



# Report on the Schenectady County Court

The Capital District Court Monitors

2002

*It is desirable that the trial of causes of action should take place under the public eye, not because the controversies of one citizen with another are of public concern, but because it is of the highest moment that those who administer justice should always act under the sense of public responsibility, and that every citizen should be able to satisfy himself with his own eyes as to the mode in which a public duty is performed.*

Justice Oliver Wendell Holmes  
*Cowley v. Pulsifer*  
137 Mass. 392, 294 (Mass. 1884)

The Fund for Modern Courts is a private, nonprofit, nonpartisan organization dedicated to improving the administration of justice in New York. Founded in 1955, and led by concerned citizens, prominent lawyers, and leaders of the business community, Modern Courts works to make the court system more accessible, efficient, and user-friendly for all New Yorkers.

The centerpiece of Modern Courts' efforts is our groundbreaking citizen court monitoring program, which gives citizens a powerful voice in how their court system is run. Our monitors, who now number more than 600 in over a dozen counties throughout New York State, have succeeded in obtaining numerous tangible improvements in the state's courts. This report details the findings of our citizen court monitors regarding the Schenectady County Court. We hope their recommendations will help to obtain improvements for the Schenectady County residents that the court serves.

For additional information, please contact:

The Fund for Modern Courts, Inc.  
351 West 54<sup>th</sup> Street  
New York, New York 10019  
Telephone: (212) 541-6741  
Fax: (212) 541-7301  
E-Mail: [justice@moderncourts.org](mailto:justice@moderncourts.org)

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# I. THE PROJECT

## Court Monitoring in New York State

The Fund for Modern Courts is a private, nonprofit, nonpartisan organization dedicated to improving the administration of justice in New York. Since 1975, Modern Courts has sponsored court monitoring projects around the state, through which ordinary citizens observe and evaluate their courts, report their findings, and issue public recommendations for improvement.

For over twenty-five years, court monitoring has proven to be highly successful at achieving numerous public-interest objectives, including:

- safeguarding the public's interest in the courts;
- educating citizens about the daily functions and operations of their courts;
- creating and maintaining an ongoing, meaningful exchange between citizens and their judiciary;
- making the courts more accountable and more sensitive to the needs of the communities they serve;
- successfully urging those responsible for the courts (including court administrators, state legislators, local government officials, and others) to make improvements, particularly in how the courts serve the public and how their personnel treat the public; and
- creating a constituency of citizens who understand the problems facing the courts and who are supportive of the courts' efforts to function efficiently and effectively
- publicizing problems that exist in the courts.

Monitors come from all walks of life, and many have no prior experience with the legal system. They are asked to look at the courts from an outsider's viewpoint, which provides a fresh, common-sense perspective on how the courts can be improved. During the course of a monitoring project, these volunteers observe proceedings in a particular court for a period of several months, and complete forms designed to help them evaluate all aspects of the court's performance, from the demeanor of the judges to the physical conditions under which the court operates. Modern Courts then publishes the monitors' findings in a detailed report, which is sent to the judges and other personnel observed, state court administrators, state and local legislators, the news media, and other interested parties.

Modern Courts' citizen court monitoring program has been influential in solving many problems faced by ordinary citizens in the courts. For example, monitors' comments about litigants with young children in the Family Court have help lead to the establishment of in-court child care facilities in numerous courthouses across the state. In other courts, the implementation of a "staggered" calendar, modeled directly on monitors' recommendations, has drastically reduced both waiting time and overcrowding. Monitors' repeated calls for decent housekeeping

and maintenance in the state's courthouses have led to a renewed commitment to courthouse upkeep by local governments, and to major improvements in recent years. Monitors were also helpful in persuading the New York State Office of Court Administration to introduce a mandatory "civility training" program for all non-judicial court personnel.

On a larger scale, monitors' reports were instrumental in encouraging the State Legislature to pass the Court Facilities Act of 1987, which led to construction of desperately-needed new courthouses around the state. Monitors' reports also influenced recent reforms that have made jury service less burdensome.

Overall, citizen court monitoring has improved communication between citizens and the judiciary, heightened the court system's sensitivity to public needs, and helped to ensure that those needs are met.

### **The Capital District Court Monitors**

The Capital District Court Monitors are volunteers who observe and report on courts in Albany, Rensselaer, Saratoga, and Schenectady Counties. Helga A. Schroeter, Modern Courts Capital District Coordinator, administers the project. In 2000, the Capital District Court Monitors evaluated the operations of the Schenectady County Court. Modern Courts volunteers from the Fund last monitored the County Court in 1990. At the time, Judge Clifford Harrigan was County Court Judge. In the spring of 2000, the Capital District Court Monitors decided that it was time to take another look at the court because of its increasing caseload and space needs. During this project, Judge Michael Eidens was the sole full-time County Court Judge.

