



# Report on the Schenectady City Court

The Capital District Court Monitors

2003

*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 Homes  
*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 City Court. We hope their recommendations will help to obtain improvements for the residents of Schenectady that the court serves.

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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:

- educating citizens about the daily functions and operations of their courts;
- 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
- 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 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 a detailed report of the monitors' findings, 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 helped to establish 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 non-lawyer volunteers who observe and report on courts in Albany, Rensselaer, Saratoga, and Schenectady Counties. In 1999, the Capital District Court Monitors decided to evaluate the operations of the Schenectady City Court. Modern Courts volunteers last monitored the City Court in 1987. In the spring of 1999, 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 September 22nd, 1999, former Capital District Coordinator Helga A. Schroeter held an orientation session at the Schenectady City Courthouse for the monitoring project. Judge Karen Drago, from Criminal Part of the City Court, and Judge Guido Loyola, from the Civil Part of the City Court, gave presentations about their respective roles. Helga Schroeter instructed the volunteers on monitoring procedures including courtroom etiquette, and distributed criminal court monitoring handbooks and forms. The orientation concluded with a tour of the entire courthouse.

From October 1999 to December 1999, 16 volunteer monitors observed proceedings in the City Court. During the course of the monitoring project, Ms. Schroeter held two additional meetings with the monitors at the middle of the project and its conclusion. At these meetings, monitors had the opportunity to ask questions regarding the City Court and its proceedings, to share their impressions and observations, and to submit their completed monitoring forms. These meetings served as a very useful additional analysis of the observations and as a basis for formulating the recommendations at the end of this report.

The release of this report, which is based on a monitoring project that predates the monitoring period of other earlier released Capital District reports, was delayed in order to ensure that it was not perceived as an endorsement of any judicial candidates for the City Court in the November 2002 election. Modern Courts, however, felt that it was important to release this report particularly in light of recent facilities developments.

## **II. SCHENECTADY CITY COURT**

A City Court exists in every city in New York State, and has jurisdiction over both criminal and civil matters. The City Court handles all Penal Law and City Code misdemeanors and violations, and all Vehicle and Traffic misdemeanors. In addition, the City Court hears arraignments and other preliminary proceedings in felony matters. In terms of civil matters, the City Court hears proceedings seeking money damages up to \$15,000, small claim proceedings involving claims of \$3,000 or less, and disputed parking tickets. The court also handles landlord-tenant matters.

### **The Population It Serves**

The City of Schenectady is located in Schenectady County, which is in the Mohawk River Valley of New York's Capital District Region. In 2000, Schenectady County's population was 146,555 according to the United States Census Bureau statistics; the City's population totaled 61,821. The City of Schenectady serves as the County seat.

### **City Court Judges**

***Eligibility:*** Before assuming office, a City Court judge must be an attorney licensed to practice law in New York State for at least five years.

***Method of Selection and Tenure:*** City Court judges are elected by voters in their respective cities for terms of ten years, or six years in the case of part-time judges.

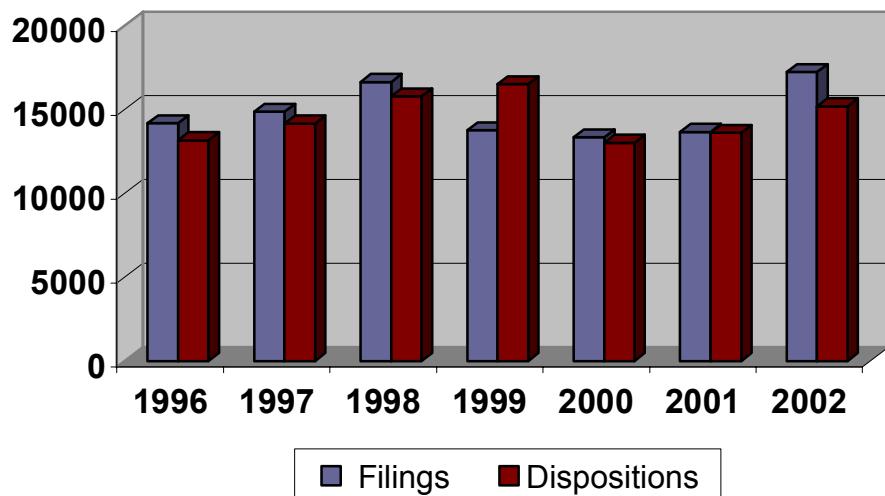
***Judicial Salaries:*** In Schenectady City Court's full-time judge Court judge earns a salary of \$108,800 while its quarter-time judge earns \$27,200.

