

**STATE OF NEW YORK  
DEPARTMENT OF STATE**

**DETERMINATION**

***In the matter of a request that Town or Village justice be designated as an eligible profession for the purchase, sale, and use of body armor.***

Date of designation: November 29, 2024

Legal framework

To purchase or take possession of body armor in New York State, an individual or entity must be engaged or employed in an eligible profession.<sup>1</sup> Pursuant to Executive Law section 144-a, the Department of State (Department) has created a process whereby individuals and entities may request that the profession in which they engage be added to the Department’s list of eligible professions.<sup>2</sup> The Department has received a request that Town and Village justice be designated as an eligible profession. Prior to adding a profession to the list of eligible professions, the Department must first determine whether the duties of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor, or whether the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor.

Requests

After receiving the request that “Town and Village justice”<sup>3</sup> be designated as an eligible profession, notice of this eligible profession request was published on the Department’s website on February 5, 2024, whereby the public was invited to submit additional requests relating to this profession. No other requests relating to this request have been received by the Department.

The requestor describes the duties of their profession as presiding over a court in a small town in upstate New York. The requestor states that court is held twice per month starting at 7:00 p.m. and that on occasion they are required to remain at the courthouse until midnight. The requestor further states that they deal with a variety of cases, including cases in which individuals are charged with violent felonies. The requestor is required to be on call between 10:00 p.m. to 4:00 a.m. to arraign defendants, noting that the county in which the requestor serves does not have a centralized arraignment part (CAP) court. The requestor referenced the New York State Unified Court System website, which states that town and village justices are required to be on-call 24

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<sup>1</sup> New York Penal Law §270.21.

<sup>2</sup> See 19 NYCRR Chapter XIX, Part 905, generally.

<sup>3</sup> While the request named the profession as “Town and Village Judge/Justice,” applicable statutes and regulations reference the title of the profession as “Town and Village Justice.” See, e.g., 22 NYCRR § 17.3. Thus, the title of “Town and Village Justice” will be referenced for this determination. Note that the title of “Town and Village Judge or Justice” was referenced for the 30-day public period for additional requests.

hours a day,<sup>4</sup> but the requestor clarifies that the highest volume of such calls in their jurisdiction occurs during the overnight hours.

In describing how the duties of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor, the requestor stated that their court and other small town and village courts do not have a court officer or security in the courtroom, stating that there are not sufficient funds to hire security or off duty law enforcement officers, or to purchase metal detectors and hire individuals to operate them. The requestor provided an email from the U.S. Marshal Service that was provided to the requestor on January 2024, warning about a potential threat to judges, following the arrest of two individuals in Queens, New York, who were subsequently found to be carrying a “hit list” that included “judges,” among other general categories of professions; no individual judges were identified or named on that list. That warning was disseminated through the Department of Public Safety Judicial Threats Unit at the New York State Unified Court System and was not limited to Town and Village Justices but directed to all Unified Court System justices and judges, which includes judges of courts of record, as defined in section 2 of the New York State Judiciary Law. The requestor provided a link to a video showing a defendant attacking a judge in court, where several officers were present and had to physically intervene.<sup>5</sup> The requestor further stated that prior to the change in law, judges typically wore soft body armor rated for protection against pistol caliber threats, but some judges would wear more protective body armor because it could be concealed under judicial robes that they wore.

### Findings of fact and analysis

The profession of “Town and Village justice” is listed in the SOC Manual, as a subset under code 23-1023,<sup>6</sup> which is titled “Judges, Magistrate Judges, and Magistrates” and includes the following duties:

#### **23-1023 Judges, Magistrate Judges, and Magistrates**

Arbitrate, advise, adjudicate, or administer justice in a court of law. May sentence defendant in criminal cases according to government statutes or sentencing

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<sup>4</sup> New York State Unified Court System, Town & Village Courts, available at <https://www.nycourts.gov/courts/townandvillage/introduction.shtml> (“The Town & Village Courts also conduct arraignments and preliminary hearings in felony matters. In addition, these courts hear Vehicle & Traffic Law misdemeanors and traffic infractions. Town and Village Justices are required to be on-call 24 hours a day and are often called upon to arraign misdemeanor and felony charges as well as to act as Family Court judges when Family Court is not in session. In cases involving domestic violence, the judges are also authorized to issue orders of protection.”).

<sup>5</sup> ABC10 News, Man Who Jumped Bench, Attack[] Nevada Judge Sentenced on Unrelated Charges (Jan. 8, 2024), available at <https://www.youtube.com/watch?v=WxYrCcw1N4>. The attack did not involve the use of a firearm, but firearms may be present in a courtroom where police officers are present.