On May 23rd, 2000, Capital District Coordinator Helga A. Schroeter held an orientation session at the Schenectady County Courthouse for the monitoring project. County Court Judge Michael C. Eidens, District Attorney Robert Carney, and Public Defender Elbert Watrous all gave presentations about their respective roles in the County Court. Helga Schroeter instructed the monitors about monitoring procedures and proper etiquette and distributed criminal court monitoring handbooks and monitoring forms. The orientation concluded with a tour of the entire courthouse.

From June 2000 to September 2000, eighteen volunteer monitors observed proceedings in the County Court. During the course of the monitoring, Ms. Schroeter held two additional meetings with the monitors, one towards the middle of the project and the other at the conclusion to address any questions, share information and impressions, and to collect the monitoring forms. These meetings served as very useful additional analysis of the observations and as a basis for formulating the recommendations at the end of this report.

## II. THE COUNTY COURT OF SCHENECTADY COUNTY

Each of New York's counties (excluding the five counties of New York City) has a County Court, which hears felony criminal cases. In New York, an offense is classified as a felony if it is punishable by a fine of \$1,000 or more, or by more than one year in prison. The County Court also has jurisdiction over civil cases involving amounts up to and including \$25,000. The Supreme Court hears civil cases involving amounts over \$25,000.

### **The Population It Serves: Schenectady County**

Schenectady County is located in the Mohawk River Valley of New York's Capital District Region. It is bordered by Albany, Montgomery, Saratoga, and Schoharie Counties.

In 2000, Schenectady County's population was 146,555 according to the US Census Bureau statistics. The City of Schenectady is the County seat.

### **County Court Judges**

**Eligibility:** A County Court judge must be an attorney admitted to the bar for at least five years before assuming office, and must be a resident of the county that the judge serves.

**Method of Selection:** All County Court judges are nominated in county-wide, partisan primary elections, and are then elected in a county-wide general election.

**Tenure:** County Court judges serve ten-year terms. If a judge is unable to complete a term, the governor appoints an interim judge to fill the vacancy until the next general election. County Court judges may serve until a mandatory retirement age of 70.

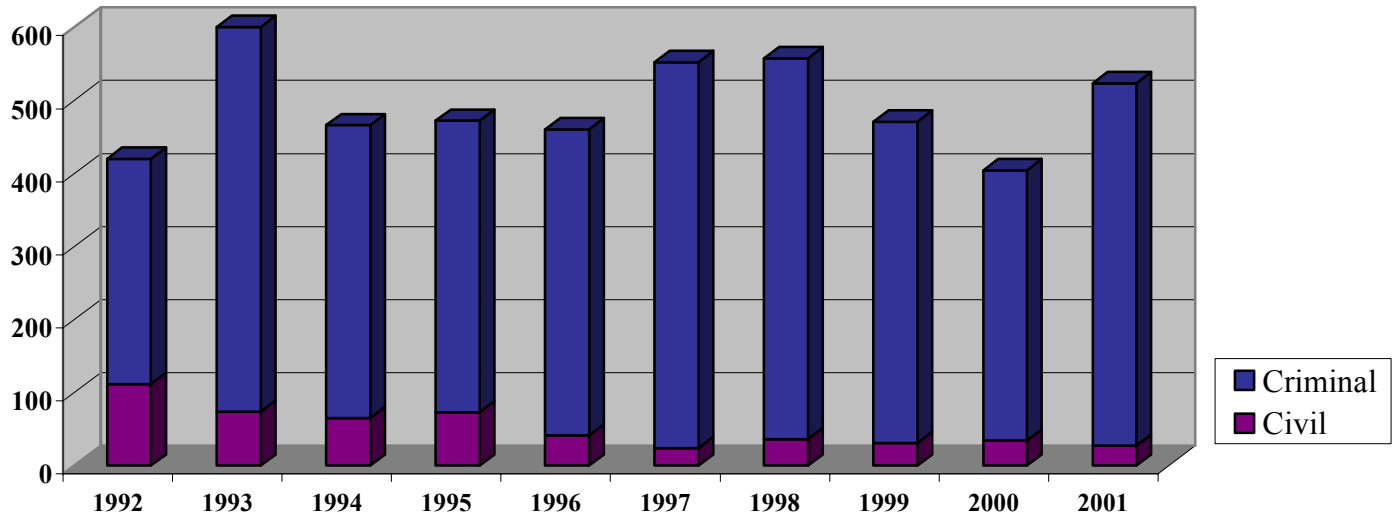
**Judicial Salaries:** With the exception of Nassau, Suffolk, and Westchester counties, County Court judges' salaries range from \$119,800 to \$131,400. In Schenectady County, the County Court judge earns a salary of \$119,800.

### **Appeals Process**

An appeal from the County Court is heard in the Appellate Division of the Supreme Court. Further appeals are brought before the Court of Appeals, New York State's court of last resort.

