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# The New York Times

## Top Judge Resists Cuomo, Defending Courts' Budget: [Metropolitan Desk]

Glaberson, William *New York Times* [New York, N.Y.] 16 Feb 2011: .23.Other formats: [Citation/Abstract](#)[Turn on hit highlighting](#)[Abstract \(summary\)](#) [Translate](#)

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ALBANY -- New York's chief judge suggested on Tuesday that courts around the state might have to close if Gov. Andrew M. Cuomo and the Legislature insist on cuts to the judicial system that match the broad budget limits the governor is imposing on executive agencies.

By raising the specter of closed courts, the chief judge, Jonathan Lippman, at once upped the ante in what has been a relatively amiable confrontation with the governor over the court budget and laid out an ambitious agenda for what he described as an "independent, accountable and co-equal branch of government."

Early this month, Mr. Cuomo criticized the judiciary's \$2.7 billion budget proposal for "not participating" in his efforts at sharp cuts, and he "respectfully" asked the courts to cut spending. The judicial budget, which is not under the control of the governor, included a \$50 million increase over the previous year, but court officials said it was because of mandated increases in benefits, including pensions, for its work force of 16,700.

In his annual State of the Judiciary speech in the ornate courtroom of the Court of Appeals here, Judge Lippman said the courts were working to restrain costs. But he also drew a hard line on the requirements of the courts and several times repeated that the judiciary was a co-equal branch of government with its own responsibilities to New Yorkers.

The maneuver is a familiar one in Albany, intended to persuade the Legislature to view potential cuts as draconian attacks on basic services. Judge Lippman described the courts as already operating at the edge financially and argued that they handled cases that were often a result of hard economic times, like foreclosures, evictions and family violence cases.

"We do not have the option of picking and choosing which cases we hear," he said, "of turning people away, or of turning a deaf ear to those who come to the courthouse doors seeking justice."

The speech was filled with new proposals, some of which will carry a price. Among other things, Judge Lippman announced a new rule to prohibit judges from hearing cases involving contributors to their political campaigns and a pilot program to provide lawyers to poor people in foreclosure cases.

He repeated his commitment to a \$25 million increase in state financing for lawyers to the poor in civil cases, which had been included in the judiciary's budget request.

He said he planned to encourage a state commission created last year to grant an "appropriate salary increase" for the state's 1,300 judges, who have gone 13 years without a raise.

And he unveiled recommendations from a commission he appointed in 2009 to search for ways to prevent wrongful convictions. Several of those proposals are likely to be controversial, including one that would sharply expand the crimes for which the state requires DNA samples from convicted defendants.

New York has been collecting DNA samples from convicted defendants since 1996, gradually increasing the number of crimes that are affected. Under Judge Lippman's proposal, the state would also collect DNA samples from people convicted of a long list of additional misdemeanors, including harassment and criminal purchase of a weapon.

He said that adding thousands of additional DNA samples would help avoid wrongful convictions by "directing criminal investigations toward actual perpetrators" and increasing the opportunity for those wrongfully convicted to prove their innocence. But proposals to increase DNA collection often draw criticism from civil liberties groups that see such programs as attacks on privacy.

Judge Lippman also endorsed a recommendation that investigators who present crime victims with photographs to identify perpetrators not know which of the choices is the suspect. For years there have been indications that investigators may give cues to crime victims about which photograph to choose.

The initiative that drew the most attention was the plan to require court officials to bar judges from hearing cases involving political contributors. With 73 percent of the state's judges elected, Judge Lippman said, it was time for the courts "to foreclose even the appearance of impropriety" by stopping judges from hearing cases involving lawyers and others who donate \$2,500 or more to their political campaigns over a two year period.

The new rule, approved by the five-judge Administrative Board of the Courts this month, is to take effect in 60 days after a period for public comment.

In remarks to reporters after his speech, Judge Lippman said that the public's comments could influence details of the planned rule. But he indicated that there would be no change in the central idea of a ban on judges hearing cases

of their political donors, saying "this is a rule that's going to go into effect."

#### Photograph

Jonathan Lippman, the Chief Judge of New York State, at His Annual State of the Judiciary Speech On Tuesday in Albany. (Photograph by Nathaniel Brooks for the New York Times)

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Indexing (details)	Cite
Subjects	Budgeting, Judiciary, State courts
Locations	New York
People	Cuomo, Andrew M, Lippman, Jonathan
Company/Org	Legislature-New York (NAICS: 921120)
Title	Top Judge Resists Cuomo, Defending Courts' Budget: [Metropolitan Desk]
Authors	Glaberson, William
Publication title	New York Times
Pages	A.23
Publication year	2011
Publication Date	Feb 16, 2011
Year	2011
Section	A
Publisher	New York Times Company
Place of Publication	New York, N.Y.
Country of publication	United States
ISSN	03624331
CODEN	NYTIAO
Source type	Newspapers
Language of Publication	English
Document Type	News
ProQuest Document ID	851727011
Document URL	http://0-search.proquest.com.alpha1.suffolk.lib.ny.us/docview/851727011?accountid=35174
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Last Updated	2011-02-24
Database	New York Times

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