

# PUBLIC HEARING TRANSCRIPTS

PUBLIC HEARING  
TRANSCRIPTS OF THE  
PENNSYLVANIA SUPREME  
COURT COMMITTEE ON  
RACIAL AND GENDER BIAS  
IN THE JUSTICE SYSTEM

PITTSBURGH  
STATE COLLEGE  
ERIE



**Erie  
Public Hearing  
Transcript**

COMMITTEE ON RACIAL AND GENDER BIAS IN THE JUSTICE SYSTEM  
PUBLIC HEARING

\* \* \* \* \*

Hearing held in City Council Chambers, Municipal  
Building of the City of Erie, Pennsylvania on Tuesday,  
April 17, 2001 beginning at 1:00 p.m. before the Supreme  
Court Committee on Racial and Gender Bias in the Justice  
System.

Members of the Commission:

- Nicholas P. Cafardi, Esquire, Chairman
- André Dennis, Esquire
- Burton Morris, Esquire

**ORIGINAL**

Members of the Subcommittee:

- Honorable Maureen Lally-Green, Judge, Pennsylvania  
Superior Court
- Richard T. Ruth, Esquire
- AnnDrea Benson, Esquire
- Professor Vanessa Brown-Barbour
- Lisette M. McCormick, Esquire, Executive Director
- Jane Louik, Esquire, Associate Director

REPORTED BY: Cecelia H. Muhanna, Court Reporter

I N D E X

	SPEAKERS:	PAGE
3	Patricia Norcott	4
4	Gary Horton	5
5	Gladys Scott	24
6	Robert Wallace	36
7	Joyce Lukima	44
8	Jackie Johnson	51
9	Honorable Stephanie Domitrovich	64
10	Michael Murnock	83
11	John Petulla	96
12	Thomas Gamble	103
13	Christine Konzel	115
14	Mayor Joyce Savocchio	136
15	Robert Sambroak	146
16	Jovino Morales	160
17	Judith Kaufmann	163
18	Mary Hart	169
19	Mary Colonna	172
20	Maurice Hicks	176

21  
22  
23  
24  
25

1 College, and I have received resistance from  
2 counsel and I say, "Well, just note -- I note  
3 your exception. This person is going to still  
4 serve. Come up with another reason, I'll deal  
5 with it, and if you don't, that person is going  
6 to serve." So it's up to the trial court judge  
7 to be very sensitive to make sure that those  
8 kinds of blanket assertions from counsel are  
9 not accepted.

10 MR. DENNIS: Thank you.

11 MR. CAFARDI: Any other questions? Thank  
12 you very much, Your Honor. Good to see you  
13 this afternoon.

14 JUDGE DOMITROVICH: Thank you. This was  
15 fun. Thank you.

16 MR. CAFARDI: Our next person to testify  
17 is Mr. Michael Murnock, the executive director  
18 of the International Institute. Good  
19 afternoon, Mr. Murnock.

20 MR. MURNOCK: Good afternoon,  
21 Mr. Chairman, members of the committee.

22 My comments today are going to be  
23 primarily about foreign-born folks (inaudible).

24 On behalf of the International Institute  
25 of Erie, I am pleased to have been asked to

1 participate in the Pennsylvania Supreme Court's  
2 Committee relative to its investigative work on  
3 racial and gender bias in the justice system.

4 For the past five years I have had the  
5 privilege of directing the International  
6 Institute of Erie, whose generations of staff  
7 since 1919 have helped foreign-born families  
8 adjust to the United States culture and achieve  
9 our country's citizenship.

10 In preparations for today's presentation I  
11 involved my fellow staff members who work most  
12 directly with the refugee and immigrant  
13 families.

14 Number one. My first comment concerns the  
15 overall matter of fair and equal justice under  
16 law in relation to these many families. We  
17 have surely recognized in our own community of  
18 northwest Pennsylvania that, for newly arrived  
19 families, linguistic and culturally competent  
20 interactions are critical.

21 By and large our organizational services  
22 are provided for immigrant and refugee  
23 families, the latter arriving as legal  
24 residents of the United States after typically  
25 long periods in refugee camps. These refugees

1 need to be resettled in other countries due to  
2 well-founded experiences of persecution. Thus  
3 through no plan of their own, refugee families  
4 arrive in our country with very little cultural  
5 and language preparation. As many as 80,000  
6 refugees may come to our United States this  
7 year.

8 I believe we all recognize that language  
9 interpretation and translation are vital to the  
10 fair and impartial nature of our justice  
11 system. It may not, however, always be  
12 recognized that it is essential such language  
13 services be provided in a well-prepared manner.  
14 In various communities it is still quite  
15 possible that language services might be  
16 obtained by a family member or a close friend  
17 whose interest in helping is both sincere and  
18 genuine, but whose concerns can hardly be  
19 expected to be entirely impartial. In law  
20 enforcement the immediate need for  
21 communication sometimes pressures authorities  
22 to the most convenient bilingual person, even  
23 though that person may be overly anxious or  
24 very young. We have seen also that in some  
25 cases a language interpreter was not involved

1 at all, despite the provisions of Title VI of  
2 the Civil Rights Act which, with the help of  
3 policy guidance from the United States  
4 Department of Health and Human Services,  
5 requires that all health and social service  
6 providers receiving federal financial  
7 assistance ensure language assistance for  
8 limited English proficient persons. Likewise,  
9 because of culture considerations, important  
10 terms and concepts may not be communicated in  
11 precisely the manner the court representative  
12 intends.

