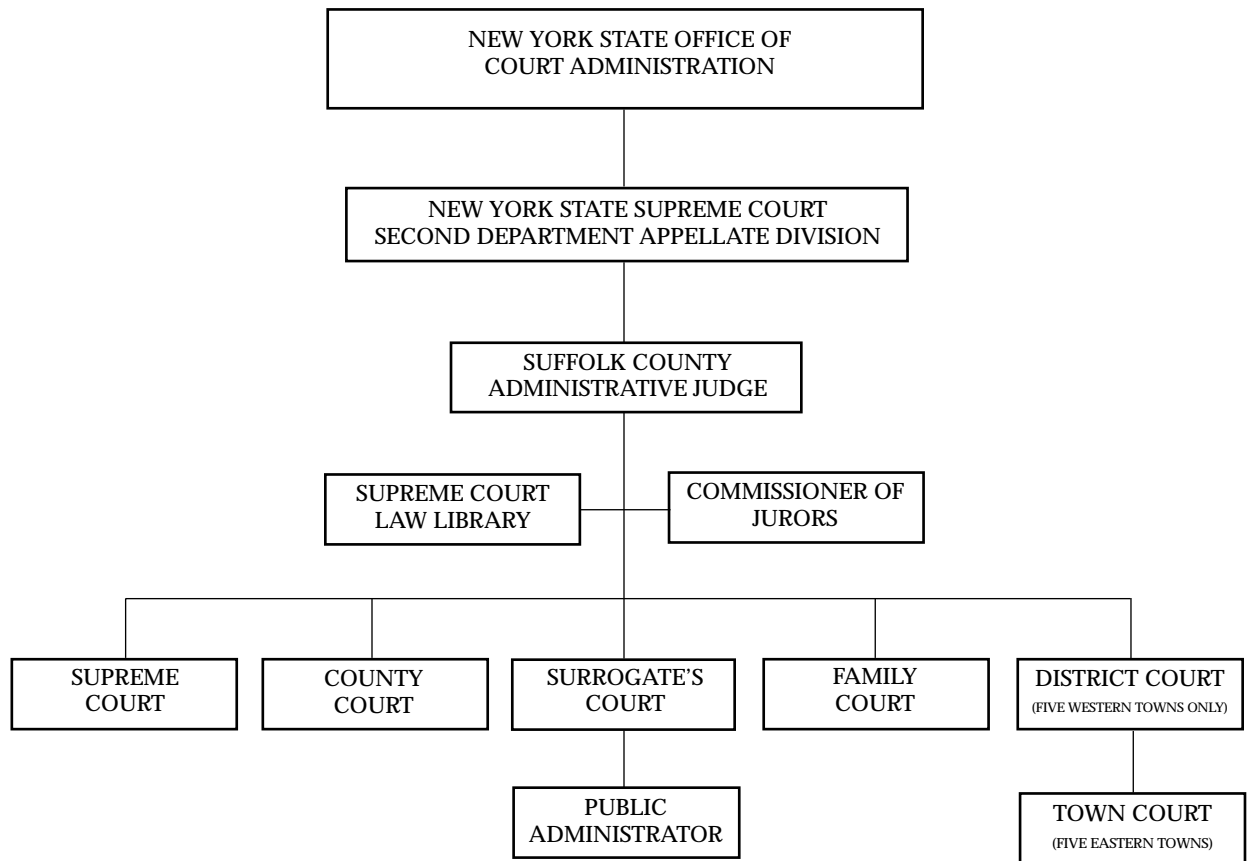
The Courts of Suffolk County are part of the unified court system under the authority of New York State's chief judicial officer, the Chief Judge of the Court of Appeals. The courts were last reorganized in 1962, by constitutional amendment, and administrative authority was centralized by another amendment approved by the voters in 1977. At the same time, the State took over the costs of operating the court system, including the salaries of judicial and non-judicial personnel. Judicial salaries were raised by the State Legislature in 1999, and range between \$122,700 for a judge of the District Court in

Suffolk County to \$136,700 for a judge of the Supreme Court.

While the responsibility for providing and maintaining court facilities remains with local governments, Suffolk County is entitled to financial aid from state court facilities funds for court improvements and annual maintenance. Under recent legislation, funding for court cleaning and minor repairs will be fully provided by the state after fiscal year 2000/2001.

The authority of a certain court to act in a particular case is its "jurisdiction." There are two types of jurisdiction: (1) original (or trial), which

**FIGURE 5.1 NEW YORK COURT SYSTEM
SUFFOLK COUNTY JUDICIAL BRANCH**



is the power to hear a case in the first instance; and (2) appellate, which is the power to hear appeals from the decisions of other courts. Some courts have either one or the other jurisdiction; other courts have both.

