

# PUBLIC HEARING TRANSCRIPTS

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

PITTSBURGH  
STATE COLLEGE  
ERIE



**State College  
Public Hearing  
Transcript**

BEFORE THE PENNSYLVANIA  
SUPREME COURT COMMITTEE

\* \* \* \* \*

IN RE: Racial and Gender Bias in the  
Justice System

State College Public Hearing

\* \* \* \* \*

BEFORE: Honorable Maureen Lally  
Green

Lynn Marks

Amos Goodall

Lisette M. McCormick,

Executive Director

Robert Listenbee

Roberta Liebenberg

Joann M. Jofery

HEARING: Friday, October 12, 2001  
1:15 p.m.

LOCATION: Municipal Building  
State College, PA

Reporter: Cynthia Piro Blough

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1 I am not aware of any  
2 specific targets of athletes. I'm  
3 also a Lock Haven graduate as an  
4 undergrad where some of the events  
5 that you're talking about. But I am  
6 not aware of any events where our  
7 athletes would be targeted  
8 specifically, no.

9 MR. LISTENBEE:

10 Thank you very much.

11 MS. LIEBENBERG:

12 Thank you very much.

13 MS. MARKS:

14 Thank you very much for  
15 coming in. Our next speaker is  
16 Rebecca Ardoline, staff attorney for  
17 Mid-Penn Legal Services. Is she here?  
18 Before our next student comes up here,  
19 may I ask are you students from Penn  
20 State? So are you part of an  
21 organization or student council or are  
22 you individuals who decided to come to  
23 this?

24 UNIDENTIFIED SPEAKER:

25 No, we're scheduled to

1 speak actually. We're the students of  
2 the black caucus.

3 MS. MARKS:

4 Okay. So you're going  
5 to be with us for a while. Thank you.  
6 Please proceed when you're ready.

7 MS. ARDOLINE:

8 Thank you. Good  
9 afternoon, ladies and gentlemen of the  
10 committee. I'd like to begin with a  
11 little background about me today so  
12 that you know where I'm coming from  
13 not because I think I'm very  
14 interesting. I've been a member of  
15 the bar in the State of Pennsylvania  
16 and in practice here for four years.  
17 I've worked at MidPenn Legal Services  
18 since July of '98. Prior to that I  
19 was in a small private practice in the  
20 northeast part of the state. My  
21 practice currently focuses mostly on  
22 family law, custody, support, domestic  
23 violence. But I also do other general  
24 civil legal work. I practice in  
25 Centre, Huntington, Mifflin, Juniata

1 and Clearfield Counties. Most of my  
2 clients are from very rural areas and  
3 virtually all of them with the  
4 exception of a few domestic violence  
5 clients are well below the poverty  
6 line.

7                   As a result of that, as  
8 a result of where I work, where I come  
9 from, I think that oftentimes I run  
10 into class prejudice as well as racial  
11 and gender bias. And I believe that  
12 sometimes it's difficult to know which  
13 it is that's causing the problems.  
14 But I'm absolutely certain that when  
15 there are gender biases, when there  
16 are racial biases they're made worse  
17 by class prejudices. And class  
18 prejudices can bring up gender or  
19 racial biases that may not have  
20 existed previously or may not have  
21 existed consciously. I'd like to give  
22 a few examples, some general, some  
23 more specific from my practice.  
24 There's some things that I've seen  
25 that are troubling.

1                   For a few years I was  
2 our office child support staff  
3 attorney. So I handled most of the  
4 child support cases in the five  
5 counties that we practiced in. We've  
6 all heard, I've heard men complain  
7 that the child support systems sticks  
8 it to men, that men are treated like  
9 criminals, fathers don't have any  
10 rights. Unfortunately I have seen  
11 some of that. But the vast majority  
12 of the problems that I have seen have  
13 gone the other way. A couple of the  
14 counties that I practice in have very  
15 good domestic relation systems, have  
16 terrific hearing officers. I have no  
17 problem sending my clients in there  
18 saying, you'll be okay pro se, they  
19 know what they're doing. But I have  
20 heard some horror stories in other  
21 counties. I've had clients, several  
22 clients who didn't know each other,  
23 weren't related to each other, had no  
24 reason to believe this was a mass  
25 hysteria tell me the same story about