## Caseload

**Total Criminal and Civil Filings in the Schenectady County Court,  
1992-2002**



The caseload of the Schenectady County Court has varied in the last ten years. In 1992, there were 420 total filings of which 308 were criminal. In 1993, criminal filings skyrocketed to 526 which resulted in 600 total filings (the most total filings in the ten year period). However, the highest number of criminal filings (528) occurred in 1998.

In 2000, the year that the project occurred, there were 404 total filings in the County Court. However, filings increased dramatically in 2001 during which there were 523 total filings. This represented an increase of roughly 30%. This increase was due to an increase in the number of criminal filings from 370 in 2000 to 496 in 2001.

Interestingly, civil filings have steadily declined over the last ten years. In 1992, there were 112 civil filings in the County Court. In 2001, there were just 27 civil filings.

### **III. THE JUDGE OF THE SCHENECTADY COUNTY COURT**

The following are the monitors' evaluations of each judge in the County Court during the course of the project. Monitors did not evaluate the judges' legal knowledge or rulings. Rather they focused on the judges' demeanor; their attitude toward litigants, attorneys and court personnel; their efficiency in carrying out their duties; and their ability to maintain control of the proceedings.

The Schenectady County Court has one full-time judge, Hon. Michael C. Eidens. However, the monitors observed several visiting judges from adjoining counties and a judicial hearing officer who were assigned to the court to aid in handling the large caseload of the County Court.

#### **Hon. Michael C. Eidens**

Judge Michael C. Eidens is a graduate of Wesleyan University and Albany Law School. His prior legal experience includes service as an Assistant District Attorney in Schenectady County and many years in private practice. From 1978 to 1985, he was a Scotia Village Justice, and later he was elected Town Justice of the Town of Glenville in 1989 and re-elected in 1993. He was elected to the Schenectady County Court in November 1994 and began serving on the court on January 1, 1995.

Judge Eidens is a member of the Schenectady County, New York State, and American Bar Associations, a member of the New York State Magistrates Association, and a member of the Schenectady County Criminal Justice Advisory Council. He has served on the Board of the Law, Order and Justice Center and the Town of Glenville Master Plan Steering Committee.

Judge Eidens was observed by 17 different monitors on 41 different days during the project.

Monitors described Judge Eidens as "extremely efficient" and "well organized" yet "compassionate." One monitor wrote, "The judge...seemed to be thoughtful & caring but in definite control and - in my opinion - did a great job." Another observer commented, "I was impressed by his calm demeanor and good handling of witnesses. Everything was promptly and carefully taken care of." He also received praise from the observers for being consistently "punctual." Monitors also noted that Judge Eidens was usually easy to hear, except on days when there was noise from nearby construction.

Monitors found that Judge Eidens' "professional" and "courteous" behavior extended to everyone in the courtroom including witnesses, lawyers, and defendants. However, they were particularly impressed by his dealings with the jury. One monitor noted how "courteous and welcoming" he was to the jurors in one case. Another observer, who was present for his charging of a jury, commented: "Judge [Eidens] was very clear in his lengthy charge to the jury,

and he made sure that he had their attention. He was also very gracious in excusing the four alternates and thanking them for their service."

Several monitors also praised his "compassionate" treatment of defendants. One monitor remarked, "I was especially impressed with his concern for defendants. He allowed one to utilize a drug program instead of jail, [and] encouraged him to work hard." Another observer noted that he "showed concern" for a mentally ill patient who came before him who had ceased taking his medication. Yet another monitor observed that Judge Eidens was "attentive" to a defendant who expressed some reservations about his legal representation. The monitor noted that "Judge Eidens asked him some questions about this and whether he was comfortable with the public defender" representing him that day. One monitor concluded, "He is really very fair and shows great respect for those who appear before him, but is not afraid to bear down on people when they need it."

The observers felt that Judge Eidens was "clear" in his instructions and rulings. One monitor praised the judge for his careful explanations to defendants, noting that "he did a good job of making sure one defendant understood his rights when an interpreter was used." Another found that he was "clear and concise" when giving instructions to the jurors.

In addition, monitors found that Judge Eidens ran his courtroom in an "efficient" manner. One monitor wrote, "What impressed me in this brief observation was the way in which Judge Eidens solved practical, technical problems to expedite the court activities." For instance, in one case in which one of the lawyers said that she would have to return to her office to make copies of a new agreement, Judge Eidens offered his computer and printer to save time. Another felt that efficiency in the courtroom was aided by the "clear and calm" fashion that Judge Eidens presided over the proceedings. Several monitors noted that although he did not appear to "rush" through the cases, "did not delay" in moving to the next case after concluding a prior case.

According to the monitors, Judge Eidens also maintained order in his courtroom. One monitor who described Judge Eidens as a "thoughtful considerate jurist" suggested that because he "treats defendants with respect and courtesy" that he is given the same respect in return. Another observer had a "strong sense that his direct and open communications contribute to the order and respect in the court room."

