Reduce Court Fragmentation

By Judith McKinney

The Geneva Court Watch program was created by the League of Women Voters of Geneva and continues to run under its auspices, so we’ve decided to use the next few issues of the Eye to highlight positions the New York State League of Women Voters has taken on various aspects of the judicial system.

More details, especially about the history of efforts to bring about reform, are available at the state League’s website and in the document Impact on Issues, http://www.lwvny.org/advocacy/impact/2016/Judicial/Judicial.pdf, which serves as the primary source of information for this series.

We’ll take up the issue of court structure in this article and subsequently examine the selection of judges, alternatives to incarceration and legal services for the indigent.

The League of Women Voters has long advocated for simplification of the New York state court system’s structure. Sixty years ago, the League’s state board called for “an integrated, statewide court system consisting of a minimum number of trial courts of broad jurisdiction” and for transferring cases and judicial personnel among courts as much as possible. All these years later, the need for integration and simplification remains as great as ever, despite the sustained efforts to bring about reform.

Article 6 of the state Constitution says “The state-wide courts shall consist of the court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate’s court and the family court, as hereinafter provided.” [https://www.dos.ny.gov/info/constitution/article_6_judiciary.html] The Constitution also calls for “a single, city-wide court of civil jurisdiction and a single, city-wide court of criminal jurisdiction” in New York City, and a network of district, town, city and village courts throughout the rest of the state.

The League’s position, like that of former Chief Judge Judith S. Kaye (a strong advocate of reform while chief judge), is that the current structure — with nine separate trial courts — is unnecessarily complex and expensive. Because the multiple courts have overlapping and fragmented jurisdiction, the structure is confusing for litigants who try to navigate the system, and it’s expensive for individual litigants and taxpayers.

The proposed system would consist of two tiers, a Supreme Court (which would merge the current Supreme Court, Surrogate’s Court, Court of Claims, County Court and Family Court) and a District Court, which would consist of the NYC Courts, the District Courts of Suffolk and Nassau counties, and city courts throughout the state.

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This would greatly reduce fragmentation and make it easier to allocate resources to courts with especially heavy loads, since judges would not be assigned or elected to particular kinds of courts. (It should be noted that judges are already “routinely reassigned to courts in need of extra help,” making clear that resource reallocation is frequently necessary.)

Divorce cases exemplify how state residents would benefit from this reform. As the League’s statement notes, were the structure changed to two tiers “Families going through divorce would no longer be required, as they are now, to appear in both the Supreme and Family Courts to resolve different issues in the same case involving separation, custody, support and visitation.” Instead, all aspects of the case could be resolved in a single court.

Another significant benefit would be that administrative savings could make it possible to pay judges more, making it easier to attract highly qualified individuals. Judges’ qualifications and the process of their selection will be addressed in the next issue of the Eye.

**Court Observations**

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Court Watchers observed 73 court sessions from July through November.

**ONTARIO COUNTY**

**Judge 0741**
- Explained delay one day; did not another
- Maintained efficient flow of cases
- Spoke clearly, explained rights and rulings
- Friendly, maintained good eye contact
- Commended two attorneys for their efforts
- Encouraged attorneys to work out an agreement
- Gave defendants the opportunity to speak

**Judge 1869**
- Maintained efficient flow of cases
- Spoke clearly, explained rights and rulings
- Treated all parties with respect
- Informed defendant of possible steps during adjournment period
- Asked defendants to pronounce names when necessary
- Asked defendants if they were satisfied with their attorneys
- Was firm but compassionate

**Other personnel**
- Police officer helpful and cordial
- Clerk efficient, helped things run smoothly

**CANADICE**

**Judge 3025**
- Explained rights and need for adjournment to defendant whose last-minute addition to calendar meant no case information was available
- Spoke clearly and audibly
- Treated all with respect