### **Appeals Process**

Initially, appeals from the City Court are heard in Schenectady County Court. Further appeals are brought to the Appellate Division of the Supreme Court, and then brought before the Court of Appeals (New York State's court of last resort).

## Caseload

### Total Filings and Dispositions in the Schenectady City Court, 1996-2002



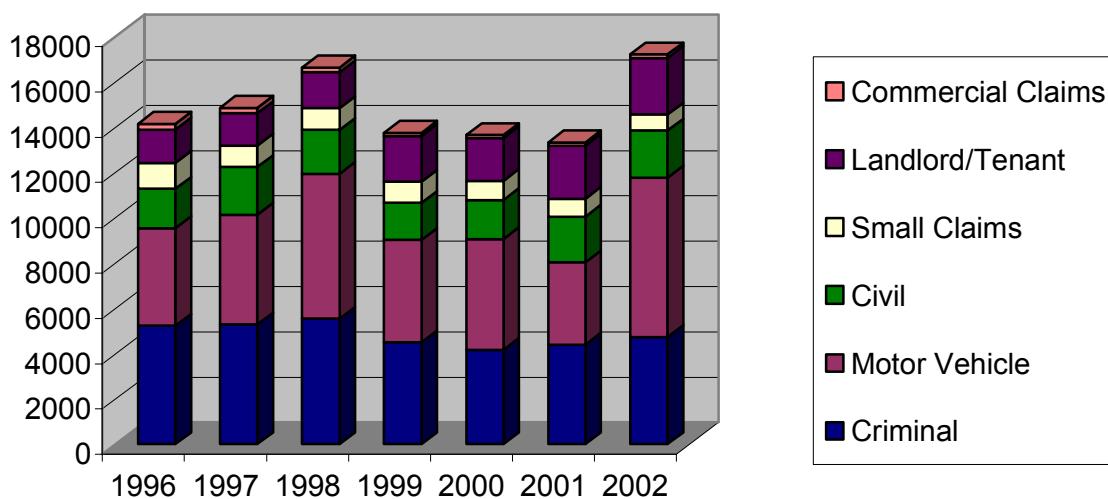
The caseload of the Schenectady City Court has varied in recent years. In 1996, there were 14,157 total filings and 13,153 dispositions. The number of filings increased to 14,856 and dispositions rose to 14,151 in 1997. This was followed in 1998 by an 11.9% increase in total filings (16,631) and an 11.5% increase in dispositions to 15,781. As shown in the Total Filings chart on the following page, the increase in filings is due in large part to a 32 % increase in motor vehicle cases.

In 1999, the year that the project occurred, total filings tumbled dramatically to 13,754 while dispositions rose to 16,501. The 12.8 % decline in total filings resulted from a combined decline in criminal, motor vehicle, civil, small claims and commercial cases (see Total Filings chart). However, landlord-tenant filings rose 28% to 2015 filings compared to 1574 filings in 1998.

The overall caseload remained fairly stable in 2000 and 2001. In 2000, there were 13,655 filings and 13,590 dispositions, and in 2001, total filings equaled 13,331 with 13,002 dispositions.

However, in 2002, the caseload exploded with 17,208 filings and 15,181 dispositions. As was the case in 1998, the increase in filings can be attributed to an astounding increase in motor vehicle cases from 3624 filings in 2001 to 7033 filings in 2002. This represented an increase of roughly 94%.

**Total Filings by Case Types  
in the Schenectady City Court, 1996-2002**



### **III. THE SCHENECTADY CITY COURT JUDGES**

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.