The monitors observed Judge Eidens taking notes on his personal computer during many of the proceedings. While they understood that he was probably doing this to aid his own recollection, a few of the monitors found it a bit "distracting." They expressed concern that the judge might not always "face" the jury, while taking notes. However, none of the monitors felt that Judge Eidens was inattentive during the proceedings. In fact, several monitors noted that he "listened intently" and was "knowledgeable" about the cases.

Monitors expressed concern that Judge Eidens was the sole County Court Judge in Schenectady County. One monitor questioned why a "swamped" Judge Eidens was the only judge presiding in the Schenectady County Court. This monitor asked, "Why is there not 2 County Judges in this County?" Another monitor, who observed Judge Eidens on a late August

day, heard the judge mention that there would be no afternoon session because he was having his "first" day off of the summer.

Since the monitors visited the County Court, a drug court has been successfully launched. Since its inception in the summer of 2001, more than 80 defendants have been diverted to the drug court. Judge Eidens and various professionals who play a role in this very intensely supervised program gave a presentation at the courthouse a few weeks ago. Several monitors who attended noted the enthusiasm of Judge Eidens and other involved personnel about the drug court.

More recently, Judge Eidens has instituted a part for youthful offenders, which offers more intensive assistance to those young people who show the capacity to be "rehabilitated" with some additional attention and supervision. In addition, Judge Eidens has expressed an interest in adding a mental health component to his court, because he is acutely aware of the many defendants with mental health problems.

## **IV. VISITING JUDGES**

### **Hon. Felix Catena**

Judge Felix Catena is the County Court Judge for Montgomery County. He is a graduate of American University and California Western School of Law. From 1990 to 1992, he was an assistant district attorney for Montgomery County. From 1992 to 1994, he served as Corporation Counsel and City Attorney for the City of Amsterdam. In January 1995, he was appointed Amsterdam City Court Judge by Mayor Mario Villa. He was subsequently elected to the same position on the Republican and Conservative tickets in November 1995. He served as the Amsterdam City Court Judge until his appointment to the County Court by Governor George Pataki in February 1999. In November 1999, Judge Catena was elected on the Republican, Conservative and Independence Party tickets to the County Court bench.

As a visiting judge, Judge Catena was observed by 6 monitors on 4 different days.

Monitors described Judge Catena as “friendly,” “thorough,” and “punctual.” One monitor noted that he ran an “orderly courtroom.” Several observed that he was “audible.”

Monitors were particularly impressed by his interactions with prospective jurors and jurors. One monitor remarked, “Judge Catena spoke in a polite and pleasant manner to jurors [when] asking a number of questions about any prior involvement in litigation crime, or relationship to persons in law enforcement or the legal profession” that the prospective jurors might have had, and “he reminded potential jurors that if they had any problems speaking about these matters in open court [that] they could meet with him privately.” This monitor also noted, “His directions to jurors were direct and clear.” Another monitor noted that, after jury selection for one trial was completed, he thanked those that were not selected for the jury for their service, and appeared “very appreciative of their time and effort.”

Monitors also reported that he gave “clear” instructions and rulings. One monitor, who observed him address a jury at the start of a trial, commented: “[T]he judge spent 20 minutes explaining the law and procedures and also that there would be no note taking – he said that it might distract them from hearing everything.” Another monitor noted that he was “very clear” when explaining about any inconsistencies in testimony.

One observer noted that Judge Catena “was very aware of the jury’s level of discomfort, restlessness, etc. and provided appropriate relief (recesses, adjournments, etc.)” One monitor was so impressed with Judge Catena that he described him as “exceptionally good.”

### **Hon. Richard C. Giardino**

Judge Richard C. Giardino is County Court Judge and Surrogate for Fulton County. He graduated from Siena College in 1981 and Albany Law School in 1984. Before being appointed

to the bench by Governor Pataki in 1996, he served as Fulton County District Attorney. He was elected to the County and Surrogate Court in November of 1996. He was also the first designated Drug Court Judge in the eleven-county Fourth Judicial District.

Judge Giardino is an instructor in the Fulton-Montgomery County Community College Criminal Justice Program. He has given numerous lectures and serves or has served on numerous task forces. He is a member of the Drug Court Committee of the National Conference of Special Court Judges and served as a project director of Americorps/VISTA's Fulton County's Promise. Despite his very busy schedule, the judge is also a member of the Mayfield Volunteer Fire Department.

Judge Giardino is one of the visiting judges who are periodically assigned to alleviate the heavy caseload in Schenectady County Court. He was observed by 8 monitors on 12 different days in the County Court.

The monitors found Judge Giardino to be a "very personable" and "friendly" judge who was "on top of everything." One monitor commented, "My first opportunity to observe this judge - I was very impressed - he demonstrated knowledge and care - listened intently - showed empathy yet controlled the proceedings." Another monitor noted that Judge Giardino had a "pleasant manner while maintaining control of his courtroom." Yet another observer praised, "Judge Giardino is clearly an asset to Schenectady County, when he is assigned to this court!"