**Other matters:** There was no security.

**CANANDAIGUA TOWN**

**Judge 1807**
- Was sometimes hard to hear
- Generally treated parties with respect, but
  - occasionally made questionable comments intended to be humorous
  - sometimes made faces that seemed rude

**Other personnel:**
- Officers’ casual side conversations distracting

**BLOOMFIELD (EAST AND WEST)**

**Judge 8212**
- Stated rights at beginning; patiently repeated when defendant didn’t understand

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**OUR MISSION**

Court watchers provide an impartial assessment of local courts’ operation, and they advocate for a fair and equitable justice system.
Judge 9992
- Stated rights at beginning, then asked each defendant if he or she understood
- Easy to hear, even over a loud air conditioner
- Treated all with respect

Other personnel: Clerks efficient, helpful to justices

Other matters, West Bloomfield: Temporary location with bad working conditions, no security

FARMINGTON
Judge 9634
- Explained delay and apologized
- Explained rights, offering to repeat if needed
- Gave defendant time to explain situation

Other personnel: Clerk was efficient, helpful; but leaving room meant judge made copies, which slowed things

Other matters: Smooth, efficient flow achieved, and distracting courtroom conversations eliminated, by having ADA speak with defendants in adjoining room, summarize for the judge, then speak to next one as judge resolved case.

GENEVA CITY
Judge 7138
- Sounded sarcastic
- Seemed rushed; didn’t always take time to listen
- Did not speak slowly when interpreter worked; sometimes spoke over interpreter
- Showed compassion several times
- Seemed impatient with disabled defendant
- Enunciation, volume, clarity inconsistent
- Dropped voice when reading rights, giving instructions
- Showed interest in well-being of defendants, encouraged them to make wise choices
- Gave defendant opportunity to ask attorney questions
- Sometimes seemed confused about what was next
- Showed concern for traffic defendants who explained extenuating circumstances
- Asked attorney not to make phone call at the bench
- Seemed irritated toward end of session
  - Reprimanded APD for speaking to defendant while judge spoke
  - Told defendant to change attitude
  - Told defendant to put down keys and focus
- Told defendant “you don’t have the same rights as everyone else” when on probation
- Asked if young defendant’s parent was present

Judge 1586
- Read rights at beginning and again for each defendant
- Seemed firm but fair, friendly
- Greeted everyone pleasantly, politely; wished defendants good luck
- Asked standard questions (did defendant understand, have enough time to talk to attorney, want to say anything before sentencing) without seeming pro forma

Judge 9992
- Treated court personnel, attorneys, and defendants with respect
- Clearly explained
  - legal terms
  - reasons for sidebars
  - that signing paperwork is not an admission of guilt
- Set court appearance so it would not conflict with defendant’s school schedule
- Asked defendant if anyone in the area could provide assistance
- Made many positive, encouraging statements and expressed concern for defendants; congratulated those who had completed treatment
- Greeted Spanish-speaking defendants in Spanish
- Gave especially clear instructions to a Spanish-speaking defendant and gave interpreter plenty of time to translate
- Spoke slowly for an interpreter; expressed gratitude that the interpreter was present
- Warned defendant to delay offering information
- Remained patient with a frustrating defendant
- Requested chair for handcuffed defendant with walker when case took longer than expected

Judge 0635
- Seemed stern
- Did not maintain eye contact
- Took care to pronounce names correctly
- Explained rights clearly, was easily understood
- Did not always explain consequences clearly
- Treated everyone with respect

Other personnel:
- Clerk clarified dates for adjournments, orders of protection
- Clerk was rude, rolling eyes, making faces during cases and interrupting the judge once
- Clerk was rude to defendants, judge and attorney
- Having two clerks in court made things run smoothly
- Court officer
  - tried to explain to Spanish-speaking defendant that interpreter couldn’t come
  - gestured at someone to remove his hat
  - pointed at woman with fussy baby and indicated they should leave
- The staff was efficient