During the monitoring project, the Schenectady City Court had one full time judge in the criminal part and one part time judge in the civil part of the court. In 2001, the state legislature passed a comprehensive City Court bill, which increased the number of judges in the City Court to two full time judges and one quarter time judge. The legislation was based on the recommendations of a state-wide City Court committee appointed by Deputy Administrative Judge Joseph Traficanti. The committee conducted a thorough analysis of the caseloads in all of the 62 City Courts in New York State before making its recommendations. The new legislation took effect in 2002. In November 2002, Guido Loyola was elected to fill the newly created full-time position and Vincent Versaci was elected to fill the part-time judgeship.

#### **Hon. Karen A. Drago**

Judge Drago is a graduate of Providence College and Western New England School of Law. Prior to taking the bench, she served as an ADA in the Schenectady County District Attorney's Office, and as a part-time Assistant County Attorney and an Adjunct Law Professor at Schenectady County Community College. She also was Assistant Counsel to the New York State Senate Majority Leader, and later in private practice. In November 1998, she was elected to a full-time judgeship in Schenectady City Court Judge, presiding over the criminal court calendar.

Judge Drago was observed by 12 different monitors on 20 different days during the project.

#### **Demeanor**

Monitors described Judge Drago as having a "no nonsense" "businesslike" manner in the courtroom. One monitor praised, "Judge Drago handled all in a direct, fair . . . and no nonsense manner." Another monitor felt that "Judge Drago's manner is what one might call tough but she listens carefully to what is said and is careful to be sure that admissions are fairly voluntary." Yet another commented, "I appreciated the professional and serious atmosphere of the court."

Despite the serious businesslike atmosphere in her courtroom, monitors found that Judge Drago appeared to show concern and compassion for the litigants. One monitor noted approvingly, “She showed the proper mix of firmness and compassion for the defendants.”

One monitor was particularly impressed by Judge Drago’s “responsive[ness] to defendants problems and concerns.” This monitor praised her for “arranging for re-evaluations of eligibility for a public defender in several cases where people told her their circumstances had changed and they were unable to retain a private attorney.” Yet another observer was particularly impressed that Judge Drago inquired whether a prisoner had been given his most recent dose of insulin.

While observing proceedings, several monitors noted that Judge Drago appeared to give defendants “second chances” and “encouraged them to get help when warranted.” For instance, one monitor observed that Judge Drago appeared “sensitive” to the plight of “a young girl still in high school who was in trouble for the first time.” Another monitor observed her “taking time to advise a defendant for whom she ordered a drug evaluation to . . .check into insurance eligibility [when] choosing a provider for the service.” This monitor added, “She can also be encouraging - making comments such as “I want you to continue your treatment. Good luck to you.”

Monitors also praised the meticulous manner in which Judge Drago explained procedures and rulings to defendants. One monitor reported, “She was patient and scrupulous in repeating information and cautions to each new defendant.” Another observed noted, “Her approach appears to go to pains to make certain that the accused really understands the repercussions of a plea bargain before she permits it to proceed.”

## **Professionalism**

Monitors were impressed by Judge Drago’s professionalism in the courtroom. As one monitor put it, “Judge Drago’s courtroom is one of quiet respect, seriousness of purpose, efficiency, and fairness.” Another observer wrote, “She and her support staff had done their homework.” Another monitor agreed with these assessments, noting that Judge Drago was “doing an excellent job” considering that her “caseload is heavy day in and day out. It appeared to me the individuals were satisfied they had been given a fair hearing.”

## **Control of the Courtroom**

Monitors found that Judge Drago appeared to always “have control of her courtroom.” One monitor commented on Judge Drago’s maintenance of an orderly courtroom, “I was impressed with her control” which the monitor felt led to “a well-operating court.” Monitors noted that Judge Drago clearly stated the rules of conduct in the court before the start of each session: “Judge Drago opened today’s session with her usual admonition regarding courtroom decorum: ‘This is a court of law . . . any disruptive behavior and an officer would be escorting you out.’”

