

# EYE ON THE COURTS

## A periodic report from the Geneva Court Watch Coordinating Committee

A project of the League of Women Voters of Geneva, a non-partisan organization

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If you've never visited [www.nycourts.gov](http://www.nycourts.gov), it's worth spending a few minutes there to get a sense of what a valuable resource it is. As the website of New York's Unified Court System, it has a range of links useful to court personnel and the public.

One piece we came across recently and felt was worth capsulizing here deals with best practices for working with court interpreters. Given this area's growing Latino population and its proximity to Rochester (home to the nation's largest deaf and hard-of-hearing population), the need for interpreters is likely to continue to grow.

As the website notes: "Court interpreters serve a fundamental role in providing access to justice for these individuals."

The right to an interpreter applies in all types of court cases and to all plaintiffs, defendants, witnesses and other principals. An attorney or individual can request an interpreter or a judge could choose to have one assigned, without a request, if a need exists. That need is confirmed by asking questions that can include: What is your name? What language are you most comfortable communicating in? Would you like the court to provide an interpreter?

It falls to a court administrator, clerk or senior court interpreter to assign the interpreter; and if one isn't available in person, remote interpreting (via phone or videoconference) is an option.

The Unified Court System has a registry of qualified court interpreters who have gone through a language-skills screening process, assessment exams and a criminal background check. A sign-language interpreter should be certified by the Registry of

Interpreters for the Deaf. But, in an emergency situation a judge can choose to use one who isn't, after assessing the person's qualifications by asking questions about training and experience, on the record.

Once an interpreter is in place, the judge should ensure that the person who needs the interpreter understands the role of the interpreter. This should be done by having the interpreter convey the parameters as the judge reads them (see the box on page 2). Then the interpreter is sworn-in and, to avoid claims of conflict of interest or impropriety later on, the judge should ask if anyone involved in a case knows the interpreter.

When applicable, the judge should inform the jury what other language will be spoken during the proceedings and make sure they understand that, even if they understand that language, they should base their decisions on the English interpretation.

How can a judge be sure the interpreter is doing a good job?

The Uniform Court System provides points for the judge to consider, including:

Is there a significant difference in the length of an interpretation and the original testimony?

Is the interpreter leading the witness or using body language or facial expressions in an effort to influence answers?

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## Justice / Continued from Page 1

Is the interpreter behaving professionally?

Is the interpretation being done in the first-person? (While verbally translating what is being said in the second language, the interpreter should relay the words as if he/she is the person speaking.)

Finally, if you have a question about the quality of an interpreter, contact the court's chief clerk or the Office of Language Access at (646) 386-5670 or

[InterpreterComplaints@nycourts.gov](mailto:InterpreterComplaints@nycourts.gov)

For more information about interpreters and other court information, go to [www.nycourts.gov](http://www.nycourts.gov).

**The judge should instruct the interpreter to communicate the following information to the party, as it is read aloud by the judge, in the courtroom:**

- I have been informed that you are more comfortable communicating in (Foreign language or Sign language) instead of English.
- The person next to you is the (language) interpreter.
- The interpreter's job is to repeat to you in (language) everything that is said in English during this court proceeding.
- The interpreter will also repeat for us anything you say in (language) back into English.
- Nothing will be changed or left out of this interpretation. The interpreter is not allowed to give you advice or have private conversations with you.
- The interpreter will not talk about your case with anybody outside the court.
- If something is not clear to you or you have a question, raise your hand. I (the Judge) will answer your questions or concerns. Do not ask the interpreter directly for information or advice about the case.
- Do you understand what the interpreter is supposed to do?
- Do you have any difficulty understanding the interpreter?
- I will now swear-in the interpreter for the record.

**OUR MISSION:** Court watchers provide an impartial assessment of local courts' operation, and they advocate for a fair and equitable justice system.