Other matters:
- Sign-in sheet at courtroom entrance reduces congestion at security
- Extremely cold in courtroom (mentioned both in July and September)
- Interpreter left after a couple of cases; was needed later but unavailable; on different day, court unable to get an interpreter

GENEVA TOWN
Judge 1771
- Expressed pleasure at successful sentence completion
- Congratulated defendant for completing FLACRA treatment
- Urged defendant to retain counsel
- Clearly explained defendant’s options
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- Urged defendant to stay away from drugs and alcohol while on probation
- Spoke clearly
- Treated all parties with respect
- Gave clear explanations of rights and rulings

Judge 7185
- Explained rights very clearly
- Efficient
- Explained order of protection details carefully, firmly
- Adjourned case to provide time for determining defendant's mental competence
- Ran “well-oiled” court, moving cases along while providing ample time for all
- Explained to family a delay bringing defendant from jail
- Wished defendants “good luck”
- Explained adjourning court until person in a civil case appeared
- Handled case with an interpreter especially well

Other personnel
- Security officer was cordial
- Clerk: efficient, well-organized; brought docket to observer; checked microphones in advance
- Probation officer treated defendant with compassion

Other matters
- Case adjourned when interpreter wasn’t available
- Very noisy; courtroom door left open
- Constant copier use distracting; hard to hear proceedings

GORHAM

Judge 9287
- Kind, patient during bench trial, giving the defendant repeated opportunities to clarify
- Listened well, maintained eye contact, leaned forward, nodded
- Explained rights very clearly
- Efficient and friendly, put defendants at ease

Other matters: The town has installed security camera with views of the parking lot, entrance and sides of building

HOPEWELL

Judge 1139
- Very thorough, careful; with a lot of paperwork, this slows things down
- Spoke clearly
- Explained rights and rulings clearly

Judge 1123
- Asked if defendants had questions, concerns
- Created non-threatening atmosphere
- Wished defendants good luck, good night
- Gave clear explanations to defendants
- Did not invite young defendants’ parents to approach bench

Other personnel:
- Clerk helpful, efficient
- Court officer so busy assisting judge, sign-ins unsupervised
- Interpreter loudly consulted defendant while case being heard

Other matters
- Attorneys speaking at bench were inaudible to those seated in courtroom
- Cases move slowly because of time spent copying documents

MANCHESTER

Judge 8114
- Explained rights clearly
- Very patient with defendants
- Moved cases along efficiently, without rushing defendants
- Very careful to ensure that hearing-impaired defendant (with an interpreter) fully understood

Other personnel:
- Clerk helpful, very efficient
- Both court officers helpful, respectful to all

NAPLES

Judge 2268
- Spoke clearly
- Worked efficiently
- Very cordial

Other personnel: Clerk cordial; provided useful information to judge about dispositions of fines

RICHMOND

Judge 9648
- Told defendants proceedings were being recorded
- Maintained smooth case flow, giving defendants ample time
- Spoke clearly, explained rights and rulings clearly
- Treated all pleasantly, respectfully

Other personnel: Clerk helpful, professional, efficient

Other matters: There is no security

SENeca

Judge 8687
- Easy to hear, explained rights clearly
- Patient, pleasant to all
- Runs court extremely well

Judge 9875
- Explained rights clearly, both when opening court and for each defendant
- Clearly explained
  - what a bench trial involves
  - option of returning when ADA present, which could lead to reduced charge
- Managed smooth case flow without clerk
- Showed remarkable kindness, patience, letting unscheduled defendant go get money for fine and surcharge

Other personnel:
- Clerk very efficient; maintained smooth case flow while taking fine payments and handling paperwork
- Court officer very helpful, assisted clerk

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Other matters: Extremely well-run court

SOUTH BRISTOL

Judge 6455
- Spoke clearly
- Maintained efficient case flow
- Seemed informed about cases
- Very clearly put everything on the record
- Rejected agreement DA’s office accepted