Several monitors witnessed Judge Drago “forcefully” dealing with disruptive behavior in the courtroom. One monitor recounted, “One of the defendants, who had been jailed overnight became disruptive. After cautioning her, Judge Drago postponed the case [for] two weeks and had her removed to the jail again. It was handled forcefully but calmly.” Another observed an occasion when, “She became annoyed with the noise and a child crying and promptly announced that “this was a court of law and [it] will be shown the respect it deserves.” It got quiet and a court officer escorted the mother and baby out. Later a cell phone went off and she really was annoyed and told [the cell phone owner] to “get out immediately!”

### **Audibility**

Monitors found that Judge Drago was not always “audible.” Several monitors noted that although she spoke “clearly”, she spoke “very fast” which may at times be difficult for some defendants to comprehend. One observer who expressed concern about the speed in which Judge Drago went through instructions wrote, “I really think it would be useful if Judge Drago would speak a little more slowly. She sometimes rushes through routine questions and explanations in a way that makes me question whether the defendants, especially those unfamiliar with the court process, can understand what she’s telling them.” Another monitor remarked, “She speaks so fast, particularly when informing the defendants of their rights, that she is not clear. One asked her to speak more slowly.”

## **Hon. Guido Loyola**

Judge Loyola is a graduate of State University at New Paltz and Albany Law School. Prior to taking the bench, he was a Schenectady City Councilman and a Deputy Corporation Counsel. Judge Loyola was appointed part-time City Court Judge by Mayor Karen B. Johnson in 1989, elected to a full term in 1990, and re-elected in 1996. When the state legislature created a second full-term judgeship in Schenectady City Court, Judge Loyola won the full-time position in the November 2002 election. While a part-time judge, he primarily presided over the civil caseload of the court. As a full-time judge, he will share a portion of the criminal caseload.

Judge Loyola was observed by 12 different monitors on 19 different days.

### **Demeanor**

Monitors found that Judge Loyola had a “casual,” “relaxed” approach to the court proceedings. One monitor observed, “Judge Loyola appeared relaxed in his role; his tie was slightly askew, the top button of his shirt, I believe was undone.”

Monitors generally praised Judge Loyola’s “pleasant” and “patient” manner when dealing with litigants. One observer wrote, “Judge Loyola is a pleasant man who presides in a casual and calm manner.” Monitors found that he “is respectful and polite in dealing with litigants,” many of whom were not represented by attorneys, and “listens patiently to what people have to say, often saying ‘I understand.’” Another observer found that Judge Loyola was “extremely respectful of the defendant’s work schedule [and] arranged the next [appearance] for 5:30 PM.” As one monitor concluded, “Judge Loyola seems very concerned about people and their problems.”

### **Professionalism**

Monitors repeatedly observed that Judge Loyola “made substantial efforts to get cases settled or to go to mediation instead of going to trial.” They found that “he was often successful” and generally praised Judge Loyola’s efforts to settle cases. However, sometimes felt that, “he could be more firm” or “was a little too patient.”

Some monitors viewed proceedings in Judge Loyola’s courtroom as somewhat inefficient and disorganized. Monitors noted that court sessions began “casually” with Judge Loyola saying “what do we have here?” or something similar, or by simply beginning to speak to one of the litigants. This led some monitors to be unsure whether the court session had begun or not. One monitor noted that Judge Loyola referred to his courtroom as a “friendly court” with no guards where people were allowed to talk as long as they wanted but the monitor observed, “This usually resulted in a screaming contest.” Another observer noted, “Judge Loyola gives brief explanations of how things will proceed but doesn’t follow a regular format” which “led to a somewhat confusing atmosphere in the courtroom.” Other monitors were concerned that “some participants were permitted to speak for a long time” when the courtroom was full of people waiting

for their cases to be heard. Sometimes this led to “a large number of cases [being] handled in a relatively short period of time.”