## Court Observations

*We wish to express our appreciation to those judges who took note of the lead article in the May 2018 issue of the Eye and have made a real effort since then to ensure that defendants fully understand the legal terms being used. Your efforts and are applauded.*

*The comments printed here are the personal observations of individual court watchers and do not necessarily reflect the views of the Court Watch committee or of its sponsor, the League of Women Voters. Except with written permission of the League, there shall be no republishing, excerpting or other use in any manner of the material here published, including, but not limited to, campaign literature to promote a particular policy or to elect a particular person.*

*Court Watchers observed 42 court sessions from October through January.*

### ONTARIO COUNTY COURT

#### Judge 1869

- Courteous and respectful
  - thanked clerk and ADA for their work
  - apologized for interrupting a speaker
  - was patient and encouraging to an emotional defendant
- Tried to ensure that defendants understood process
  - used clear language (e.g., "give up your rights")
  - explained how the grand jury works
  - encouraged defendants to ask questions

#### Judge 1797

- Explained rights very clearly
- Questioned defendants effectively
- Thanked prospective jurors and stressed the importance of their presence in a case that was settled while they were waiting a very long time for the selection process to begin

#### Judge 6548

- Did not explain purpose of a sidebar; did explain the process of achieving guardianship
- Was hard to hear with microphone off to the side
- Was courteous, respectful, understanding

### Ontario County Family Court

#### Judge 1369

- Praised parties for cooperating; urged them to keep working together for the benefit of the child
- Asked clarifying questions; raised new points
- Summarized the case clearly

**Other issue:** Docket was confusing

### BLOOMFIELD, East and West

#### Judge 8212

- Explained the benefits of getting an adjournment to talk to the ADA
- Seemed concerned about success of defendants, encouraging, praising, advising, explaining
- Wrote addresses for mailing payments on envelopes during the court session, which seems helpful but

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- inefficient
- Did not explain what a bench trial is

**Judge 9992**

- Spoke with hands in front of mouth, making it difficult to hear
- Gave defendants time to give explanations and ask questions

**Other personnel**

- Security officer in EB greeted people pleasantly, provided directions
- No security officer in WB
- Before court started, clerk let those with just fines to pay do so and leave

**Other issues**

- Having the copier in another room caused some delays
- Air conditioner hampered hearing (WB)
- Signs directing people to court unclear

**CANANDAIGUA CITY COURT****Judge 7562**

- Explained legal terms and when possible used more familiar terms
- Was hard to hear

**Other**

- Security officers were efficient, polite
- Many attorneys conversed with clients or other attorneys, making it hard to hear proceedings

**CANANDAIGUA TOWN COURT****Judge 1807**

- Explained rights clearly
- Repeated and clarified terms of complicated sentence
- Heard cases with private attorneys first

**Judge 9817**

- Handled paperwork, slowed caseload
- Treated everyone respectfully but firmly

**Other**

- Security officers were efficient, polite
- Security officers allowed distracting conversation in courtroom
- Having the copier in another room slowed proceedings
- Entrance and security too close to the bench, making it hard to hear

**FARMINGTON****Judge 9634**

- Heard cases with private attorneys first
- Made introductions
- Did not explain what a bench trial is
- Suggested adjournments to allow defendants to speak to ADA

**Judge 5453**

- Was courteous, pleasant
- Wished defendants luck; praised defendants' good decisions

- Carefully explained options; explained limits to judicial discretion on sentence

**Other personnel**

- Security officer
  - greeted everyone pleasantly
  - offered stickers to young children
  - directed attorney to nearby office for conference, keeping courtroom quiet
- Clerk provided useful information

**Other issues**

- Audibility greatly improved by rearrangement of furniture to ensure that people spoke away from bench
- Noisy air conditioner

