

Press department of the court: practical and methodical recommendations

How a court reporter should work

Politeness and composure

Regardless of their own sympathies, a journalist is required to calmly and politely listen to each party; additionally, the parties may be worried, aggravated and have negative feeling towards members of the press. The more aggressive the party becomes, the more the reporter is required to remain calm. Having a rational conversation with someone pouring streams of abuse is impossible. In this case, just listen and react to the monologue with sympathetic gestures. It is not worth saying phrases like “Calm down” or “Drink some water.” These phrases only cause more aggravation. It is essential to guide the situation to dissipate the party’s anger. Let them pour out their soul; let them talk as much as they like, they will quickly forget their problems and start cursing the government, rising prices, the weather - this is not terrifying. It only takes time and sympathy, and then it will be possible to converse as friends, since an attentive listener is always received as a friend rather than an enemy.

Goodwill

Even if a journalist is convinced that the other party is purposefully being misleading and providing misleading evidence, do not rush to an accusation of lying. Try to understand their position in the legal process, imagine their emotional position and report their words as accurately as possible. Your personal arguments and conclusions can be saved for the concluding material.

For the author of the article, therefore, it will be difficult to make any claims - legal, moral and ethical. Thus, if a defendant in a criminal case, for example, does not confess to the crime he is charged with, and the lawyer defending him fully shares his client’s position, there is no need to expose them in the course of discussion. Even if the prosecution believes that the defendant has been completely proven guilty, and even if public opinion has already labelled him a villain, do not jump to conclusions. Let the court present its sentence, and until then, the press must not forget about the presumption of innocence. The Guild of Judicial Reporters’ Declaration specifically stipulates that pressure on the court or on the investigating bodies is considered as such when there is: “commentary on the progress of the investigation and the court, conducted inexpertly, without weighty arguments and without giving the floor over to the prosecution or defence to state the parties’ positions. It is inadmissible to distribute discrediting information about judges and persons leading the investigation or participating in the case

if they are not related to the subject of publication.”

Reasonable Criticism

If a journalist dislikes a court decision, then the journalist has the right to criticise it. However, the criticism should be based on reason, without emotional replicas of the type “and so it is clear to everyone”, “and without a trial, it was clear.” In the court decision, you can find errors in logic, to which you should pay attention, but it is not necessary, by listing clerical errors or grammatical errors, to conclude that the court is incompetent.

Journalists cannot tolerate it when they are denied information, which has already been disclosed, say, by one side in a case. At least some part of the facts and documents usually surface during the course of their public pronouncement. Lawyers can, and love to, speak not only in court but to the press as well. In doing so, they are bound by both legal and professional privilege and the requirement to not cause harm to their defendant. Therefore, if lawyers do not want to respond to certain questions, or deny a request for commentary on something that has already become publically accessible information, you do not need to suspect them of some breach of ethics. On the contrary, it is these very ethical considerations that can prevent a lawyer from divulging information that they received from their clients.

Confidence in Information

Confidence is an established sociological term for the determination of the qualitative parameters of a studied object. Trust in the very content of information comes from trust in the source thereof (in the one who communicates it). Confidence is a positive attitude towards another entity and is associated with the possibility of a set of expectations, when these expectations are met, this attitude is reinforced. A journalist is not obliged to trust any source of information; they are entitled to, and even obliged to check every piece of information they receive, but do not always have the opportunity to do so. In the course of the trial process, a journalist receives both official information (the court’s press releases, decisions, and determinations; other documents) and subjective data, supplied by the different sides. Occasionally, investigative bodies, which have a stake in the ongoing process, try to present their materials as the unequivocal truth. However, any conclusion of guilt can only be an assumption, which will subsequently be refuted.

Official information, in general, is credible. However, even in the Supreme Court of the Russian federation it is acknowledged that there are still “delays in judicial proceedings, unfair, unjust and unlawful judicial decisions, substandard service to citizens by offices and secretaries, disorder in courthouses, a low level of information transparency on the individual levels of the justice system, groundless denials of the presence of media representatives in public hearings”.

All of this does not contribute to increased confidence towards domestic courts. Nevertheless, accepting any information is characterized by reinterpretation through the lens of their own beliefs and expectations. Information becomes ‘theirs’, if the journalist subsequently presents it as their own opinion, which prompts its

further distribution. If the statement is not accepted at this point, it can either be fully rejected, or will be presented with commentary, for example, “such an opinion exists, but I don’t trust it” or “the source states that..., but I think it is wrong”. Thus the journalist shrugs off the responsibility for the veracity of the reported information, but nonetheless leaves the option to accept it in the case of new evidence.