1 a hearing officer in another county  
2 who walked into the hearing room with  
3 his arm around the defendant's  
4 shoulder or left the hearing room  
5 talking about where they were going  
6 hunting that weekend. I've had  
7 clients tell me that unless I showed  
8 up with them they weren't going to be  
9 allowed to talk because that had  
10 happened to them in the past. I even  
11 had a client, she was a grandmother,  
12 seeking support for her grandchild,  
13 went to the domestic relations office  
14 to see her caseworker. She walked  
15 with a walker, had trouble maneuvering  
16 stairs. The domestic relations office  
17 was on the second floor of a building  
18 that had no elevator. She buzzed up,  
19 told them she was there to see her  
20 caseworker and when she told them she  
21 didn't have an appointment, she was  
22 just dropping by, they refused to send  
23 down the chair lift so that she could  
24 go up and get in to see her  
25 caseworker.

1                   In another county, I  
2 haven't had as many problems with the  
3 support officers but I've had problems  
4 with one of the judges blatantly  
5 ignoring the support law. For  
6 purposes of child support, SSI,  
7 welfare payments are, of course, not  
8 to be included as income. We had a  
9 recent case only a couple weeks ago.  
10 A disabled mother who receives SSI  
11 appealed an order because she had been  
12 imputed a minimum wage. At the de  
13 novo hearing, the judge agreed that  
14 she shouldn't be assessed an earning  
15 capacity but he went on to consider  
16 the SSI as income and to consider food  
17 stamps that she received as income.  
18 Now, no one that I've ever heard of  
19 has considered food stamps income. In  
20 fact, she doesn't receive money, she  
21 receives --- she can only use that  
22 money to purchase food. Again, the  
23 judge considered it income. This same  
24 judge has told other parents, mothers  
25 who have children in the foster system

1 and are being accessed support by  
2 Children and Youth Services that if  
3 they can afford to smoke, they can  
4 afford to use their SSI money to pay  
5 support. Or if they can afford to  
6 spend money in some other way that the  
7 judge believes they shouldn't spend  
8 it, they can afford to pay support.  
9 These are people receiving roughly  
10 \$550 a month in supplemental security  
11 income.

12                                   Again, to stay focused  
13 on that county, that judge has  
14 exhibited bias towards in favor of men  
15 in custody cases as well. And in  
16 general I think that the trend towards  
17 judges always giving custody to the  
18 mother has slowed down. But now I  
19 think we're seeing a backlash where  
20 mothers are held to a higher standard.  
21 If the mother testifies about abuse,  
22 well, why did she stay there. If the  
23 mother has a criminal history she's  
24 much worse than a father with a  
25 similar criminal history. Mental

1 disorders or emotional disorders or a  
2 woman who has been depressed or had  
3 postpartum depression and has been  
4 hospitalized for a few days, that's  
5 often the very first thing in a  
6 custody petition.

7                   And finally just in  
8 general there are some judges who will  
9 rule on custody in favor of the man  
10 because he has a higher standard of  
11 living. He has a bigger house, he can  
12 afford to send the kids to more  
13 activities, he can send them to sports  
14 camps. It doesn't matter that the  
15 child has lived with the mother for  
16 years. The mother was the primary  
17 caretaker. That's why the mother  
18 doesn't have any income. But the  
19 father has a better income, the father  
20 has a better lifestyle so he can get  
21 the child. I've actually even found  
22 myself telling custody clients that we  
23 should back off on arguing that the  
24 father hasn't paid his support. We  
25 can't use that as an argument if he

1 doesn't care for this child because if  
2 we argue and complain that he hasn't  
3 paid his support, well then we're just  
4 another woman who can't afford to take  
5 care of her child. And so the custody  
6 should go to the father.