**GENEVA CITY COURT****Judge 1586**

- Reviewed basic rights for both traffic and criminal cases at the beginning of court; was very clear.
- In several sessions made effort to explain legal terms
  - Changed "retain your own attorney," to "pay for an attorney on your own"
  - Asked a young defendant if she knew what an ACD is
  - Told young defendant that his attorney would explain all the terms in the documents and that signing them just meant he acknowledged receiving them
  - When clear that a defendant did not understand "waiving" rights, explained in lay terms
  - Explained "continuance" and "order of protection"
- For defendant without an attorney, did not explain "accusatory instruments"
  - Explained it is possible to adjourn traffic cases to allow defendants to check with DMV and insurance companies to find out consequences of guilty plea
- At beginning of traffic court asked if anyone needed to be called first in order to get to work
- Briefly adjourned traffic case so defendant could be accompanied by an English speaker
- Acknowledged courtroom staff
  - Introduced ADA
  - Explained that court officer was new, still learning the process
  - Joked with the clerk, who made a couple of corrections about dates and process
  - Thanked probation officer for work on a probation violation case
  - Said hello and goodbye in

- Spanish when appropriate; asked in Spanish if a defendant spoke English, then indicated there should be an interpreter at defendant's future appearances
- Gave defendant an opportunity to speak before sentencing, made clear it was not mandatory
- Before sentencing, checked that defendant understood treatment would be part of the sentence
- Explained an inside joke when there was a sudden burst of laughter
- Indicated there would be no more adjournments of a case that had "gone on way too long"
- Welcomed and thanked a father for appearing with young defendant; told young defendant how lucky she was to be so loved that he'd traveled to be there
- When defendant expressed no interest in having the APD involved, said "It's not a bad idea" and the defendant accepted representation
- Explained that fines were lower than might have been because defendant had cleared up the problems quickly
- Quietly said name of court officer as a gentle reprimand for not paying attention
- Apologized and explained 20-minute delay in starting court
- Spoke with a defendant about a plea's details because he'd made clear that he wanted to understand everything
- Told a defendant a jail term might save his life since it would give him an opportunity to get clean; expressed hope that defendant could stay clean
- Was firm when necessary
  - with defendant who always seemed to have a reason she couldn't provide urine sample
  - with defendant who was rude to judge and probation officer
  - with several young defendants who seemed out of their depth; initially spoke sharply and seemed offended, but then relaxed; cases proceeded smoothly if a bit informally

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- Allowed defendant with mental/social disability to speak at considerable length
- Looked through papers rather than at a defendant who was explaining failure to pay
- Explained rights very rapidly
- Was interrupted by an attorney and politely interrupted back

**Judge 0635**

- Opened with general explanation of the three calendars (civil, traffic, criminal) and options for each
- Explained at length to **ADA 2748** why ADA's recommendation wouldn't be followed
- Carefully explained that waiving a **reading** of the rights did not mean that the rights were waived (and proceeded to give abbreviated version of the rights, despite the waiver)
- Very carefully pronounced names correctly
- Gave everyone adequate time in civil cases, encouraged compromise if possible
- Made sure eviction cases didn't leave children homeless
- Thanked attorney in civil case, praising quality of documents submitted

**Judge 7138**

- Began hearing traffic cases with no general greeting or explanation
- Mumbled while reading rights
- Interrupted **ADA 2748** ADA explanation of an offer made
- Frequently interrupted
- Checked to make sure Hispanic defendant with relatively good English fully understood rights waived.
- Tried to find points of connection with defendants to personalize interaction
- Asked in English if anyone else needed the interpreter, who was about to leave; then called on interpreter to repeat the question in Spanish
- Said defendant who hadn't met probation terms 10 years ago probably wouldn't this time

- Requested names of assigned counsel be made available
- Spoke bluntly to defendant about previous lapses
- Checked with defendants to see if further explanations were needed
- Was inconsistent in treatment of defendants: with some engaged in friendly banter; with others, was all business

- Seemed disorganized

**Other personnel**

- Court officer did not quiet chatting people on one occasion; on another, requested a noisy child be taken into corridor
- Security officers were polite
- Probation officer was clear, audible, straightforward, efficient
- Clerk seemed disrespectful of ADA on matter of copies

**Other:** Copier was noisy

**GENEVA TOWN COURT****Judge 7185**

- Expressed irritation because defendant was brought from jail and waited an hour with no appearance by anyone from Public Defender's office; waste of time and money