The Court of Appeals. The Court of Appeals is the highest New York State court and is located in Albany. It hears appeals from the Appellate Divisions only, except in cases where a constitutional question is involved. There is no further appeal from its decisions except to the United States Supreme Court, and only in cases involving a federal constitutional question. This court has a Chief Judge and six associate judges appointed for 14-year terms by the Governor, with the advice and consent of the State Senate, from among persons found to be well qualified by a nonpartisan nominating commission. At least five judges must sit on any case and four must agree on a decision.

The Appellate Divisions of the Supreme Court. New York State is divided into four Judicial Departments, in each of which is established an Appellate Division of the Supreme Court--the intermediate appellate court of the State. Suffolk County is part of the Second Judicial Department, the Appellate Division of which sits in Brooklyn. This court hears appeals from trial courts within the Department, by panels of four to five justices, and conducts proceedings to admit, suspend or disbar lawyers. The justices of the Appellate Divisions are designated by the Governor from among Supreme Court Justices for five-year terms.

The Supreme Court. New York State is divided into 12 Judicial Districts, Suffolk and Nassau Counties comprising the Tenth. The Supreme Court is the statewide trial court of the broadest original jurisdiction, both criminal and civil. In Suffolk, it hears primarily civil cases where the monetary values exceed the jurisdiction of the lower courts, divorce, separation and annulment proceedings, and equity suits. These civil parts, which disposed of 33,000 cases in 1999, sit primarily in three locations: in the Supreme Court Building at 235 Griffing Avenue in Riverhead, the Arthur E. Cromarty Court Complex (Criminal Courts Building) at 210 Center Drive in Riverhead, and the Cohalan Court Complex on Carleton Avenue in Central Islip. There are also three criminal parts (judges hearing major criminal cases), sitting in the Criminal Courts

Building. Appeals of Supreme Court cases go to the Appellate Division.

The 28 Supreme Court Justices currently sitting in Suffolk are elected in the bi-county Suffolk/Nassau district for terms of 14 years. They must have been members of the bar for at least ten years. The elected justices are generally supplemented by a number of Acting Supreme Court Justices who are members of other courts. An Administrative Judge is appointed by the State Chief Administrator of the Courts to oversee operations in the County.

The County Court. Judges of the County Court in Suffolk County preside over felony criminal cases. The Court also has civil jurisdiction in cases up to \$25,000, but because of the volume of criminal cases, exercises it infrequently. The Court meets in the newly expanded Criminal Courts Building in Riverhead. In 1999, the Court, assisted by the three criminal parts of Supreme Court noted above, disposed of 3,269 criminal cases. Appeals go to the Appellate Division of the Supreme Court.

The 11 County Court judges, who must have been members of the bar for five years, are elected by the voters of the County for ten-year terms. They are supervised by a Supervising Judge of the Superior Criminal Courts of Suffolk County, appointed by the State Court Administrator.

The Family Court. The Family Court is located in the new Cohalan Court Complex in Central Islip, except for two parts which sit in Riverhead at 877 East Main Street. The Family Court hears cases having to do with families and children. These include cases involving juvenile delinquency, minors in need of supervision, family assaults and offenses, abuse and neglect, paternity, custody, support, adoptions, and foster-care placements and review. The Court disposed of 43,750 cases in 1999; appeals go to the Appellate Division of the Supreme Court.

The ten judges of the Family Court in Suffolk County are elected by the voters of the County for ten-year terms and must have been members of the bar for ten years. One judge serves as Administrative Judge.

Family Court judges are assisted by seven Hearing Examiners who handle support and uncontested paternity cases. The Hearing Examiners, required to be members of the bar for

five years, are appointed by the Chief Administrator of the Courts for three-year terms.

Further assistance to the judges is provided by three Judicial Hearing Officers, retired or former judges who sit part-time and, with the consent of the parties involved, hear and determine cases assigned to them by Family Court judges. One Hearing Examiner and one Judicial Hearing Officer sit in the Riverhead location.

The County Attorney's Office represents the County in Family Court in most proceedings and acts as a prosecutor in appropriate cases.

The Surrogate's Court. The Surrogate's Court has jurisdiction over probate, accounting, administration and guardianship of estates of decedents and minors and also handles some adoption proceedings. There is one Suffolk County Surrogate who sits in Riverhead at 320 Center Drive. The Court took in 12,955 new proceedings in 1999. Appeals of Surrogate decisions go to the Appellate Division of Supreme Court.

The Surrogate is elected by the voters of the County for a ten-year term and must have been a member of the bar for at least ten years.