Judge 2765
- Spoke clearly
- Gave clear explanations
- Compassionate but firm

Other personnel: Very efficient and professional

Those who (might) work in multiple courtrooms:
ADA 2748
- Seemed extremely knowledgeable; able to clarify points for judges
- Spoke too quickly
- Often hard to hear
- Arrived without paperwork; had to have faxed
- Well-prepared, even for case not on docket
- Strongly criticized a defendant
- Gave clear, careful explanation to elderly traffic defendant
- Seemed sympathetic to traffic defendants
- Spoke and laughed with an attorney as another presented a case

ADA 9552
Asked defendant questions in clear, logical way

ADA 6841
Knew cases well, showed rapport with court personnel

ADA 2467
Easy to hear in noisy courtroom; well-prepared, even though filling in for another ADA

ADA 2568
Very professional, efficient even though filling in

ADA 3210
Well-prepared, efficient

ADA 1919
- Sometimes hard to hear
- Spoke too quickly (mentioned on multiple occasions)
- Confirmed with defendants during other cases; very distracting
- Stood at bench, blocking view of judge, making it impossible to hear
- Proposed plea in one case without consulting defendant
- Very kind to defendant for whom court had not received information; explained what she needed to do
- Well-prepared
- Worked well with judge, APD to move things along

ADA 6962
- Well-prepared
- Treated all parties with respect
- Tried to be helpful to all

APD 6643
- Seemed knowledgeable; advocated strongly for defendant
- Couldn’t be heard
- Unprepared for one case
- Out of the courtroom when needed
- Had pleasant manner with defendant
- Seemed well-organized

APD 9391
- Could not be heard
- Treated all parties with respect

APD 1211
- Seemed to have excellent rapport with clients; kind, compassionate, respectful
- Presented strong case to have defendant with small children jailed only on weekends
- Audibility inconsistent; hard to hear when away from podium
- Preparation inconsistent

APD 3941
- Handled last-minute changes well
- Sometimes struggled to speak clearly, find right word
- Worked well with judge and ADA to move things along efficiently
- Showed compassion, kindness to clients, explained things clearly

APD 1256
- Represented defendants well
- Well-prepared for a case with unusual set of circumstances
- Professional
- Courteous, kind, pleasant to all
- Audibility inconsistent

APD 3711: Well-organized; treated defendants with respect, shook their hands

APD 2260: Took adequate time with each defendant, worked well with ADA to resolve cases

APD 8047
- Not always audible
- Has become more confident
- Well-prepared
- Treated all parties with respect

Attorneys 6715, 6823, 3640, 6334, 6167, 8747
Well-prepared

Attorneys 7656, 1337, 8747 and 5371
Hard to hear

Attorney 9656
Audible

Attorney 3192
Easy to hear; caused delay looking for necessary video

Attorney 5575
Audibility and preparation inconsistent; not up-to-date on a case one day

Attorney 5291
Well-prepared but hard to hear; did excellent job representing client
Meeting Recaps

September

James Schuler, who works with at-risk youth and their families through the Youth Advocate Program in Yates County, was the guest speaker. He said the program’s goal is to keep children with their parents. Referrals are made by probation departments, schools and child protective services, using county and private funding.

Schuler came to this job with a history of school expulsions and incarceration that ended in 2007.

Schuler said he’s concerned about: racial profiling, severe sentences for minor offenses, disregard for a sentence’s effect on the defendants/families; the need for restorative justice; prison guards’ conduct; politicians’ lack of foresight and creativity in finding new approaches to prison system management; the effects of poverty and need to involve youth in their own rehabilitation.

November

There was an extended discussion about the need to boost Court Watch membership by arranging speaking engagements. Audiences could include Kiwanis and Rotary clubs, Ontario County Retired Teachers Association, League of Women Voters, area church congregations, Silver Sneakers participants.

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

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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. A nonpartisan political organization, LWV encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. NEW individual membership is $55 a year; and NEW family membership, $80.