The observers were particularly impressed by the "clarity," "audibility," and "thorough" nature of Judge Giardino's explanations and instructions. One monitor stated, "Judge Giardino's charges to the jury were clear and concise. He used examples to clarify some of his instructions. I doubt if a more caring, knowledgeable judge will ever come this way again." He was particularly lauded for the "great care" that he took to ensure that the defendants understood the implications of their pleas or sentences. For instance, as one monitor observed, when defendants chose to plead guilty, Judge Giardino was "very careful" to explain the "nature and consequences of the agreements they were entering using plain language and allowing for [the] opportunity for questions." Another monitor noted that Judge Giardino "made a point of making sure the defendant understood the charges" against him.

Some monitors noted Judge Giardino's sense of humor and his somewhat informal style such as addressing court personnel by their first names. Several monitors praised him for "his unique style" which put jurors, witnesses and even the defendants "at ease." One observer expressed this as follows, "Judge Giardino is a relaxed, first name basis with court personnel type of fellow, whose sense of humor and warmth show through the robes of judge, but he appears to take his role seriously."

#### **Hon. Robert G. Main, Jr.**

Judge Robert G. Main, Jr. is the County and Family Court judge and Surrogate for Franklin County. He is a graduate of Middlebury College and Albany Law School of Union University. From 1976 to 1987, he was in private practice. In 1987, he was elected to the

Franklin County bench on the Republican and Conservative tickets. He was reelected on the same ticket in 1997.

Visiting Judge Main was observed on 2 different days by 3 monitors.

Monitors described Judge Main as “polite” and “audible.” One observer noted, “He was firm, but also listened to arguments that might ‘soften’ the gravity of the case, e.g. youthful status of the defendant. He did, however, take a violation of order of protection and a DWI very seriously!”

During their observations of Judge Main, several monitors found non-appearances by the defendants slowed down the proceedings. One monitor, who earlier in the day observed a session that lasted only 30 minutes, observed an afternoon session that was delayed because there was a “short[age] of guards to escort” the defendant to the courtroom. This monitor, however, felt that Judge Main “did a fine job [considering] what he had to deal with” and that Judge Main exhibited “the patience of Job” during the delays.

Monitors also observed some of the difficulties associated with the temporary assignments of a judge who was “unfamiliar with the cases he had to hear” and may have been assigned at very short notice. For instance, monitors noted that Judge Main “as a visiting judge” had to “thoroughly” read through materials to “familiarize himself with each case” which sometimes “took a lot of time.” In another case, it proved difficult to schedule an appearance because Judge Main “wasn’t sure when he would be returning to Schenectady.”

### **Hon. Guy P. Tomlinson**

Judge Guy P. Tomlinson is Surrogate for Montgomery County. Judge Tomlinson is a graduate of Utica College of Syracuse University and the Western New England College School of Law. From 1979 to 1986, he was an assistant district attorney in Montgomery County. For 1986 to 1996, he served as Montgomery County District Attorney. In 1996, he was elected Montgomery County Surrogate.

Visiting Judge Tomlinson was observed on 5 different days by 12 monitors.

Monitors praised Judge Tomlinson's "pleasant," "courteous" and "professional" demeanor. They also noted the clarity of his explanations and his "control of the courtroom."

Monitors generally praised Judge Tomlinson's "patient" and "fair" treatment of defendants. One monitor observed that he was "very thorough in explaining to the defendant what would happen to him if he accept[ed] the plea." Another monitor praised him saying, he "went to great lengths to make sure each defendant understood everything and had time to make [an] informed response."

Some observers praised Judge Tomlinson for his handling of the jurors. One stated, “At the end of the day the judge [asked] the jurors not to talk about, read about or listen to anyone

discussing the case. He was pleasant but firm.” Another noted, "The judge was good at keeping the jury informed about the expected schedule for the trial."

Some monitors found it difficult to hear Judge Tomlinson. In regards to his audibility, one monitor remarked, "The judge has a low voice and tended to mumble."

### **Hon. Clifford Harrigan (JHO)**

One monitor observed retired Schenectady County Court Judge Clifford Harrigan acting as a Judicial Hearing Officer on one day. Judge Harrigan was attending to a Huntley Hearing, in which the defendant did not appear. The monitor praised Judge Harrigan for his “very easy going and nonchalant” manner. This monitor also mentioned difficulty in hearing the proceedings, especially the ADA Assini, and the Public Defender Signore.

## V. ATTORNEYS

During the course of the project, monitors observed a variety of attorneys at work in the County Court, including assistant district attorneys (ADAs), public defenders, and attorneys in private practice. Generally speaking, the monitors found the attorneys that they observed were “professional,” and “competent.”