The District Court. The District Court was established in 1964 in the five western towns of Suffolk County--Babylon, Brookhaven, Islip, Huntington, and Smithtown. It replaced the Town Courts in these jurisdictions. State law provides that any town contiguous to the District Court system may, by a majority vote in a referendum initiated by a Town Board Resolution, become part of this system.

The First District Court in Central Islip handles trials of misdemeanor criminal cases, preliminary hearings in felony cases, and civil cases where the amount involved does not exceed \$15,000. In addition, a domestic violence part was added in 2000, which handles misdemeanors and violations in domestic violence incidents. There is also a Night Court, recently moved to Ronkonkoma, which hears small claims cases. The Second, Third, Fourth, Fifth and Sixth Districts each serve one of the separate towns in the system. Judges sit locally and are responsible for non-jury civil cases, including landlord-tenant cases, small claims and town ordinance violations. Since 2000, some civil jury cases are being heard in the outlying locations. Traffic violations, formerly heard in District Court, are now handled by the Traffic Violations

Bureau in the State Office Building on Veterans Memorial Highway in Hauppauge. Altogether, 44,744 civil cases, excluding parking matters, were filed in 1999 and 64,245 criminal cases. Appeals of District Court cases go to the Appellate Term of Supreme Court which sits in Mineola.

There is a Supervising Judge of the District Court, elected by all the voters in the five western towns. There are also 24 District Court judges elected by the voters in the separate districts for six-year terms. They must have been members of the bar for at least five years.

Town and Village Courts. Sixty-one justices sit in the local Justice Courts in the towns and villages of the five eastern towns--East Hampton, Riverhead, Shelter Island, Southold and Southampton--and in some incorporated villages of the five western towns. They may hear civil cases involving amounts up to \$3,000 and minor crimes and offenses. The justices also act as magistrates, holding preliminary hearings for those charged with more serious crimes. In the western towns, such hearings would generally be held in the District Court. Appeals from the town and village Justice Courts go to the Appellate Term of the Supreme Court.

The towns and villages elect their part-time justices for four-year terms. Justices need not be lawyers, but non-lawyer justices are required to complete a training course before they may hear cases. Acting Justices are appointed by Village Boards for four-year terms to hold court when the elected justices are not available. The costs of the local courts are carried by the municipalities.

ARBITRATION PROGRAM

Suffolk County operates a mandatory Arbitration Program for cases involving damages claimed of \$6,000 or less. These cases (2,539 in 1999) are heard by attorneys. While their decisions can be taken to court *de novo*, this is infrequently done.

SUPREME COURT LAW LIBRARY

This library currently has three branches, located in the Criminal Courts Building in Riverhead, at the Cohalan Complex in Central Islip and at 235 Griffing Avenue in Riverhead. It has the most complete collection of law material in the County and is maintained exclusively as a reference

library. The library serves the courts, various County departments, town officials, the Legal Aid Society, attorneys, teachers and (with the exception of the location on Griffing Avenue) the public.

JURIES

Commissioner of Jurors. The Commissioner of Jurors, whose office is located at 225 Griffing Avenue in Riverhead, has the responsibility of providing qualified jurors for all the courts in Suffolk County. The Commissioner is appointed by the County Jury Board for a four-year term.

The Commissioner maintains three jury pools, one in Central Islip and two in Riverhead.

Petit Jury. A petit or trial jury usually consists of twelve members, but in some lower courts a six-member jury is used. Its function is to decide matters of fact presented during the trial of a case. A unanimous verdict of twelve jurors is necessary to convict a person of a crime, but in civil cases, agreement of only five-sixths of the jurors is required.



*Photo by Hal Fullerton
Suffolk County Historical Society, Riverhead*

1901 Lady Champion, Shinnecock Links, Shinnecock, NY

Designed by Stanford White and opened in 1892, this was the first golf course in the United States

A juror must be a citizen, at least 18 years of age, and a resident of New York State and Suffolk County. Prospective jurors also must be able to understand and communicate in English and must not have any felony convictions. Jury lists are compiled by the Office of Court Administration from lists of registered voters, state and local taxpayers, licensed drivers, people on public assistance and people receiving unemployment compensation. A large number of categories of persons who could claim exemption from jury service was abolished by State law in 1996. Some discretionary exemptions of up to a period of 24 months remain for medical, financial, transportation and public safety reasons and for caregivers and clergy.

Prospective jurors are chosen at random from the computerized pool of lists mentioned above, and are sent questionnaires regarding their qualifications. There are approximately 40,000 names already qualified to be jurors at the present time, with 60,000 more being processed. Summonses to serve are then sent by mail. Jurors check in by telephone prior to each day of service to see if they are needed. The average term of service at the courthouse for trial jurors is one day or the duration of one trial--or 1.4 days. Jurors may not be recalled for a period of four years.

