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About New York

If a Judge Gets Out of Line: Seeking a Cure

OVER the decades, the spartan courtrooms of the sprawling Manhattan Criminal Courts Building have played host to a number of judges infamous for their eccentricity, despotism or breathtaking arrogance. Their reputations, whether deserved or not, became legendary among the prosecutors and defense lawyers who had to tiptoe in court to avoid the reverberations of the gavel.

Today, Judge Donna G. Recant is on her way to joining that group, according to critics who include defense lawyers, court employees, another judge and members of the Manhattan District Attorney's office.

There are the major things Judge Recant has done that intermittently draw public attention, they say, such as handcuffing a defense lawyer to a courtroom bench for being disrespectful and rude and sentencing a defendant to seven months in prison for cursing her. And there are the minor things, such as eating a bagel, a sandwich or popcorn while hearing cases.

Judge Recant, who is 42 and worked as an assistant district attorney for six years and as a criminal and civil lawyer for seven years, is one of the 36 Criminal Court appointments made by Mayor Rudolph W. Giuliani in his five years in office. All in all, those judges, appointed for up to 10 years, are recognized by courthouse veterans as a high-caliber and hard-working bunch.

But her critics say Judge Recant's demeanor on the bench belittles the judicial process. They also say Judge Recant, who was appointed to the bench in 1996, lacks the perspective her job demands.

A State Supreme Court Justice overruled Judge Recant's decision to sentence a defendant to one month in prison for each time he cursed her (it was seven), an embarrassment for a new judge. And her decision to handcuff a Legal Aid lawyer, Arnold Levine, to a bench this April and sentence him to 10 days in jail after she said he was

Those likely to gripe
about judges are those
likely to face them.

rude and disrespectful has been appealed to another State Supreme Court Justice.

In a more serious incident, she was accused by defense lawyers in a July 1998 trial of privately coaching prosecutors on how they could better handle a case she was presiding over. In a less serious one, she ordered everyone out of a courtroom because someone was popping gum.

Stephen P. Pokart, a Legal Aid lawyer who said he was speaking on his own behalf, said that in 25 years he has never seen a judge with "such a manifest lack of judicial temperament, disregard for fairness and impartiality, and shown such little respect for poor people."

Judge Recant said she could not comment while the appeal of the handcuffing incident is still pending. But four lawyers called a reporter on her behalf and said she is being attacked because she is tough on lawyers. "She holds lawyers to very high standards and is therefore often openly critical of them," said one of them, Richard D. Emery. "And as a consequence, this pattern of attacking her is to be expected."

Dennis Quirk, president of the court officers union, concurred. "They don't like her because she is a tough judge," he said.

The debate about Judge Recant's judicial temperament, or lack thereof, represents a far larger and long-running problem in city and state courts: the relative omnipotence of judges. Several defense lawyers who were critical of her would not agree to be quoted by name. They said they feared retribution in court if they attacked Judge Recant publicly. Officials from the Legal Aid Society said they would not comment until an appeal they have filed of Mr. Levine's jail sentence is completed.

THE situation is far from new. For decades, wise lawyers in New York have never publicly criticized judges or powerful prosecutors for fear it could come back to haunt them in future trials or plea bargain negotiations.

A mechanism to police judges does exist. The State Commission on Judicial Conduct consists of five lawyers, four judges and two lay people who can investigate complaints and censure or remove a judge. David Bookstaver, a spokesman for the Office of Court Administration, called the commission "viable and efficient."

But defense lawyers and some judges said filing a formal complaint to the committee is an enormous gamble for a lawyer. Anonymous complaints about courtroom incidents can be traced back to which lawyers were present. If the complaint fails, the lawyer and his or her clients then face the wrath of a vindicated judge. Until a better system is developed, critics will continue to have to whisper their complaints, instead of shouting them.