Respect for the confidentiality of private information

Even if a lawyer communicates something to a journalist, he can ask that that or other information is treated confidentially. It is not necessary to believe that he does so out of a desire to hide certain facts from the public. On the contrary, this act can be regarded as willingness to cooperate and a manifestation of trust toward the court reporter, who may analyse the acquired information but commits to keeping said information confidential until the moment that it will be announced during open court proceedings. Furthermore, it is undesirable to comment on the testimony of witnesses, especially if they contradict each other. Human memory is selective; everyone remembers things differently. If it is not proven that the witness was interested in the outcome of the case, then he/she should be considered impartial and as only stating what he/she saw or heard him/herself. Another matter is experts and third parties. Their findings can be professionally justified and quite contentious. Doubts of a person’s competence can be exposed in the presence of and compiled by a journalist or a representative of the court. A notary may be invited to court in the capacity of a third party. If he is ready to chat with journalists on the sidelines of the court, it is necessary to keep in mind that he may only communicate information that is not forbidden by law.

However, if a notary at every opportunity refers to notarial secrecy, journalists will suspect him of trying to hide something indecent or even illegal. For example, there is nothing private about the fact that some legal entity prepared its charter and certified a copy of it at the notary’s office. Nor is the deal, which everyone is aware of thanks to the mass media, a secret. But a will is private. However, some consider that only the content of the will is not subject to disclosure, while others do not even want to enter information into the electronic register about those who left their wills with the notary. Even the heirs are sometimes unable to find out whether their dead relative left a will. What can we say about people who are not entirely sure that they are mentioned in the will? If the notary thinks that he does not have the right to divulge information about the person who, say, decided to purchase a yacht for a million dollars, then he cannot say anything to the press, even though nothing is preventing him from giving out a few interesting details about this transaction, without naming either the seller or the buyer. On the contrary, ideally the notary should be obligated to address the press himself if something that is obviously against the law is requested of him. But this obligation is not set in writing anywhere. Public morals presume such behaviour, but professional ethics prohibit the disclosure of a crime. And as long as the notarial community conceals information important to the public, it will be under suspicion. The notary will be appreciated and sought after by society only when the media begins to treat the actions of the majority of notaries in a favourable light.

Cooperation with litigants

Unlike their courtroom adversaries, attorneys are generally positively portrayed in the media. However, the present favourability rating of judges is low. But favourability of the judges depends primarily on the judicial decisions themselves, rather than their presentation by the media. However, the press, of course, also contributes to the formation of a positive or negative image - both of individual judges and the entire judiciary. And there are

instances when journalists react with hostility to a correct court decision not because it is wrong, but only because the judges refused to provide comment with an explanation of their findings and conclusions. And even if, as we have already noted, journalists and judges face different challenges, some of them can still be solved together. A journalist will inform the public about the work of a court and promote the importance and utility of a trial provided he believes the judges are working honestly and for the benefit of society. And a judge should help a journalist by elucidating the provisions of the current legislation applicable to the case in question and explaining how to act in myriad situations. And, of course, a judge should explain reasoning behind a decision. The press is ready to help the courts assume a prominent position in the modern legal system, but for this the court must meet the press halfway, as the press needs both interesting facts and informed commentary. In drawing attention to the problems of the judiciary the press does not intend to denigrate this branch of government. It is only interested in ensuring that the judicial system works properly, fulfills the state functions assigned to it, and does not become an expensive and inaccessible tool for the protection of rights and legitimate interests.

Final recommendations for journalists

Journalists are obliged to make visible all that is hidden, if a disclosure of information that a particular individual wishes to keep hidden is in the public's interest. Journalists may sometimes violate a number of ethical standards in order to carry out their work. No one will condemn this, given that the main ethical principle of any journalist is to uphold the readers' (listeners', viewers') right to objective information. Nonetheless, all journalists should consider the following recommendations:

1. A journalist should hold a presumption of integrity toward all individuals whose names and actions may become public knowledge, and must bear in mind that any accusations made against them or against any individual or group demands a solid and well-reasoned rationale.

2. Any information obtained in court should be considered credible just in the sense that it can not always be proven. Any doubts of its veracity may be expressed in a reasonable form that does not harm the honour and dignity of the source of this information.

3. Presumptions of innocence in the legal sense of the word do not forbid journalists from carrying out their own investigations or providing information, including evidence of the guilt of any individuals. However, direct, unsubstantiated accusations should be avoided.

4. The arguments of each party and the judgment of the court should be presented in a precise and balanced manner, in order for readers to independently assess the positions adopted by each party. This does not mean that all the arguments set out in the statement of claim, judgment, appeal, etc. need be fully reflected in your material.

5. It is not permissible to choose a theme and publish material with the exclusive aim of causing damage to one of the participants in the events concerned.

6. The decision of the court must be respected: it is legal and objective until the reverse is established or proven. The objections made by interested parties are not in themselves proof of judicial error. At the same time, journalists are not forbidden to produce well-founded discussions or criticisms of judicial decisions, including

decisions which have entered into legal force; neither are they forbidden to offer this opportunity to the parties involved.

7. Discrimination against citizens on the basis of their gender, race, language, religion, social background or nationality is not permitted. Moreover, mention of the nationality, religion or other personal details of a participant in events should only be made if this is of real importance for objective coverage of the situation.

8. Great care should be taken when publicising information about minors. We also recommend that people who have found themselves in the position of the substantially weaker party be treated with respect. Journalists are, after all, bound by certain minimal ethical restrictions in their dealings with public figures: the more elevated the official position or financial status of the person in question, the more critically his or her actions can be assessed.



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