Employers of more than 10 employees are required to pay at least the first \$40 of an employee's wage during the first three days of service. After this time, jurors who are not paid salaries by their employers are remunerated at the rate of \$40 for each day they report to the courthouse. Jurors without employment receive the daily rate throughout their service.

Grand Jury. There is usually one grand jury active per month in Suffolk County, supplemented periodically by one or more special grand juries. A grand jury consists of 23 members, 16 of whom must be present at all times to function, and 12 of whom must agree on a verdict. Each regular grand jury sits for one month, usually two to five days per week depending upon the need of the courts. A grand jury may be extended into the next month if necessary. The average term of service is 20 days. Grand jurors must fulfill the same requirements as other jurors in Suffolk County and are paid at the same daily rate.

The function of a grand jury is to determine whether a crime has been committed and, if so, whether there is a reasonable possibility that the defendant has committed the crime. New York State requires grand jury action on all felonies (crimes punishable by more than a year in prison) unless waived by a defendant. Lesser crimes are prosecuted on what is termed an information--i.e. on a sworn statement of a competent public officer.

THE DEPARTMENT OF PROBATION

The Department provides three core services to the Family, Criminal and Justice Courts with jurisdiction over residents ages seven and older.

Intake personnel prepare petitions for individuals who desire access to Family Court in cases of family offenses, support, paternity, custody and visitation. They also screen and monitor youth populations such as Persons in Need of Supervision (PINS) and Juvenile Delinquents (J.D.'s), with a view towards providing services in a pre-court status, where possible.

Investigation Probation Officers provide the courts with timely reports on adults and youth in order to assist the judges in their decision-making.

Probation Officers supervise both youth and adult populations, and monitor probationers' compliance with the conditions of probation while providing services that promote law abiding behavior in the community. Probation also collects restitution payments from offenders and distributes in excess of one million dollars annually to victims of crime.

The main office of the Probation Department is in Yaphank, with other offices in Hauppauge, Brentwood, Riverhead and Central Islip. In 1999, 17,514 cases were supervised by more than 100 probation officers. The individual supervisory caseload varies between 30 cases, for intensive probation or other special programs such as those involving sex offenders or domestic violence, to over 100 cases of regular probation supervision.

The Director of Probation is appointed by the County Executive and must be confirmed by the Suffolk County Legislature.

THE DISTRICT ATTORNEY

The District Attorney (DA) is the chief prosecutor for Suffolk County and is elected by the voters of the County for a four-year term. The main offices of the DA are in Riverhead, Hauppauge and Central Islip. Aided by approximately 135 full-time Assistant District Attorneys (ADAs), the DA represents "The People" in prosecuting felony and misdemeanor criminal cases in the Supreme, County, District and Town and Village Courts.

THE LEGAL AID SOCIETY

The Legal Aid Society of Suffolk County, with administrative offices at 5 Shore Lane in Bay Shore, is a private organization which has been in existence since 1956 and was incorporated to provide legal services to the indigent in civil matters. A U.S. Supreme Court ruling in the same year (*Gideon vs. Wainwright*) stated that all persons accused of felonies must be represented by counsel and a further expansion of this ruling requires counsel to represent all persons accused of crimes that could lead to imprisonment. Since there was no office of public defender in Suffolk County, the Legal Aid Society was appointed as the representative of indigent defendants in the County. The Society can accept private funds, but in practice, all of its funding comes from the County and the State.

The determination of "indigency," and there-

fore eligibility for Legal Aid Society services, is made according to guidelines based on weekly income and family size related to federal poverty threshold levels.

The criminal division of Legal Aid employs 50 full-time graduate attorneys in its Central Islip and Riverhead offices. Turnover is minimal, so that most Legal Aid attorneys have at least five years of courtroom experience.

The Legal Aid Society also acts as Law Guardian for minors requiring representation in the Supreme and Family Courts. Sixteen Legal Aid attorneys, based in the Central Islip Courthouse, serve as Law Guardians, and 9 more are active in other capacities in the Family Court.

THE CRIMINAL JUSTICE

COORDINATING COUNCIL

This 28-member council, appointed by the County Executive, is composed of heads of law enforcement agencies and representatives of the County Legislature, town and village governments, and all levels of the unified court system. Its mission is to improve law enforcement and the administration of criminal justice through fostering coordination and cooperation among component groups. The Council, whose office is in the H. Lee Dennison Building in Hauppauge, meets quarterly; its member serve without compensation.



Photo © Adam Gaus

First Presbyterian Church of Smithtown, NY

Celebrating 325th Anniversary, 2001