One monitor felt that “Judge Loyola tends to allow a good deal of leeway to defendants [or] attorneys or other professionals he is familiar” by “allowing them [extra] time to appear if they are not present when their cases are called” or “having his clerks call them when they don’t appear.” In one case, in which one of the attorneys was not present, the monitor reported that Judge Loyola said to the present attorney “that Mr. Hooks tends to roll in a little late. Lets wait a few minutes.” The monitor noted that the present attorney “waited somewhat apprehensively.”

Several observers expressed concern that Judge Loyola’s much used practice of not rendering his decisions in the courtroom but making his rulings in writing at a later date might contribute to a backlog of cases.

### **Command of Courtroom**

Monitors often felt that Judge Loyola was not in control of the courtroom. One exasperated monitor reported, “He did not seem to control the courtroom. People were talking and making noise. It was next to impossible to hear.” Other monitors had similar comments including “A child [was] crying during almost the entire proceedings [and] was never asked to be removed” and the “judge did not respond when gallery [was] too noisy.”

One monitor suggested that in order to maintain control, in a courtroom where no court officers are present on a regular basis, Judge Loyola “needs to remind attendees that they are in a courtroom and should behave appropriately.” Another monitor stated in concurrence, “I can’t help but feel that the court time would be better utilized and the appearance of fairness better maintained if Judge Loyola took a little firmer and more direct stand in keeping order and demanding appropriate decorum.”

### **Audibility**

Audibility was a problem in Judge Loyola’s courtroom. Monitors found “it was often hard to hear him” because he “speaks very softly.” One monitor commented, “Judge Loyola is a soft spoken man who is difficult to understand if he is not looking directly at the defendants [or] plaintiffs.” Another observed, even “the participants had to ask the judge to repeat [himself] occasionally because they could not hear him.” In addition to the noise, the nature of the court, talking in the gallery, and other disruptions in the courtroom, the monitors found that the physical setting of this courtroom in City Hall, with noise penetrating through open courtroom doors, contributed to the inaudibility of the proceedings.

## IV. ATTORNEYS

During the course of the project, monitors had the opportunity to observe a variety of attorneys at work in the City Court, particularly in the criminal part of the court. This included assistant district attorneys (ADAs), attorneys from the Schenectady County Public Defender's Office, and privately retained attorneys. In the civil part, monitors found that attorneys infrequently represented litigants particularly in landlord tenant matters and small claims cases.

Overall, attorneys received praise from the monitors for being "professional" and "prepared." Monitors generally found that "attorneys in the court were respectful to the judge and others involved," and "presented their case succinctly and appropriately."

Monitors also praised several of the ADAs who often "stood the whole time" and seemed "prepared" and "organized."

Attorneys from the Public Defender's Office, who represented many of the defendants in criminal proceedings in the Family Court, received similar praise. Monitors generally described these attorneys as "pleasant to clients" and "patient." They were particularly impressed by Ben Shaw, whom they repeatedly described as "caring," "compassionate," and "patient." Monitors remarked, despite being "very busy," "Mr. Shaw was pleasant in his manner toward defendants – taking time to give explanations and encouragement" and "seemed on top of everything."

Nevertheless, monitors expressed concern about the caseload of the Public Defender's office. Several monitors found that attorneys from the Public Defender's Office "seemed loaded with cases." One monitor noted, "Public Defender Shaw does an excellent job but it is obvious that he has too many clients and can't be all things to all people." Yet another monitor observed an incident where a public defender "was not present when his client's case was called [so the client] was asked to have a seat and told "he'll be back" at which point the man walked out of the courtroom obviously upset." The monitor noted, in a subsequent case, it was explained that his attorney was in county court. One monitor commented after viewing several busy court sessions in the criminal part, "I think that the public defender system in all courts should be seriously studied and re-evaluated."

Monitors found it troubling that, on multiple occasions, attorneys showed up late or did not show up at all. For instance, one monitor wrote, "Only a few attorneys were scheduled to appear and even fewer showed up." They were equally disturbed that "lawyers were having conferences with clients in [the] hallway leading to court."