Monitors were concerned, in some cases, that the attorneys were inadequately prepared. Several monitors observed ADAs who “didn’t have all necessary papers or information at hand” or “spent a lot of time looking for papers” and had to run back to their office to retrieve files. Monitors found that they seemed better prepared during trials than in other preliminary proceedings such as arraignments. During trial, the ADAs received praise for appearing “concerned” about their cases and presenting their cases “clearly and demonstratively.”

Monitors expressed concern that the Public Defender’s office and its attorneys seemed “overwhelmed” by their caseload. The monitors found that “public defenders sometimes [were] not informed or prepared.” One monitor observed, “public defenders seem to be reviewing materials as they stood before the judge.” They also noted that defendants frequently saw their attorneys for the first time in court, forcing them to have brief consultations in the courtroom. One monitor felt that “some defendants appear[ed] frustrated about the lack of concern” of some public defenders. Another monitor observed a case in which the public defender did not have a “comfortable” relationship with his client and the client decided to obtain private counsel.

However, monitors also observed public defenders that “represented their clients well” and “seemed to work very hard” to defend their clients. In fact, one monitor praised a public defender that “took time after Judge Giardino’s instructions to go over all papers to be signed with his clients – explaining what each one meant and asking them if they had any questions.” One monitor concluded, the public defenders have “quite a workload but they try hard to do their best for their clients.”

Clearly, the few privately retained counsel observed were under less time pressure and found it easier to argue on behalf of their clients. One monitor observed two matrimonial attorneys who “were working hard for their clients” and “were pleasant to each other.”

In some cases, the monitors’ observations were hampered by the inaudibility of some attorneys who were often facing away from the spectators and spoke softly. For example, one monitor observed a case during which the court stenographer “had to keep asking what the ADA was saying” because the ADA could not be heard. The monitors did observe some attorneys such as Public Defender Kouray who “spoke loudly and clearly.”

## VI. COURT PERSONNEL

Monitors observed a host of non-judicial court personnel, from court officers stationed at the entrance of the courthouse or in the courtrooms to the court clerks, court reporters, and interpreters. They were found to be “helpful,” “polite,” and “efficient.” The personnel appeared to be working as a team and they were very attentive to the judges and the jurors.

One particular court officer consistently took great care to gently handle the squeaking gate in courtroom 4 to minimize the distracting noise resulting from the constant comings and goings of participants. This court officer was also especially pleasant to the monitors and other visitors and tried to answer questions they had, inquiring about the answers from other court personnel, if she did not have the immediate answer herself.

The monitors found that the court personnel handled most situations with courtesy; however there were a few exceptions. For instance, one court officer consistently asked a monitor whether she had remembered to bring him brownies today (a remark that the monitor interpreted as sexist), another officer called entering monitors “girls,” and another officer commented on a monitor’s long hair and earring.

There is only one public entrance to the courthouse monitored by several court officers, and a walk-through magnetometer. The officers also have hand-held metal detectors to check those people who have set off the magnetometer. A thorough purse and briefcase check is also performed upon entering the courthouse. Officers also usually ask about a person’s business in the courthouse. Court personnel and judges are able to enter the courthouse from back entrances with electronic cards. The courthouse has two sets of elevators, one set for the public, and the other set only accessible for those with electronic access cards. The monitors felt it was appropriate from a security standpoint that the judges did not have to use the same set of elevators as the public. Court officers are also placed at any of the courtrooms in use.

For detained defendants, there is a holding area for inmates just outside of courtroom 4, but prisoners have to be brought to the first floor courtroom via the public elevators and through the entrance hall. Sheriff’s Deputies accompany any of the prisoners brought over from the adjoining county jail. Although the majority of monitors found that the sheriff’s deputies behaved “appropriately” and “professionally” in the court, several monitors felt that the deputies were “too loud.” One of these monitors suggested that the deputies be “retrained in proper court behavior.”

## VII. COURT FACILITIES

The Schenectady County Courthouse is an impressive gray stone structure built in the early 1900s. Adjoining the County Courthouse is the county office building, which is connected by a sloped corridor to the courthouse. The county office building houses the Family Court, the Probation Department, part of Department of Social Services, legislative chambers and the county manager's offices.

The County Courthouse accommodates Surrogate Court, the District Attorney's Office, whose staff have extremely cramped quarters, the office of the Commissioner of Jurors, the Supreme Court, chambers for Court of Appeals Associate Judge Howard Levine, a Grand Jury assembly room, Support Collection offices and the Schenectady County Human Rights Commission in the basement of the building. Space is so limited in the County Courthouse that the Supreme Court courtrooms are sometimes used for jury selection for the County Court. Also, there is no designated space for potential jurors to sit, so many of them stand or sit on the steps or the floor.