**Judge 2664**

- Listened carefully, patiently
- Ran court session smoothly

**Other personnel**

- Clerk kept things quiet, worked efficiently
- Computer and recording systems' problems caused delays
- All recording devices had weak batteries
- Open courtroom door made it hard to hear
- There was no heat and the thermostat could not be adjusted

**GORHAM**

**Judge 9287** gave defendants time to ask questions, to speak before sentencing

**Other:** The courthouse has a new security camera system, funded by the Justice Court Assistance Program

**HOPEWELL****Judge 1139**

- Friendly but firm; courteous and respectful

- Made sure defendant could provide DNA sample without having to come back
- Juggled many responsibilities well
- Was patient and listened carefully in a very long, complicated case

**Other issues**

- On one date there was neither a security officer nor a clerk (there was a clerk in another room)
- On another, DARE security officer and clerk were present and busy

**PHELPS****Judge 9317**

- Worked to put defendants at ease
- Thanked clerks for their work
- Explained that state surcharge is mandated

**RICHMOND****Judge 1343**

- Friendly but firm
- Maintained eye contact
- Hard to hear

**Other issues**

- This is an informal court, without microphones, security, or sign-in. Attorneys stood right by the judge's bench, so audibility was difficult. Even the judge was hard to hear
- Court is well-lighted, signs are clear, seating is comfortable
- Clerk was very efficient

**SENECA****Judge 9875**

- Did not call the next case until clerk had collected the fine/surcharge due
- Listened carefully during the two bench trials, maintaining eye contact

**Judge 8687**

- Treated defendants politely
  - Explained process and rights very carefully
  - Asked defendants if they had questions
  - Gave defendants time to speak
- Other**
- Clerk's many responsibilities slowed case flow
  - Lack of security officer was troubling, in light of a visibly angry defendant

**VICTOR****Judge 2765**

- Was pleasant, even-tempered
- Spoke clearly

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- Reminded defendants of their responsibilities, complimented those who were doing well
- Gave defendants an opportunity to speak before sentencing

**Other**

- Security officers polite, efficient
- Clerk efficient
- Carpeting helps reduce distracting noise, but everyone stands too close to judge's bench to be heard throughout courtroom

**ADA 2748**

- Spoke very slowly, clearly in a case involving an interpreter
- Was audible, slow, clear, careful
- Spoke to judge, rather than defendant, when reviewing traffic options; for another, spoke to defendant directly
- Explained very clearly what was being done in one case and why
- Was joking with someone and didn't hear judge ask for explanation of offer
- Offered precise information about what defendant needed to do to avoid loss of license
- Explained unusual disposition that made it possible to avoid cost of a trial
- Expressed sympathy for young defendant's challenges getting money to pay fines but noted the case had been going on for a long time
- Carefully explained to defendant why a sidebar was held during his case
- Was encouraging, supportive of defendant undergoing treatment
- Clearly frustrated by one case
- Offered **Judge 7138** suggestion in complicated case; clarified cases for **Judge 7138**
- Expressed irritation at long delay (and eventual adjournment) when APD failed to appear

**ADA 2467**

- Was hard to hear
- Conferenced with defendants in the courtroom, which was distracting
- Seemed to have excellent relationship with defendants

**ADA 6841**

- Arrived late
- Was very well-prepared, with

exhibits, but had trouble finding the right document quickly

- Did not speak forcefully

**ADA 5912**

- Explained rights of defendants
- Showed sense of humor

**ADA 3210**

- Worked well with **APD 3941**
- Was hard to hear
- Was well-organized despite heavy caseload

**ADA 1919**

- Held several audible consultations with defendants
- Seemed well-prepared
- Was hard to hear
- Provided useful information to the judge

**APD 3133**

- Spoke at a distance from the judge, increasing audibility
- Knew cases well
- Conducted conferences in another room to avoid courtroom distraction

**APD 3941**

- Worked well with **ADAs 3210** and **6962**
- Had a friendly demeanor
- Seemed truly concerned about defendants, provided reassurance
- Knew cases, defendants very well
- Listened carefully to judge's requests