## **V. NON-JUDICIAL COURT PERSONNEL**

Non-judicial court personnel such as court officers, clerks, court reporters and interpreters have a significant impact on the public's perception of the courts. In general, the monitors were impressed by the performance of the court personnel.

Monitors found that the court officers, who are responsible for court security, were "polite" and "helpful" and effective in their job. One monitor noted that the "court officers manning the door were pleasant - treating people in a friendly relaxed manner." Other court personnel observed, such as clerks, were also described as courteous and helpful by the monitors. A monitor praised, "Judge Drago has well-trained efficient staff. She exemplifies and insists on courtesy and decorum."

In the majority of cases in which a foreign language interpreter was needed, monitors found that one was available. However, several monitors witnessed cases in which the unavailability of an interpreter led to a postponement. In one such case, the "judge used the [defendant's friend] to translate." The case was "rescheduled and [the judge] ordered a translator for next appearance."

Some monitors felt that a "court officer should be available" in the civil part where usually "only a court clerk was present" to assist the judge. Several monitors felt that assigning a court officer to this courtroom would result in more orderly and efficient proceedings.

In the criminal part, monitors had no difficulty obtaining information such as copies of court calendars, to help them to understand the proceedings. It was somewhat more difficult to obtain such information in the civil part of the court.

## **VI. OPERATIONS**

### **Delays and Adjournments**

In the criminal and civil part, monitors found that “there were a great number of postponements” and other delays due to “no shows.” In the civil part, the “no shows” were primarily litigants; however monitors found that, in the criminal part, attorneys repeatedly did not show up or showed up late. Monitors felt that “no show lawyers need to be dealt with more rigorously.” Others suggested that “better scheduling” might reduce the numbers of delays and beneficial to those “people [who] had to wait a long time.”

### **Traffic Part**

Monitors found that, in the mornings, the criminal part was often crowded with traffic violators who were only present to pay their fines but unsure where and how to accomplish this task. One monitor reported, “While Judge Drago announced at 10:50, that anyone in the courtroom who needed to pay a fine for a traffic ticket could just go to [the] appropriate window, it would have been better to have a clearly written list of directions posted several places in [the] courtroom.” Another monitor agreed that having “posted signs giving clear directions – e.g. “if you come late . . . If you need to pay a fine...” would have been helpful to people who had come to pay their fines. Another monitor added, “since inaudibility seems to be the largest problem [in the criminal part] I would suggest that traffic violators be informed at the start of the proceedings that they can pay [their] fines” at a window staffed by a clerk. Audibility definitely improves after their departure which has been around 10:30 or 10:45.”

### **Small Claims Caseload**

Several monitors had concerns about the caseload of the small claims part court. One monitor felt that some of cases in the small claims part appeared “frivolous” or did not appear to “require the actions of a judge.” Another observer had similar concerns, stating, “I think that this particular court needs some rethinking. We are using quality time of very capable people on rather trivial cases. We all have a right to “a day in court” but perhaps some restructuring is needed.”

Several monitors felt that some of the cases that came before the judge could have been handled more efficient through mediation. One noted that although “mediation was offered,” it was not offered “in a way to attract combatants to use it.” This monitor added, that mediation benefits the court by “saving its time” and benefits the participants by reducing their stress” and “hopefully resolving their matter.”

One monitor also felt “that it would be useful to people coming to court for the first time if there was a brief introduction at the start of the session to explain a little about court proceedings.”

### **Audibility**

Monitors reported that proceedings, at times, were inaudible. In some instances, monitors found the judges “spoke too softly” “too fast” or “not clearly.” In other cases, they felt that the inaudibility was due to “noise in the courtroom” resulting from the sometimes “crowded conditions” or “people moving about” and “talking” or “children crying.” Several observers also noted that poor “acoustics” attributed to the inaudibility of some proceedings. One monitor concluded, “If indeed the proceedings are public then a sound system which allows the accused and lawyers to be heard should be installed and utilized.” Other monitors concurred with this assessment.