<sup>6</sup> The requestor identified SOC code “23-1010 Lawyers and Judicial Law Clerks,” which is a broad occupation. The detailed occupation listed as 23-1023, as referenced above, provides a more accurate identification of the requested profession, however, and is thus chosen for the purposes of this determination.

guidelines. May determine liability of defendant in civil cases. May perform wedding ceremonies.

*Illustrative examples: Circuit Court Judge, Justice, Tribal Judge*

The profession of Town and Village Justice falls within this SOC category. While the profession does not require a license from the State, it does require certain training and education commitments. The profession is also identified in the New York State Uniform Justice Court Act.<sup>7</sup> The Rules of the Chief Judge require that newly selected town and village justices who are not members of the New York State Bar attend the first available basic course administered by the New York State Judicial Institute, which includes one hour of anti-bias training, and require completion of an advanced course annually thereafter; newly selected town and village justices who are members of the New York State Bar must attend the first available advanced course, which also includes one hour of anti-bias training, and attend such course annually thereafter.<sup>8</sup>

Town and Village justices practice in justice courts, which jurisdiction and functions are established under the Uniform Justice Court Act.<sup>9</sup> The duties of the profession of Town and Village justice include hearing both civil and criminal matters. Town and village courts may hear actions and small claims proceedings seeking monetary awards of up to \$3,000,<sup>10</sup> as well as landlord/tenant matters that may involve an eviction or back rent award.<sup>11</sup> Town and village courts also handle criminal matters, including misdemeanors, violations, Vehicle & Traffic Law misdemeanors and traffic infractions, and arraignments and preliminary hearings involving felony complaints.<sup>12</sup> Village and town justices oversee all such matters and are indeed required to be on-call at any time to arraign individuals charged with misdemeanors and felonies, and may also to take on the role of a family court judge when family court is not in session.<sup>13</sup> When sitting as a family court judge, town and village justices may issue orders of protection in cases involving domestic violence.

While the request seeks designation only of Town and Village justice as an eligible profession for the purchase, sale, and use of body armor, the courtroom duties of the profession identified in the request are not limited to Town and Village justices, but shared by judges of city courts, county courts, other judges who may from time to time be assigned to county court to preside over criminal actions. In addition, threats or acts of violence involving gunfire against judges are not limited to judges serving in courts of particular jurisdiction. Publicly available

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<sup>7</sup> Uniform Justice Court Act (“UCJA”) §103(a) & (b).

<sup>8</sup> UCJA § 105; 22 NYCRR § 17.2.

<sup>9</sup> Best practices for justice courts are set forth under the Justice Court Manual, developed by the NYS Justice Court Task Force, which consists of “the Office of the State Comptroller, Office of Court Administration, New York State Association of Towns, New York State Conference of Mayors, New York State Magistrates’ Association, and other key stakeholders in the Justice Court system.” NYS Justice Court Task Force, Justice Court Manual, at 6 (Jan. 31, 2015), available at <https://www.nycourts.gov/courts/townandvillage/finaljusticecourtmanualforuscbsite.pdf>.

<sup>10</sup> UCJA § 202.

<sup>11</sup> UCJA § 204.

<sup>12</sup> UCJA Article 20; Criminal Procedure Law Article 180.

<sup>13</sup> NYS Justice Court Task Force, Justice Court Manual, at 9 (Jan. 31, 2015), available at <https://www.nycourts.gov/courts/townandvillage/finaljusticecourtmanualforuscbsite.pdf>.

information of such threats or acts of violence involving firearms indicates such threats and violence are, unfortunately, neither uncommon nor new. For example:<sup>14</sup>

- In June of 2022 a man was arrested outside the home of a United States Supreme Court Justice after traveling from California to Maryland, armed with a pistol and ammunition, who was reported to have told law enforcement officers he intended to kill a specific United States Supreme Court Justice.<sup>15</sup>
- In July 2020, an attorney identified as the assailant in a fatal shooting incident outside the home of a federal judge had a list of a dozen other possible targets in his home, including New York State’s Chief Judge.<sup>16</sup>
- In 2021, U.S. federal judges were the target of more than 4,500 threats and other inappropriate communications, according to the head of the U.S. Marshals Service.<sup>17</sup>