13 For these reasons we would respectfully  
14 advise our Supreme Court to incorporate  
15 standards of professional language  
16 interpretation -- by that I mean verbal -- and  
17 translation -- by that I mean written, and  
18 communicate these in an effective manner across  
19 our Commonwealth's communities.

20 Number two. My second comment concerns  
21 cultural considerations, especially for those  
22 persons who have resided in the United States  
23 only a brief period of time. Judge Domitrovich  
24 just recently made allusion to the same. Due  
25 to cultural traditions involving respect and

1 honor, some persons from other countries might  
2 choose to be quiet or nod the head in what we  
3 would interpret as a sign of the affirmative  
4 when in fact a true understanding is not taking  
5 place. I learned this lesson shortly after I  
6 became director at the International Institute.  
7 An 18-year-old refugee was involved in an act  
8 of aggression, which triggered the involvement  
9 of law enforcement. The parents who did not  
10 speak English asked afterwards to meet with me.  
11 My efforts were aimed at helping the family  
12 prepare for the likely court proceedings, but  
13 the culture which this family was far more  
14 familiar with believed it was honorable for  
15 families to amend their family discretions and  
16 consequence their children without the  
17 involvement of higher authorities.  
18 Furthermore, nodding of the head by Mom and Dad  
19 unfortunately caused me to believe they  
20 understood my warnings on behalf of their son  
21 when in fact they felt confident the matter had  
22 been handled at that level and in that session.  
23 This occurred despite the involvement of an  
24 adult interpreter and relative who had  
25 accompanied the parents to my office.

1           Three. Lastly I would like to relay the  
2 concerns of our institute supervisor of  
3 citizenship services, who describes a sad  
4 immigration case which in 2001 is not  
5 altogether uncommon in our country.

6           Quote. This issue is of real and dire  
7 consequence to those foreign-born residents who  
8 find themselves involved with the Pennsylvania  
9 court system. Currently, there is no  
10 requirement that a defendant be informed of the  
11 immigration repercussions when entering a plea.  
12 The defendant may find he or she has  
13 immigration problems long after any changes can  
14 be made.

15           It is federal law that a noncitizen is  
16 considered deportable if convicted as an  
17 aggravated felon in the United States. It is  
18 also a United States Immigration and  
19 Naturalization statute that if someone is  
20 convicted of one or more misdemeanors and the  
21 sentence imposed is three years or more, that  
22 crime is automatically considered an aggravated  
23 felony. Therefore, anyone who is sentenced to  
24 three or more years, regardless of the crime,  
25 is considered deportable.

1           In the Immigration Reform Act of '96 it  
2           was determined if the Immigration and  
3           Naturalization Service could not deport the  
4           person within 90 days of the final order of  
5           deportation, the service could hold the  
6           potential deportee until such time as  
7           deportation was possible.

8           If the deportee is from a country that the  
9           United States does not have favorable relations  
10          with, such as Cuba or Iraq, the detention may  
11          be continued for years beyond the criminal  
12          sentence originally imposed. There are  
13          currently over 4,000 of these indefinite  
14          detainees in the United States. They reside  
15          without knowledge of when, or if, they may ever  
16          be released to their former country or in the  
17          United States. This interpretation of the law  
18          is currently being brought before the Supreme  
19          Court via various cases throughout our country.

20          In many other states, for example, our  
21          neighbor Ohio, it is required that the  
22          immigration consequence be thoroughly explained  
23          to the defendant during the proceedings and  
24          before any plea is entered. The judge is  
25          required to ensure that all facets of

1 immigration law are understood. If it is found  
2 that this did not occur, the plea is withdrawn  
3 and the defendant may reenter his plea, his or  
4 her plea.

5 We feel that the Commonwealth should make  
6 it mandatory that the immigration issues are  
7 described with each and every possible  
8 candidate for deportation problems. These  
9 issues should be thoroughly discussed, with  
10 appropriate language interpretation if  
11 necessary, so that the defendant may make an  
12 informed decision about his or her case.

13 A former refugee client of the  
14 International Institute of Erie is in  
15 indefinite detention in the York County prison  
16 where INS holds all Pennsylvania detainees.  
17 His attorney told him that a deal had been made  
18 with the prosecutor in favor of probation as  
19 the disposition for a guilty plea. He was  
20 never informed that the final decision on  
21 sentencing was up to the court and that the  
22 prosecutor only made a recommendation. His  
23 attorney told him it would save him the cost of  
24 a trial, and even though he felt he was not  
25 guilty it would only mean a couple of months of

1 probation, nothing to worry about. This was in  
2 October of 1995.