### **Children’s Center**

Many observers noted that there was no children’s center available in the City Court and observed that “small children were present in court” during proceedings. Some monitors reported that on several occasions they witnessed children crying in the courtroom and found this disruptive to the proceedings. In addition, several monitors were concerned about the affect of the proceedings on the children and “question[ed] whether this is was an appropriate place for them.”

## **VII. COURT FACILITIES**

The Schenectady City Court is one of the last City Courts in the state which has not consolidated its criminal and civil facilities. The criminal part is located in a courtroom adjoining city police headquarters at 531 Liberty Street; the civil part is located in City Hall on Jay Street, approximately a block away.

### **Criminal Part**

Monitors reported that the criminal part courtroom was “well-lit” and “clean,” but with “no windows.” However, they also reported that the courtroom, which is housed in a building which dates back to 1973, showed signs of wear and tear. For instance, they noted that a leaky roof has left “some of the benches badly stained,” and the “rug stained.” Several monitors felt that certain areas of the courtroom including the jury box “seemed close” or “crowded.” On some occasions, monitors found that the seating area was “at or above capacity.”

Monitors also commented on the court facilities outside the courtroom. They found that court personnel were squeezed into inadequate office space and there was a “need [for a ] secure, private cubicle for conferencing” for attorneys and their clients. Due to the lack of conferencing space, monitors found that many had to meet in “hallway or outside.” Although the building appeared accessible to the disabled, several monitors questioned whether the small public restroom would be accessible to someone in a wheelchair.

Monitors approvingly noted that there was a now a metal detector, installed in April 1999, at the building’s entry and court officers provided security at the entrance and inside the courtroom. In earlier reports, monitors had expressed concern about the level of security in the courtroom.

### **Civil Part**

The civil part of the City Court is housed in the striking Schenectady City Hall building. This building, listed in the National Register of Historic Places, was built in 1931 and partially restored in 1977.

Monitors described the courtroom itself as “large,” “well-lit,” and generally “clean,” with “big” windows. However, in the courtroom, monitors found chairs “in need of new springs” with the “bottoms hanging” down, “cracked” tiles on the “very worn” linoleum floor, and wooden benches that were “really uncomfortable.” As one monitor remarked, “It is a beautiful space and it would be nice if some work could be done to improve the appearance of the floor and repair the chairs.”

Monitors also noted that there was no permanent security in the civil part. They observed that a court officer was called in from the other part of the court only if there is an anticipated concern about a scheduled case. Regarding the lack of security, one monitor wrote, “The way that tempers can flare in small claim matters I see some

potential for trouble.” Several other observers expressed similar concerns. Monitors also felt that the lack of a court officer to aid in the maintenance of order led to a “noisy” courtroom with lots of people talking.

The observers also found that signage in the building was poor and that there was no designated waiting area for litigants and others, and no space for attorneys and their clients to conference.

### **Upgrading Court Facilities**

For years, Schenectady City and County governments have been under pressure to devise short and long-term solutions to 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 or face the loss of state funding for court costs. The City of Schenectady has faced similar pressure by OCA to merge the two parts of the City Court.

As a result of the addition of a quarter-time judge to the City Court, the Office of Court Administration has recently reiterated its demands that the City and County of Schenectady provide adequate facilities for the City Court or face sanctions of \$30 million for failing to make timely improvements to court facilities. In response, local officials have disclosed numerous plans including a plan to move one branch of the City Court into a vacant space in the Public Safety Building. Unfortunately, these plans have been halted and the city has received a reprieve from OCA due to its current fiscal crisis. This has resulted in Judge Versaci, the City Court’s new quarter time judge, sharing the already inadequate courtrooms of Judge Drago and Judge Loyola.

Even if the proposed plan were eventually implemented, it would serve as only a temporary solution to the Schenectady’s facilities problems. As a long-term solution, the Schenectady County Court Siting Committee, spearheaded by Supreme Court Justice Vito Caruso, support the construction of a consolidated city and county courthouse.