While Town and Village justice duties require many such justices to work in courtrooms that do not have security personnel or apparatus, it is not the lack of such security personnel or apparatus alone that is determinative as to whether the profession of a judge meets the eligibility criteria for designation as an eligible profession, but an additional factor offered by the requestor as to why a Town and Village justice should be afforded the additional protection of body armor. Such a distinction is not warranted here. The exposure to serious physical injury that may be prevented or mitigated by the wearing of body armor is associated with the duties of judges of courts of record, as defined by section 2 of the New York State Judiciary Law, as well as a judge of the United States and justice of the United States, as defined in 28 U.S.C. § 451.<sup>18</sup>

The Department may, in addition to the authority to determine a request that a profession be designated an eligible profession, review a profession for the purpose of determining eligibility.<sup>19</sup> Designation of an eligible profession must be supported by a finding that the duties

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<sup>14</sup> Such instances are not new, from a historical perspective. For instance, the United States Marshals Service, the federal agency charged with the protection of federal judges, has a webpage on the subject. In a section providing historical background titled, “Protection of Federal Judge,” an account from 1888 of violence in a federal courtroom included efforts by a defendant to open a satchel that was found to have contained a pistol. See <https://www.usmarshals.gov/who-we-are/history/historical-reading-room/protection-of-federal-judges>

<sup>15</sup> [https://www.nycbar.org/blogs/the-disturbing-trend-of-threats-and-violence-against-judges-and-the-vital-importance-of-judicial-security/#\\_ftn7](https://www.nycbar.org/blogs/the-disturbing-trend-of-threats-and-violence-against-judges-and-the-vital-importance-of-judicial-security/#_ftn7)

<sup>16</sup> [https://www.nycbar.org/blogs/the-disturbing-trend-of-threats-and-violence-against-judges-and-the-vital-importance-of-judicial-security/#\\_ftn9](https://www.nycbar.org/blogs/the-disturbing-trend-of-threats-and-violence-against-judges-and-the-vital-importance-of-judicial-security/#_ftn9)

<sup>17</sup> <https://www.reuters.com/world/us/us-judges-faced-over-4500-threats-2021-amid-rising-extremism-official-2022-02-14/>

<sup>18</sup> The term “judge of the United States” includes judges of the courts of appeals, district courts, Court of International Trade and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

The term “justice of the United States” includes the Chief Justice of the United States and the associate justices of the Supreme Court.

<sup>19</sup> 19 NYCRR §§ 905.2(a), 905.5(a).

of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor.<sup>20</sup>

For a profession to be deemed eligible, the duties of the profession must sometimes require individuals engaged or employed in that profession to be exposed to serious physical injury that may be prevented or mitigated by the wearing of body armor, or if the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor. Because the profession of Town and Village Justice and state and federal judge does not involve facilitation of the lawful purchase, sale, or use of body armor, the relevant inquiry for this request is the question of whether the duties of the profession of Town and Village Justice and state and federal judge must sometimes require individuals engaged or employed in that profession to be exposed to serious physical injury that may be prevented or mitigated by the wearing of body armor.

Previous, approved requests to add a profession to the List of Eligible Professions have discussed duties specific to that profession that may expose an individual to gunfire, such as the handling of live firearms, guarding valuable items or sensitive locations, or in-person enforcement activities. These are duties that, in their inherent nature, involve a likelihood of exposure to gunfire. In addition to such duties inherently exposing an individual to gunfire, some approved requests also offered verifiable, documented evidence such as past instances of injury that may have been prevented or mitigated by the wearing of body armor. Taken altogether, the evidence provided by a requestor is vital to the Department's understanding of the profession and its informed determination about whether a profession is eligible pursuant to Executive Law § 144-a.

### Determination

The information set forth above supports a determination by the Department that the duties of the profession of not only Town and Village Justice but city, state and federal judges sometimes require individuals engaged or employed in those professions to put themselves in dangerous situations that may expose them to serious physical injury, and that such serious physical injury may be prevented or mitigated by the wearing of body armor.

Based on the foregoing facts and the requirements of Executive Law §144-a and 19 NYCRR Part 905, the Department has designated the profession of town and village justice, as referenced by ¶¶ (a) and (b) of §103 of the UJCA, judge of the courts of record, as referenced by section 2 of the Judiciary Law of the State of New York, judge of the United States and justice of the United States, as defined in 28 U.S.C. § 451 as eligible professions for the purchase, sale, and use of body armor and adds such professions to the Department's list of eligible professions.

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<sup>20</sup> New York Executive Law § 144-a; 19 NYCRR §§ 905.3, 905.1(c), (f).