The County Courthouse is only accessible for people with mobility disabilities through the county office building via the ramp that connects the two buildings. Anyone seeking access in this manner needs to ring a bell at the locked entrance door, and a court officer will open the door and process the person through the security check. The bathrooms on the first floor of the courthouse are accessible to the disabled. However, a monitor reported the upper floor bathrooms are too "small" for disabled access.

At the time of the monitors' visits, the bathrooms were in deplorable shape and in need of repair. One monitor reported that one of the two stalls in the bathroom that she observed was "out of order" for an extended period of time and that the soap dispenser was broken. Monitors were particularly dismayed by the fourth floor bathrooms, which were partly used as storage space.

Monitors generally found that the courtrooms used by the County Court were "clean" and "neat." However, they also found that the courtrooms varied greatly in size and were in need of maintenance and repair.

The main County Court courtroom (referred to as # 4) is a large bright room with a row of windows on one side, and the jury box on the opposite side. Above the jury box, there is a mural, which displays a New Testament quote, "Love thy neighbor as thyself." While the monitors found Courtroom 4 generally quite adequate in size, there were some aspects of the courtroom that needed improvement. Several observers noted that the spectators' benches were quite "uncomfortable" after a short time and were "squeaky." One monitor reported, "The front row spectator bench collapsed [when] sat upon." Several monitors also noted that the carpeting and floors were in need of cleaning.

The hallway outside that courtroom also was very unappealing: a bench that has a split pillow, a dirty wall, and a hole in the wall next to the water fountain describes the general condition of this hallway.

The other courtroom generally in use for the County Court is courtroom 5 on the first floor. It is a much smaller, “cramped” courtroom, and several monitors suggested that a “larger” room was needed. Several monitors noted that a large pillar “impedes viewing certain parts of the courtroom from this spectators’ areas.” Although audibility is generally better because of the courtroom’s small size, the proceedings were sometimes difficult to hear due to the “noise” outside of this courtroom, which is located near the courthouse entrance, and a “noisy” air conditioner. One monitor observed that part of the ceiling over the jury box was leaking, resulting in an alternate juror having to sit outside the jury box. This monitor felt that this courtroom was inadequate for jury trials.

Monitors found the elevators in the County Courthouse also were problematic. One monitor noted that “it took forever” for elevators to arrive in the lobby. Another monitor related the following incident: Recently, Supreme Court Justice Vito Caruso and some staff members were stuck in the elevator for about 45 minutes and were “rescued” by climbing out of the elevator through the shaft. The elevators were out of commission for several days following this incident.

Almost all the monitors noted that there was no private space available in the courthouse for confidential conferencing between attorneys and their clients. They found that attorney/client meetings were conducted in the hallways or in the courtroom. The monitors felt strongly that this needed to be remedied.

Generally speaking, space in the courthouse is woefully inadequate for the volume of business being conducted. Monitors found that offices are cramped, and there is no good space for visiting judges. One monitor commented, “With the overcrowded conditions, it is amazing that files are not constantly misplaced.” They also noted the need for better accommodations for the jury pool.

The lack of available parking near the courthouse posed another problem for the monitors and other visitors. There are parking spaces for judges and other court personnel behind the courthouse; there are also several employee parking lots nearby. All other visitors to the courthouse have to park in metered spaces, some of which only allow for one or two hour parking, or at parking lots or garages several blocks away. This poses another inconvenience for jurors and others who have to march up the steep hill in order to reach the courthouse. Handicapped parking spots are far too sparse nearby.

### **Upgrading Court Facilities in Schenectady County**

In 2000, Modern Courts published a report on the Schenectady County Family Court, in which it stressed the tremendous space needs of that court. Following the release of this report, a committee, working under the guidance of Supreme Court Justice Vito Caruso, has developed

several proposals to expand and upgrade the Schenectady County courts. Capital District Coordinator Helga Schroeter serves on this committee.

First, the committee analyzed the space needs of the court taking into account the projected growth of the caseload over the next few years. Then the committee toured a number of potential sites for court reconstruction or expansion. It also held a public meeting soliciting input on renovation plans. In addition, it took a trip to other expanded court facilities to view what had been done in these communities to solve their problems.

For years, Schenectady City and County governments have been under pressure to devise short and long-term solutions to its space problems. More than a decade ago, the Office of Court Administration (OCA) directed Schenectady County to expand its court space in accordance with the Court Facilities Act of 1987.

Due to the addition of a full-time City Court Judge and quarter-time judge, who are both set to begin work on January 1, 2003, OCA mandated that Schenectady provide adequate courtroom space for these judges by December 31, 2002 or face the loss of state funding for court costs. In response, local officials have approved a \$1 million plan to build a new courtroom at Liberty Street police station. This plan is considered a temporary solution. Supreme Court Justice Vito Caruso, along with the court siting committee, has been spearheading efforts to build a \$30 million joint city-county courthouse; however, this project, if it takes place, is at least five years away.