## VIII. RECOMMENDATIONS

- 1. The City of Schenectady needs to implement a plan to upgrade and consolidate the City Court's facilities. Until such improvements can be implemented, monitors urged the City of Schenectady to better maintain the court's current facilities.**

During their observations, monitors found that, in both facilities, there were no waiting areas, and no conferencing space for attorneys and their clients, crowded jury boxes, and inadequate office space for support staff.

Since the observers attended court sessions in the Schenectady City Court, there have been various plans proposed to consolidate the civil and criminal parts of the City Court and relocate the consolidated court in upgraded county court facilities. However, the City has yet to adopt a concrete plan. The most recent of these plans, proposed in 2002, is to tear down the existing county office building and build an addition on site. The consolidated City Court would be moved to this addition. The existing county courthouse would be renovated. The monitors enthusiastically support such a plan as means to alleviate the crowded inadequate court facilities.

Monitors also observed that both the criminal and civil courtrooms were in need of renovations. In the criminal courtroom, monitors reported that the courtroom was clean but windowless and had water damaged benches and rugs. They also found that although the civil part's courtroom was large and generally clean, it was poorly maintained. They found cracked tiles, broken chairs, and worn floors. Monitors urged that until such time as a long-term plan to upgrade the facilities can be adopted and implemented that the City of Schenectady should better maintain its current court facilities.

- 2. The City of Schenectady should examine whether security is adequate in the City Court's civil part.**

Monitors noted that there was no court officer permanently assigned to the civil part. Several expressed concern due to the heated atmosphere during some proceedings and felt that a court officer would aid in maintenance of order and quiet in the courtroom during the proceedings.

- 3. The City and County of Schenectady should increase the level of funding to its Public Defender's office.**

In the criminal branch of the City 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 the City of Schenectady to increase funding to the Public Defender's Office.

**4. A child care center should be available in the City Court or within easy reach of the court.**

Currently, there are no in-court child care centers in the City Court's facilities or in Schenectady County as a whole. Monitors observed children in the courtrooms on multiple occasions. Monitors felt that their presence was not beneficial to their well-being, and in some cases that they disrupted the proceedings. To safeguard these children and keep proceedings quiet and orderly, the monitors urge local officials and court administrators to spearhead efforts to create an in-court children's center in Schenectady County.

**5. Judges should consider imposing fines or other admonitions on late or absent attorneys and defendants to curtail the delays and adjournments in court.**

Monitors found that proceedings, particularly in the criminal part, were frequently delayed and adjourned due to late or absent attorneys and/or defendants. The delays inconvenienced and appeared to frustrate other litigants and involved parties. Monitors urge both judges to admonish attorneys or defendants who are chronically late or absent, and consider financial or other sanctions for repeat offenders.

**6. In the criminal part, an announcement should be made at the onset of the session and signs posted outside the courtroom that fines for traffic violations can be paid outside of the courtroom to a window clerk.**

Monitors found that during the morning session of the court that many people who were present who simply wanted to pay their traffic fines and were unaware that they could do so to a clerk outside the courtroom. They found that once the judge made such an announcement that many present exited the courtroom which led to quieter more orderly session. To reduce the inconvenience to those seeking to pay an uncontested traffic ticket and increase audibility in the court, monitors urge either the judge or other court personnel to announce before the start of the court session that traffic violators can pay their fines at a window designated for this purpose, and that clear, legible signs announcing the payment procedures be placed at the entrance to the courtroom.

**7. Judges and other participants should take steps to ensure the public hears all proceedings.**

Monitors found that it is often difficult for the public to hear the proceedings. Members of the audience frequently include relatives and friends of defendants and litigants, and litigants in other cases who each have a particular interest in understanding what occurs in the proceedings. For the proceedings to truly be public, monitors urged that judges speak audibly and clearly and that they be provided and then use microphones for amplification purposes at all times; they also urged that microphones be provided for lawyers and witnesses, and that judges encourage all participants to speak audibly. They also urge the judge to discourage those in the courtroom; including court personnel and attorneys, from talking and making other noises during the proceedings.

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Modern Courts Court Monitoring Director Kimyetta R. Robinson and Capital District Coordinator Helga A. Schroeter wrote this report.

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