3 Instead of the few months' probation, he  
4 was sentenced to three to five years of  
5 incarceration. After five years passed he was  
6 taken to the INS detention where he remains to  
7 this day. He said if he had been aware of what  
8 the results of his plea would be, he would have  
9 changed the decision made concerning his case.

10 Also, this individual was not offered a  
11 language interpreter during his proceedings,  
12 nor was an interpreter offered to him. He was  
13 asked several times if he understood and he  
14 thought that he did.

15 It may be prudent for the court,  
16 therefore, to automatically provide qualified  
17 language interpretation services to those who  
18 are not first language English speakers. The  
19 decision made in any court case has serious  
20 consequence. But with a case involving a  
21 noncitizen, even a misdemeanor case can have an  
22 aftermath that lasts a lifetime. All persons  
23 facing such issues deserve to be well-informed  
24 so that they and the court can render fully  
25 knowledgeable decisions. Unquote.

1 I hope we have been of assistance to the  
2 committee today in your work, and again thank  
3 you for your time.

4 MR. CAFARDI: Thank you very much. Any  
5 questions from the panel?

6 MR. DENNIS: With respect to the advice  
7 that's necessary in Ohio that you referred to  
8 to an accused, do you know how that came about,  
9 that is, that someone in Ohio who's arrested  
10 for a crime gets more advice on his or her  
11 rights than would appear be the case here in  
12 Pennsylvania?

13 MR. MURNOCK: No, I don't. Our  
14 citizenship supervisor who I referenced is Mary  
15 Al-Hasnawi, and I would be happy to research  
16 that and send it along to the committee.

17 MR. DENNIS: I'd like to know that. Thank  
18 you.

19 JUDGE LALLY-GREEN: May I ask a question?  
20 On any legal assistance that might be available  
21 to people that you serve, the refugees, is  
22 there any special access to any type of legal  
23 assistance?

24 MR. MURNOCK: Here in the Erie community?

25 JUDGE LALLY-GREEN: Yes, other than I

1 guess a public defender in the criminal realm.

2 Is that --

3 MR. MURNOCK: I -- I -- yes, the Erie  
4 County court system has a listing of approved  
5 and qualified interpreters and translators  
6 which it certainly makes access of on a regular  
7 basis.

8 JUDGE LALLY-GREEN: The public defenders  
9 make access to these lists of interpreters?

10 MR. MURNOCK: That's right, and -- yes,  
11 the Public Defender's office and other arms of  
12 the court. Our International Institute is  
13 involved in providing some of those  
14 interpreters and translators. Also, we have a  
15 similar arrangement to provide language  
16 assistance services for the state court system  
17 in this area, and I think I would also make  
18 reference to Northwestern Legal Services, you  
19 know, who help those of limited incomes. Their  
20 organization I think does a very good job  
21 locally and is certainly involved with various  
22 agencies in town, including ours, when again a  
23 qualified interpretation and translation  
24 service are necessary.

25 JUDGE LALLY-GREEN: So then after

1 listening to your public statement here I come  
2 to a conclusion that while there might be some  
3 interpretive services that you would deem  
4 adequate to good available in perhaps this  
5 arena, across the state that is not as readily  
6 available to refugees.

7 MR. MURNOCK: I would like to be able to  
8 say that. I think, however, even in our local  
9 community that continuum would be inadequate to  
10 good. We do in fact have some resources that  
11 can provide the kind of -- what we mean when we  
12 talk about qualified, prepared, trained  
13 interpreters and translators, but that doesn't  
14 always happen either, especially in the  
15 emergency related services and which certainly  
16 includes law enforcement.

17 So on a given Tuesday there could be  
18 somebody who is well trained to provide  
19 interpreting services for a family, and on a  
20 given Wednesday it could be an eight-year-old  
21 nephew who just happens to be, you know, where  
22 the language is needed.

23 MS. BENSON: Does your organization get  
24 involved at the police level, at the street  
25 level, so to speak? It's my understanding

1           that, for example, the Erie Police Department  
2           doesn't have anyone who speaks Spanish, so do  
3           you get called for that kind of service also?

4           MR. MURNOCK: Yes, we do. And there are a  
5           couple agencies in town who provide language  
6           related services also, you know, and the local  
7           police departments have our numbers. It's  
8           probably important to say in that context that,  
9           you know, there certainly has not yet been  
10          created a twenty-four-hour, well-advertised,  
11          easy to dial phone service for emergency  
12          language services. Fortunately, however, our  
13          community is small enough that the agencies are  
14          fairly well -- the agencies that can provide  
15          the services are fairly well recognized by the  
16          law enforcement community. Not always. I  
17          can't tell you whether these things are very  
18          well computerized or they just happen to be a  
19          three-by-five index card that's paper-clipped  
20          to a bulletin board somewhere.

21          MR. CAFARDI: Any other questions? If  
22          not, then thank you very much, Mr. Murnock, for  
23          your testimony today.

24          MR. MURNOCK: Thank you.

25          MR. CAFARDI: Our next presenter is John