In addition, Schenectady County has proposed an interim solution to the space problems of the Family Court. The proposal calls for the Probation Department to move out of the county office building which will allow the Family Court to occupy the fourth floor in addition to the fifth floor which it now occupies.

Although Schenectady County is currently experiencing financial stress, it is clear from the monitors' observations that the needs of the courts must be immediately addressed.

## VIII. RECOMMENDATIONS

1. **The New York State Legislature should create an additional full-time judgeship for the Schenectady County Court.**

Monitors reported that the caseload in the Schenectady County Court appeared too large for one judge and urged that an additional judgeship be created in Schenectady County to handle the County's ever-expanding caseload. The new judgeship would reduce the need for visiting judges from other counties. Such legislation would be beneficial not only to Schenectady but the neighboring counties whose judges must regularly hear cases in Schenectady County. Therefore, monitors urge the Legislature to create a second full-time judgeship, and to provide the judge with the necessary space, staff, and operational resources.

2. **Schenectady County should prepare and implement a comprehensive plan to address the court's growing space needs.**

As the caseload of the Schenectady County Court has expanded, so has the court's need for space. Monitors reported that courtroom 4 was the only adequate space assigned to the County Court for hearing cases; the other facilities were too small. The restrooms are being partly used as storage space. There is no conferencing space available for attorneys to conduct confidential discussions with their clients. Finally, there is no adequate space available for the desperately-needed second judge. The monitors urged that the County devise and implement a plan to address the expanding facilities needs of the County Court.

3. **Schenectady County should improve housekeeping and maintenance of the court facilities.**

The monitors were dismayed by the condition of some of the court's facilities, particularly the restrooms, which were in deplorable condition. The broken benches, dirty carpeting, and leaky ceilings diminish the dignity of the court, and inconvenience those who must use it. We urge the County to provide adequate resources and staffing to maintain the facilities in a clean and functional condition.

4. **Schenectady County should increase the level of funding to its Public Defender's office.**

In the County Court, monitors found that attorneys from the Public Defender's Office appeared overextended. These attorneys were forced to cope with enormous caseloads in the face of inadequate funding and resources. In order to ensure indigent defendants adequate legal representation, monitors urge Schenectady County to increase funding to the Public Defender's Office.

**5. The New York State Legislature should pass Chief Judge Kaye's Court restructuring plan.**

Beginning in 1997, New York State Chief Judge Judith S. Kaye has presented to the State Legislature a proposed constitutional amendment to restructure the state's court system. The proposed amendment would reduce the number of trial courts from the current nine (which often have overlapping jurisdiction) to a total of three. The County Court would be elevated to the Supreme Court, New York's trial court of general jurisdiction; criminal cases would be heard in the Supreme Court's criminal division, while civil cases would be sent to the civil division.

Currently, there are state constitutional limits on the number of judgeships in each County Court. To address the overwhelming caseloads that result in some counties as a result of these limitations, the Office of Court Administration makes temporary judicial assignments to provide judges to those courts that most need them, such as the Schenectady County Court. However, this system often increases backlogs in the "donor" courts, and impairs the effective operation of both courts. Reducing the number of trial courts and the constitutional limits associated with the current system would abolish this cumbersome system, enhance the efficiency of case processing, and reduce caseload backlogs.

As is the case with all proposed amendments to the State Constitution, the Kaye plan must be passed by two consecutive State Legislatures and signed by the Governor; it then must be ratified by the voters in a state-wide referendum

In the meantime, the Office of Court Administration and the New York State Legislature should ensure that there are sufficient judges and staff in the County Court to handle existing backlogs and the court's future caseload in a prompt and efficient manner.

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Modern Courts owes particular gratitude to Helga Schroeter, who coordinated the project, and to the monitors themselves: Without their dedication, this report would not have been possible. Their willingness to volunteer their time and efforts help to improve New York's courts for the public as a whole.

Capital District Coordinator Helga A. Schroeter and Modern Courts Court Monitoring Director Kimyetta R. Robinson wrote this report with editorial assistance from the monitors.

## **THE CAPITAL DISTRICT COURT MONITORS**

The following members of the Capital District Court Monitors participated in this project:

V. Dalton Bambury  
Doris S. Bauman  
Julie Burgess  
Mary Ann Cleaves  
Sally Embley  
Peg Francois  
Marie L. Haberl  
Susan Houpt  
Ruth Kerr

Angela Leverett  
Janet Linkinhoker  
Henry McGrath  
John C. Orloff  
Lisa Quintal  
David Robinson  
Leonard Schleicher  
Helga A. Schroeter  
Patricia S. Sidor

## **DEDICATION**

*This report is dedicated to V. Dalton Bambury and Marie L. Haberl.*

*Mr. Bambury and Ms. Haberl were valued members of the Capital District Court Monitors. Their contributions to the community, and their commitment to improving New York's justice system will be sorely missed. We join their family, friends, and colleagues in mourning their passings, and in celebrating their lives.*