7                   Finally I think you've  
8 heard a lot about protection from  
9 abuse cases already and you'll  
10 probably hear more but I want to  
11 stress that again my experience in  
12 these cases are often seen as less  
13 important to get a 15-minute time  
14 slot. In another one of the local  
15 counties if there's a hearing officer  
16 who hears a PFA hearing you are  
17 entitled to a de novo hearing to get  
18 in front of a judge, but you need to  
19 pay your costs up front to get that de  
20 novo hearing. If you don't pay them,  
21 your de novo is dismissed. And, of  
22 course, good luck if you want to take  
23 away a man's guns. I've had judges  
24 who have talked to pro se defendants,  
25 warned them, you know, you're going to

1 lose your guns if you go through this  
2 hearing and you're found guilty or we  
3 find that you do this stuff. So why  
4 don't you just agree. And often it  
5 helps me because, you know, my client  
6 is willing to let him keep the guns  
7 because she figures that it'll be more  
8 dangerous if they take them away  
9 anyway but why is it that we can  
10 bargain over --- who wants to bargain  
11 over guns, nobody wants to bargain  
12 over this child's custody or other  
13 issues that are seemingly important.

14                   Moving on to the family  
15 law issue my other issue was the  
16 treatment of non-English speakers.

17 Mostly I face this issue here in  
18 Centre County, it's where the largest  
19 population of non-English speakers  
20 are. In my experience so far as far  
21 as obtaining a translator, things  
22 along that line, I've had a lot of  
23 cooperation from the court. However,  
24 I've had instances where I've had  
25 clients who don't speak English or

1 don't speak English very well and are  
2 for that reason subject to some bias.  
3 Just one example on that point. I  
4 had a Korean client, Korean woman who  
5 was requesting a PFA against her  
6 husband who was a white natural born  
7 American. She testified in English.  
8 I perceived her English to be very  
9 good and practiced with her on these  
10 things so that she would be clear.  
11 She spoke of how her husband had  
12 threatened to kill her, how afraid she  
13 was because he had been in the  
14 military and had expertise in  
15 firearms. And she spoke about how he  
16 controlled the family through his  
17 control of family finances. It was her  
18 lack of ability to read and write in  
19 English. In our outcome in that case,  
20 the judge denied the PFA but granted  
21 her some economic relief based on a  
22 pending divorce. I later heard from  
23 another colleague that the judge had  
24 told that colleague that he had a hard  
25 time understanding my client. During

1 the hearing he did not ask for  
2 clarification, he did not suggest that  
3 my client testify via a translator.  
4 And because he couldn't understand  
5 her, he decided that she didn't have  
6 enough merit to be granted a PFA.

7           A related issue to  
8 people who don't speak English at all  
9 is people who speak poor English,  
10 people who have had a limited  
11 education and because of that are not  
12 very articulate. And this affects  
13 particularly I think pro se litigants.  
14 They may not be able to say exactly  
15 why they don't think you should have  
16 custody or exactly what it was that  
17 his physical abuse or emotional abuse  
18 did to her and why that affects the  
19 children or why that means she should  
20 get a PFA. This can affect racial  
21 minorities as well given ---  
22 particularly in this area I think  
23 problems with obtaining a complete  
24 education, adequate education, the  
25 overall state of the educational

1 system. Women who have children at a  
2 young age often feel they have to drop  
3 out of high school or drop out of  
4 college.

5                   And finally I think  
6 women are expected to be more refined.

7 It's expected that perhaps a man will  
8 go in and be very blunt, to the point  
9 and perhaps even use coarse language.

10 But if a woman does things like that  
11 they are seen as not a good mother,  
12 not a proper feminine model of a  
13 mother.

14                   As for solutions, I  
15 think that education is the only thing  
16 possible that we can do. Educating  
17 women, minorities, poor people about  
18 their rights and also educating  
19 judges, court personnel. Even legal  
20 aid lawyers need to be told about what  
21 our biases and what our prejudices are  
22 and how they affect our practice.

23 Thank you.

24                   MS. MARKS:

25                   Thank you. That was

1 excellent testimony. I think it was  
2 especially good because you painted  
3 the problem but also gave us some  
4 suggestions.

5 MS. McCORMICK:

6 What percentage of your  
7 clients are members of minority groups  
8 and of what minority groups are they  
9 members of?

10 MS. ARDOLINE:

11 Not a very large  
12 percentage. Maybe five percent or  
13 less. The vast majority is African-  
14 American with less than one percent  
15 each of Asian-American and Latinos.