**APD 8047**

- Conferred at length with clients in courtroom; was at bench for so long once that **Judge 1807** declared recess
- Seemed generally well-prepared but didn't always have necessary paperwork
- Carefully explained procedures and rulings to defendants

**APD 1211**

- Began conferring with a client in courtroom but quickly chose to step outside
- Was hard to hear
- Reviewed each of the charges in a complicated case, then asked for confirmation from judge
- Knew all details of people's offer, presented clearly and slowly for interpreter; asked for significant adjournment since jail will need to get an interpreter for evaluation and to speak with an immigration attorney about the consequences of pleading guilty

Advocated for defendant, saying person had "turned a corner"

- Allowed defendant with apparent mental disability to speak at considerable length to judge

**APD 2469**

- Was clear, strong, defended clients well
- Continued to push for proper documentation; stressed client's rights in complicated case

- Was quick to keep defendants from speaking, ensuring all comments came through APD

**APD 2583** on two occasions was not available when needed, causing significant delay

**APD 1256**

- Arrived well before court began to talk to clients and avoid delays and distractions

- Was pleasant and helpful to clients
- Attorneys 5291, 1563** were clear  
**Attorney 3192** was easy to hear; shook hands with defendant; wished defendant well

**Attorneys 6823, 3519, 8747, 4393, 3640** were very clear, efficient, well-prepared

**Attorney 9425** spoke too softly  
**Attorney 7656** was hard to hear; did a good job advocating for defendant  
**Attorney 5575** was clear, polite, well-prepared, respectful of defendant; mispronounced name of APD

**Attorney 5540** was well-prepared, disagreed pleasantly with **ADA 2748**  
**Attorney 3519** carefully and clearly explained conditions DA's office had agreed to

**Attorney 3364** could not be heard; arrived at last minute, seemed disorganized, not well-prepared; had someone helping find files and maintain focus

## Volunteer meeting note

New Geneva Town Justice Ron Passalacqua was the guest speaker at the November meeting. He spoke about the training he took, his responsibilities, and his focus, which he said is restorative justice.

Passalacqua is a retired Geneva police officer and tries to put defendants at ease in court and looks at rehab, counseling, and other options, instead of automatically imposing a jail sentence.



## Local Youth Court members attend symposium

Ontario County Youth Court members participated in the Association of NYS Youth Court's Youth Symposium Dec. 9-10, 2018, at the Great Escape Lodge in Lake George.

This was the result of almost a year-long planning effort by State Association members. The Youth Symposium was made possible by a grant from the New York Bar Foundation and the ANYSYC. It was a youth-planned, youth-led event in which Youth Ambassadors from across the state were assisted by planning committee adults.

The workshops covered topics such as public speaking, critical thinking, and understanding differences. All were designed to enhance skills used inside a courtroom.

The keynote speaker for the event was a former Warren County district attorney and judge,

Among those attending the event from the Western NY Regional Youth Court Association were members of youth court programs from Ontario, Schuyler and Wyoming counties and Hamburg, Erie County.

## This Project

The **Court Watch Coordinating Committee** acknowledges the Presbytery of Geneva, The Presbyterian Church in Geneva, Finger Lakes Community Endowments and the many local friends of the League of Women Voters, who financially support this project.

Anyone interested in making a donation can write a check to: League of Women Voters Court Watch c/o Len DeFrancesco, 94 High St., Geneva, NY 14456

"Eye on the Courts" is edited by Anne Schühle and compiled by members of the **coordinating committee**: Osbaldo Arce, Patricia Bergman, Len DeFrancesco, Phyllis DeVito, Judith McKinney, and Ellen Reynolds. Additional Court Watch volunteers include: Elizabeth Chace, Gretchen Fox, Beth Reiners, Patricia Schiller, Tammi Sprague, and John Watson.

## League of Women Voters

Anyone wishing to join (or renew their membership with) LWV of Geneva or make a contribution to the League or Education Fund can contact Marty Davis, 91 N. Brook St., Geneva, NY 14456. LWV is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

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