16 MR. LISTENBEE:

17 I appreciate your  
18 testimony very much. As you address  
19 the issue of solutions I was wondering  
20 if you had any very specific solutions  
21 on the issue of class bias. I know  
22 education is critical both for judges,  
23 court personnel, other parties who are  
24 involved in litigation. Do you have a  
25 second suggestion in addition to

1 education?

2 MS. ARDOLINE:

3 Improvement of the pro  
4 se systems I think would always help.  
5 I don't think I'm allowed to make a  
6 plug for legal services funding but  
7 that would certainly help. The pro se  
8 systems, you know, in some counties  
9 there's nothing. In other counties  
10 you can get the paperwork. In still  
11 other counties there are really very  
12 good systems in place where you can go  
13 and get some advice or get some  
14 directions as to how to fill out the  
15 forms.

16 MS. McCORMICK:

17 Could you identify those  
18 counties so we can contact them and  
19 get what they use?

20 MS. ARDOLINE:

21 Sure. Centre County and  
22 Mifflin County and I believe Juniata  
23 County now have pro se custody and  
24 divorce forms available. Blair County  
25 has an entirely different pro se

1 system for custody that I'm not very  
2 familiar with yet. But it's my  
3 understanding that they have what they  
4 call a custom office where the person  
5 --- potential litigant can go and  
6 receive some forms or advice on  
7 custody.

8 MS. McCORMICK:

9 The three counties that  
10 you identified, Centre, Mifflin,  
11 Juniata, do they have anything besides  
12 just the forms for divorce and  
13 custody?

14 MS. ARDOLINE:

15 They also have ---  
16 Mifflin County has a packet that  
17 explains --- has the directions in it  
18 and I believe that Juniata County has  
19 that same package.

20 MS. McCORMICK:

21 Do they have staff who  
22 are available to speak personally with  
23 the pro se litigants?

24 MS. ARDOLINE:

25 In my experience the

1 staff will do their best not to give  
2 legal advice but will certainly do  
3 their best to help the parties fill  
4 out the form properly.

5 MR. LISTENBEE:

6 Does any county have a  
7 system that you would characterize as  
8 a model system, one that should be  
9 replicated across the state?

10 MS. ARDOLINE:

11 I don't know if any of  
12 them are perfect. I believe as far as  
13 just access Centre County has been the  
14 easiest for me to tell my clients if  
15 you go to the courthouse and you want  
16 to do anything from filing custody,  
17 divorce, a general civil suit, they  
18 will be able to get the forms, they  
19 will be able to get assistance from  
20 the courthouse staff. I find it very  
21 easy to access for clients.

22 MS. LIEBENBERG:

23 One of the issues that  
24 we're investigating is the  
25 availability and access to

1 translators. You talked a little bit  
2 in your testimony. Could you just  
3 explain a little bit further how  
4 available translators are? I think  
5 you mentioned a Korean client. Have  
6 you had difficulties in getting other  
7 types of translators and do you see  
8 any room for improvement?

9 MS. ARDOLINE:

10 Sure. The translators  
11 that I have mostly had to deal with  
12 have been for Russian-speaking  
13 clients. There's a large Russian  
14 population in the Centre County area.  
15 And I have had --- I believe because  
16 there are so many Russian-speaking  
17 people in the area, they have less  
18 trouble getting a translator in that  
19 area.

20 MS. LIEBENBERG:

21 Are these certified  
22 translators?

23 MS. ARDOLINE:

24 They are not. Not to my  
25 understanding they are not certified

1 translators but they are folks who  
2 will volunteer their time and be a  
3 court appointed sort of neutral  
4 translator rather than having the  
5 department bring in a translator.

6 MS. McCORMICK:

7 Are they on a list or  
8 something? How does the court know  
9 that they exist?

10 MS. ARDOLINE:

11 The court must have a  
12 list because what I've done is asked  
13 the court administrator, advised the  
14 court administrator, I have a case  
15 coming up. My client does not speak  
16 English, we need a Russian translator  
17 and they have provided one.

18 MS. McCORMICK:

19 Thank you very much for  
20 your testimony. It was very helpful.  
21 Is Tom Backenstoe here from the Centre  
22 County Probation office? I understand  
23 you're going to talk about juvenile  
24 justice.

25 MR. BACKENSTOE: