



COURT WATCH REPORT

**21st Circuit St. Louis County, Division 64
January 1 - June 30th, 2017**

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Introduction

For over 20 years, the Court Watch Project has been sending trained volunteers into the St. Louis Circuit Courts to observe and collect data when there has been an identified need for change. Over the past decade, it has been an effective way to make small collaborative changes. Stakeholders within the court and community are continuing to sit at the table as they have for years and discuss ways to improve the Adult Abuse Court.

Court Watch uses a transparent process when monitoring the order of protection proceedings. The project shares all monitoring practices and areas of focus with judges and court administrators in advance. This provides all stakeholders with a clear understanding of the monitoring process. The forms have also been recently revised to include more key elements of procedural justice: voice, respect, neutrality, understanding and helpfulness.

There were some clear findings initially when the project began years ago regarding safety and security issues within the courts. Numerous changes have occurred since then including: adding bailiffs to monitor hallway outside of the courtroom, separating litigants in the courtroom while they are waiting for their cases to be called and while in front of the judge, and holding the Respondent in the courtroom allowing the Petitioner time to exit the courthouse safely. Best practices are designed to create safeguards for victims of domestic violence during elevated risk, such as the order of protection process.

On a broader scope, while great strides have been made in the strengthening of the current laws, there still needs to be a continued focus on additional legislation to further protect victims.

The Court Watch monitors were asked to share thoughts and experiences of observing their community courts. Those thoughts are noted in boxed texts throughout this report and speak to the impact of community engagement. This project is sustained solely by dedicated volunteers who choose to devote their time and energy to the Court Watch Project to improve how our justice system responds to those harmed by domestic violence. Without their steadfast commitment, this project would not be possible.

The Leadership team is comprised of advocates from the domestic violence community: Christina Holmes, ACCESS of MERS Goodwill, Susan Kidder, Safe Connections, Michelle Schiller-Baker, St. Martha's Hall, Jessica Woolbright, St. Martha's Hall, and Carla Maley, Court Watch Project Coordinator.

COURT WATCH PROJECT

MISSION STATEMENT

The mission of the Court Watch Project is to make the justice system more effective and responsive in handling cases of domestic violence perpetrated against women and children and to create a more informed and involved public.

The Court Watch Project is a volunteer staffed project under the auspices of the St. Louis Ending Violence Against Women Network (SLEVAWN), in which court proceedings in the St. Louis Circuit Courts are monitored. That information is made available to the court, the Bar and the public to ensure transparency and to give victims a greater voice in how the court processes domestic violence cases. Volunteers attend court on specific days to observe Civil Protection Order cases and record case outcomes on a form.

HISTORY OF COURT WATCH

In January of 1997, concerns were raised at a Missouri Coalition Against Domestic Violence, now known as Missouri Coalition Against Domestic and Sexual Violence (MCADSV), St. Louis Metropolitan Region meeting about whether victims of domestic violence were getting the Orders of Protection that they needed and whether these victims were being treated fairly by the Judges and court personnel. A suggestion was made to start a court watch program to address these concerns. A committee was formed to develop a court watch project.

In April of 1997, with a limited number of volunteers, the St. Louis Metropolitan Region of MCADSV began monitoring three (3) of the nine (9) courtrooms which hear Order of Protection cases in the Circuit Court of the State Missouri, Twenty-First Judicial Circuit in St. Louis County. An increase in volunteers allowed the program to expand to all nine (9) courtrooms in March of 1998. Plans began to be made to expand the Court Watch Project to the Twenty-Second Judicial Circuit Court of the State of Missouri in St. Louis City in both the civil divisions which hear Order of Protections cases, as well as the two criminal divisions, which hear misdemeanor and felony domestic violence cases.

There was then a change in staff at the lead agency for the Court Watch Project (St. Martha's Hall), and it slowly decreased in participation, and then ceased operations.

In 2006 the Court Watch Project became a permanent program under MCADSV St. Louis Metropolitan Region and the Family Violence Council of St. Louis City as the two organizations joined efforts to expand this project. The Program remained active until 2008.

Recognizing again that victims of domestic violence were still experiencing problems in the courtroom in 2013, SLEVAWN reignited the Project. In 2014 The Advocacy and Action Committee of SLEVAWN sought and received funding for the Court Watch Project from SLEVAWN to buy supplies.

In September 2015 St. Martha's Hall, acting on behalf of the Court Watch Project received a three-year grant, *Support of Families in the Justice System*, from the Department of Justice, Office on Violence Against Women. The Project now has a paid coordinator, an independent contractor.

NECESSITY OF A COURT WATCH PROJECT

Victims of domestic violence enter courtrooms in St. Louis County and City everyday seeking help to escape the violence in their lives. Many victims experience frustrations with the process, which leads to a lack of trust in the judicial system when seeking Orders of Protection and/or testifying against their abusers in criminal domestic violence cases. Unlike someone being prosecuted for a crime, victims of domestic violence have very few rights.

To help support victims on a systemic level, volunteers are needed to monitor the courtrooms that hear the Adult Abuse Order of Protection Dockets, to work toward improved outcomes for victims. The feedback received through a court watch project can be used to change the policy and procedure in several ways. The results can be shared with the Presiding Judge with a request for changes. The results can be published to encourage change.

“Ensuring Justice for Victims of Domestic Violence”

JANUARY 1ST – JUNE 30TH, 2017

21st Circuit St. Louis County, Division 64
The Honorable Victoria Mullen McKee, presiding

OBJECTIVES AND DEVELOPMENT OF COURT WATCH PROJECT

- Send trained volunteers into the courtroom to evaluate whether victims of domestic violence are being treated fairly by the judicial system.

During this 6-month period, 22 dockets were observed by 19 individual monitors. With two exceptions, each docket had two monitors collecting and reporting observations. The Court Watch Project Coordinator was present for assistance only and did not collect data. Several monitors attended on multiple dates providing a combination of experienced monitors as well as new monitors with new perspectives of their observations. Volunteers attend court dockets on specific days to observe Civil Protection Order cases and record case outcomes and evaluations on a standardized form. That information is made available to the court, the Bar and the public to ensure transparency and to give victims a greater voice in the court process.

- Conduct research to identify the problem patterns and issues within the court system.

Beginning in 2017, the formal Court Watch Project reports are compiled and recommendations are developed internally not through a third-party. The compiled data, narrative comments and Court Watch Project Coordinator observations are the framework for the recommendations, as well as new research and newly identified best practices currently in place around the country.

- Promote victim safety and offender accountability.

Safety recommendations noted in the last report were provided to the St. Louis County Elected Sheriff Jim Buckles and Commissioner Victoria Mullen McKee. Notable changes have occurred with the shift in personnel and the new bailiff implementing a few recommended best practice procedures to increase safety within the courtroom. Respondents were routinely held in the court room after the Petitioner left to avoid potential dangers, and there appeared to be a focus on separating the parties as they entered the court room to avoid harassment intimidation and danger. The importance of the safety and well-being of litigants promotes a space for victims to feel less intimidated and confused about seeking assistance from the courts.

- Improve the administration of justice.

Commissioner McKee met with the Court Watch Project Coordinator and a member of Leadership Team to discuss the Fall 2016 report. The conversation was positive and feedback was provided bilaterally in a constructive manner. Recommendations from the last report included an increase in courtroom and hallway safety and security, transparency of the court process to litigants, and increased questioning regarding firearms. The issue of firearm surrender has been a concern for the Court and implementation procedures are currently being discussed. No clear guideline is in place at this time.

- Increase public awareness and public trust in the justice system.

From January through June of 2017, an additional 18 volunteer courtroom monitors were trained for Court Watch. As are our current monitors, these individuals are prospective jurors and voters in our community who now possess an increased awareness and understanding of the justice system and domestic violence. These volunteers influence judicial retention and the community's response to domestic violence. The reports will now be available to the public online via the SLEVAWN website, <https://slevawn.org> to educate other citizens and further informed civil engagement in the St. Louis Community.

"I have been revitalized to pay much closer attention to the election and reelection of judges, and to the bills, propositions and codes up for a vote at the ward, municipality and city level that can affect domestic violence laws, gun laws, violent crime charges, domestic disturbance laws, landlord/tenant laws, etc. I have learned that the biggest effect on the outcomes and experiences of the petitioners lies in the hands of the people working at the courts....The power really rests in the hands of community members outside of the courtroom to fully shape and improve the experiences for petitioners inside the courtroom."

METHODOLOGY OF THE COURT WATCH PROJECT REPORT

There are two Court Watch Project monitoring forms are broken into two sections: 1. Courtroom Protocol and 2. Case Observation. Each monitor completes one Courtroom Protocol form for the entire docket. The Case Observation form is used for each individual “default” or “full hearing” case only. Information regarding “consents”, “continuances” and “child orders” are not collected. However, all narrative observations are collected for the entirety of the docket even if the case ended in one of the types of hearing not formally being collected. The purpose of the narrative observations is to provide a more comprehensive perspective that perhaps the standardized questions cannot capture.

The data are broken out into “default” cases and “full hearing” cases, notated below as needed. Narrative comments from monitors are noted in italic purple below. The Court Watch Project Coordinator did review form as it was turned in to ensure consistency between the monitors. The complete list of data outcomes is posted on the SLEVAWN.org website along with these completed reports. The questions below are the direct questions completed on the forms. Some questions are not used for external analytical reporting but are collected for internal record keeping.

The Leadership Team of the Court Watch Project meets annually to review forms and questions to ensure relevance and validity of the data being collected. There have been some questions identified in this 6-month cycle that will be revised to ensure the information collected is not too subjective that would produce inconsistent or inaccurate results.

“This experience reinforces for me that you just never know what someone is going through and should not ever judge people. My next-door neighbor or someone at work could have just as easily been in court last week seeking protection. My eyes have been opened to situations I would not have thought of.”

Courtroom Protocol –

Sample size – 37 Forms collected from 19 monitors attending 22 separate dockets

*denotes monitors' comments

Timeliness of the Docket

Question 1-2: What time was the docket called?

Finding: The Commissioner consistently called the docket within an average of 5 minutes of the scheduled docket time.

Efficiency of the Docket

Question 3: Was the whole docket called to see who was present?

Finding: In 95% of the dockets observed, the whole docket was called before proceeding to hear individual cases. On a few occasions, the Commissioner addressed specific cases before completing the rest of docket call, however this was a rarity.

Commissioner waited till 2pm to dismiss any cases. Called docket multiple times.

Question 5: Did it appear that cases with one party were called up to the bench before cases with two parties?

Finding: In 84% of the dockets, cases where there was no service to the Respondent or defaults were handled first. To be respectful of the time and cost of paid attorneys, the Commissioner did address cases where attorneys were involved, which would account for this not being at 100%. While it is best practice to clear cases with one party first, the amount of time consumed by the court for the Commissioner to personally handle no services cases were quite lengthy making the docket seem in-efficient and unproductive.

Very slow running of the courtroom.

Commissioner McKee was amenable to waiting for those who were meeting with lawyers or advocates.

Transparency of the Process

Question 4: Did the Commissioner explain the court process to the parties, either verbally or through a handout, before the hearing?

Finding: Approximately 42% of the responses noted that the Commissioner explained the process prior to the start of hearings. 8% were unable to determine if there was a clear explanation. The Commissioner does announce

the way cases will be called to the open court and waits till the individual parties are at the bench before giving a bit longer of an explanation with options available to them. It should be noted that each Judge in the Domestic Violence Court addresses this process differently. A more standardized explanation with details of the process has been recommended in past reports.

Commissioner explained options verbally to parties at the bench.

Seemed louder and clearer than previously observed.

Before the default hearing the Commissioner did not explain the process.

Commissioner asked an advocate or attorney to explain process to some of the parties.

Brief explanation right before court started, wish she would explain more.

The Commissioner gave the option of a consent order.

Safety and Security

Question 7: Was there a Bailiff in the courtroom at all times?

Finding: In 73% of the dockets monitored, the response was yes. 27% of the responses were no. The majority of monitors noted the Bailiff often seemed alert but needed to step out to take care of business happening outside the courtroom or speak to the other Bailiff.

Bailiff was very attentive.

Was right outside the door at times but was in the room most of the docket.

When both parties were at the bench, he was talking to another Petitioner of another case.

Bailiff left courtroom to get a Petitioner and a Respondent moved to Petitioner side of courtroom.

Didn't always appear to be paying attention, often reading the docket sheet.

There were observations of time that no Bailiff was in the court room. It should be noted that after 4:30pm the clerk that runs the Commissioner's orders to the duty Judge leaves for the day and the Bailiff assumes that responsibility. This

leaves times where no Bailiff is present. Often this is when only the parties awaiting full hearings are in the court room and the environment is more vulnerable to a disruptive or dangerous situation.

When the court location changed the Bailiff was missing for 10-15 minutes before the hearings began Bailiff left courtroom with no replacement for about 10 minutes. This was in between hearings.

Left briefly between cases during a default while parties of an earlier case were both still in courtroom.

The clerk that runs the documents to the duty Commissioner left right at 4:30. Bailiff had to then run the orders to another Commissioner to be signed, leaving no Bailiff in courtroom.

Question 8: Was the Bailiff watching the court proceedings or monitoring the courtroom?

Finding: In 76% of the dockets monitored, the responses was yes. 22% of the responses were no, while two responses were not answered and unknown by the monitor. With only one Bailiff in the court room during proceedings, it is difficult during times that they may not be as alert or assisting with someone. Advocates have stepped in on occasion to alert the Bailiff and the response has been quick. The continued need for the Bailiff in the hallway is evident as well as additional assistance when the clerk leaves at 4:30pm.

New Bailiff kept on top of Respondent who attempted to leave the courtroom and follow Petitioner out.

A Bailiff stood to separate parties while second Bailiff watched the rest of the courtroom. This did not happen the entire time.

Bailiff told Respondent to leave Petitioner alone while sitting in pews. Then he sat nearby to make sure Respondent left Petitioner alone.

Advocate notified Bailiff Petitioner and Respondent sitting next to each other.

Yes, he was very good at walking down the aisle and making sure there was someone between the Petitioner and Respondent. One case where he was outside the room

when they approached w/o the Bailiff and he came in about 2-3 minutes later and stood between them.

Bailiff requested someone to put phone away.

Individual sitting with Petitioner tried to take a picture of the Respondent, Bailiff took her outside and made her delete photo. Commissioner made her delete.

Compared to the seriousness of court business, there is little structure and direction given to people coming to the court. Maybe I am just naive in thinking that people should be given some direction before court begins, such as where to sit, who not to talk to, what the process will be. It seems to me that the work the Commissioner is doing is administrative work that someone else could be doing.

Case Observation –

Sample Size – 59 default observations and 47 full hearing observations (individual cases) collected from monitors attending 22 separate dockets.

Litigant Support

Question 1-2: Was the Petitioner or Respondent represented by an attorney?

Finding: 86% of observed default cases, Petitioner was not represented by an attorney. In 63% of full hearing cases where one party was represented by an attorney, the other party was not represented.

Question 3: Did an advocate approach the Petitioner or did you see an advocate with the Petitioner?

Finding: For default cases, in 47% of the cases Petitioners were observed meeting with advocates. For full hearing cases, 57% of the cases Petitioners met with an advocate. In conversations with the Domestic Violence Coordinator, some Petitioners are not approached due to prior dealings with that individual or if they are a Respondent on a cross-filing which would account for a portion of the lower percentage. Oftentimes, advocates meet with Petitioners after the hearings and in the hallway, making it difficult for monitors to identify if an advocate has met with them. There were several responses that were unknown or not answered because of this.

Commissioner asked advocate to meet with someone who wanted to dismiss.

An advocate approached Petitioner and had a brief conversation with her.

Advocate approached after hearing; Petitioner spoke to mediator first.

Advocate approached after the hearing.

Advocate approached about 10 minutes after the hearing. Prior to that Petitioner was not approached or spoken to by a victim advocate but she may have already met with one prior to today.

Petitioner met with advocates both before and after hearing.

There were many busy advocates but I do not recall seeing one with the Petitioner.

There were some narrative observations from the monitors regarding the conduct and professionalism of the volunteer advocates and others in the court room.

Advocates in Jury box were on their phones and inattentive during the proceedings.

Advocates talked to each other often instead of listening to proceedings. Advocates on phones during hearings, not trying to hide them but Bailiff told every to put their phones away. Often on social media.

Question 4-5: Did the Petitioner or Respondent need a language interpreter?

Finding: There were no documented situations that required an interpreter.

Judicial Manner

Question 6-7: Did the Commissioner treat the Petitioner and Respondent with respect?

Finding: The monitors noted in 96% of the observed cases that the Commissioner did treat the Petitioner and Respondent with respect. In 95% of default cases the Commissioner did treat the Petitioner with respect.

When asked why Respondent was in jail, the Petitioner started to cry. The commissioner stated, "I'm sorry I have to ask these." - seemed positive.

Patient with Petitioner, explained cross questioning.

Commissioner asked clarifying questions about children in common, employment. Very patient with Petitioner.

Commissioner always replied calmly, clearly, and courteously even when Petitioner asked Commissioner to repeat what she had said.

Was kind, patient and asked good follow up questions. Commissioner brought up BIP program.

The monitors did note several inconsistencies around this issue, often from week to week. There is an uncomfortable range of narrative comments as outlined below. This demonstrates a need for more consistency and continued monitoring.

While testifying, Commissioner shuffled through files and other paperwork but appeared to be attentive by asking questions. Commissioner appeared to smirk a few times.

Commissioner never looked at Petitioner or Respondent while they were testifying. Not engaged at all.

No eye contact, always looking at computer.

Commissioner also said she didn't want to see the Petitioner or the Respondent come back.

Question 9: Was a full order of protection granted?

Finding: In 97% of the observed default cases, the full order was granted. When there was a full hearing, only 49% of the requested orders were granted. Denials may be based on factors outside of the control of the judge, including not meeting the requirements of the statute as defined by the Missouri Adult Abuse Act in Chapter RSMo 455 or the Petitioner not meeting the burden of proof.¹

¹ Chapter RSMo 455 Pursuant to the Missouri Domestic Violence Act, a person may seek an order of protection from acts, attempts or threats to him or her from a family or household member or intimate partner; or from acts of stalking or sexual assault. "Stalking" is when any person purposely engages in an unwanted course of conduct that causes alarm to another person, or a person who resides together in the same household with the person seeking the order of protection when it is reasonable in that person's situation to have been alarmed by the conduct.

Question 10: Did the Commissioner explain the ruling in plain language?

Finding: In 71% of default cases, the Commissioner explained the order to the Petitioner. In 51% of full hearings, it was noted that the Commissioner explained the ruling in a language that seemed clear and in recognizable legal terms. However, narrative observations indicate that there is opportunity for more clarity.

Commissioner asked if she would like the order for two years but did not elaborate on what it does.

Read off instructions but just from the document, not in plain language.

She reads what the OOP does but does not explain, not sure the Petitioner understand.

Explained why she made certain decisions regarding custody (so that kids could go to same school) Petitioner looked confused.

No, I was not even sure she granted it.

Commissioner said advocate will be able to answer any questions.

iii. Courtroom Safety

(The following questions are specific only to full-hearing cases observed)

Question 12: Did the Bailiff stand between the parties while they were giving testimony?

Finding: In 60% of the cases observed, the Bailiff was observed standing between the parties. For most of the observed cases, the Bailiff was observed standing behind the parties. However, the parties are still only inches from each other. If the testimony ran long, the Bailiff often did proceed to take a seat at his desk or in the chairs closest to the parties.

Respondent stood directly in front of Petitioner at times, in between Commissioner and Petitioner.

Sat at his desk and appeared to be falling asleep.

Petitioner couldn't find the specific texts on her phone so she read the texts off the Respondents phone.

Petitioner and Respondent were given a long time to find texts on their phones. Verbal exchanges between parties were going on and Commissioner did not stop it.

Question 13: Was the Respondent held in the courtroom to allow the Petitioner time to safely leave the courtroom and courthouse?

Finding: In 49% of the observed cases, monitors noted that the Petitioner was given time to leave the courtroom. The feedback from monitors stated this was a hard question to fully observe because Petitioners could leave with an advocate or an attorney to a private room, and so it is unknown whether they left before or after the Bailiff released the Respondent. Overall, this is a safety precautionary procedure that has notably increased with the new Bailiff's conscientiousness. This question will be reviewed by the Leadership Team to ensure this is question is not too subjective for monitors to capture.

Commissioner asked Bailiff to escort Respondent and the people with him out after proceedings.

Both parties stayed in the courtroom for a while. The Petitioner left on her own, and the Respondent left several minutes later.

Question 14: Was precaution taken to ensure the separation of Petitioner and Respondent *before* the proceedings?

Finding: In 89% of the cases observed, precaution was taken to ensure separation. As stated before, the separation of the parties is noticeable as one enters the court room. There have been occasions where someone slips through while the Bailiff is addressing someone else. When the docket is called and it has been identified by either the Bailiff or an advocate that the parties are not on separate sides of the courtroom, it is addressed.

Bailiff asked for "victims and Respondents" to sit on opposite sides.

Bailiff was very forceful on this point.

When someone arrived late, Bailiff made sure they were not on same side of the other party.

Bailiff Checked everyone in at the door.

Some monitor narratives did show inconsistencies at times from docket to docket as noted in the observation below.

Once the docket was called, late arrivals were not asked if they were Petitioner or Respondent which caused some parties to be placed on the same side. Sometimes this was self-policed.

Question 15: Was precaution taken to ensure the separation of the Petitioner and Respondent *during* the proceedings?

Finding: In 87% of the cases, precaution was taken to ensure separation during the proceedings. To provide some privacy to the parties, the Commissioner does bring them both to the bench, however this leaves them only inches from each other. The Bailiff is typically 6-10 feet behind them.

Stood side by side when sworn in.

Question 16: Was precaution taken to ensure the separation of Petitioner and Respondent *after* the proceedings?

Finding: In 67% of the cases, precaution was taken to ensure separation after the proceedings.

Commissioner spoke to Bailiff to request the Petitioner and Respondent be walked out and kept separated.

Witnessed the Bailiff casually chatting with the Respondent. Once the Respondent told their side of why they were served, the Bailiff responded with "well, you gotta do what you gotta do"

COMMENDATIONS

Increase in safety and security best practices

As previously mentioned, the change in Bailiff in this assigned courtroom has shown an increase in safety practices consistently put in place. Parties are more regularly separated at the time of entering the courtroom, and monitors have observed that Respondents are more routinely held from leaving until the Petitioner has safely left the courtroom. While there is still room for improvement in areas of separating parties during all parts of the proceedings and coverage of the court room always, there has been an increase in the use of best practices. Inconsistencies in practice during some dockets validate the need for more focus on this area and continued monitoring.

Legal assistance program available to Petitioners within the courthouse

The St. Louis County Domestic Violence Court currently has a unique collaboration with Legal Services of Eastern Missouri (LSEM) Lasting Solutions program. This project has a designated social worker available for intakes outside the Adult Abuse Filing Office two days per week. Petitioners can apply for legal assistance at the time of filing and it provides increased accessibility to another community service. The LSEM program is vital to victims in ensuring their rights are protected. Collaborations like this one provide accessibility of services to victims and should be supported.

Other collaborations with organizations such as Father's Support Center or Batterer Intervention Programs should also be explored.

The key components of procedural justice often exhibited by Commissioner McKee to litigants

Commissioner McKee was often observed providing both litigants ample opportunity to be heard and often provided Respondents information on resources such as Father's Support Center. This assisted in providing a perception of fairness and neutrality in the court for all litigants. She maintained a respectful demeanor consistently to litigants and court personnel. A recent study found that perceptions related to respect exerted the greatest influence on litigants' overall satisfaction with how their court case was handled.² The Commissioner also referred Petitioners regularly to the advocates to assist with other community resources.

Increased use of new court room technology and space

The St. Louis County Domestic Violence and Family Court recently underwent a building improvement and a new main courtroom for Adult Abuse cases and the Filing Office was built. The new courtroom offers an advancement in technology and space for dockets of this nature. Over the last 6-month cycle, the Commissioner and clerks often struggled with the IT and audio issues including the computers and microphones, often relocating full hearings to the Commissioner's courtroom on the 2nd floor. Towards the end of the 2nd quarter of the year, full hearings were being held consistently in the new courtroom and the microphone issues were resolved, assisting the Commissioner and Bailiff in ensuring the separation of parties and efficient use of space during full hearings.

Use of Batterers Intervention Programs, substance abuse treatment and parenting plan options.

² Farley, E.J., Jensen, E., and Rempel, M. (2013). Improving Courtroom Communication: A Field Test in Milwaukee. New York, NY: Center for Court Innovation.

The Court currently has a Compliance advocate on staff that reviews cases with the Judge periodically. In May of 2017, members of the Court Watch Leadership Team attended an Open House at the Winnebago County Domestic Violence Coordinated Court in Rockford, Illinois. This court holds a compliance docket twice per month to monitor Respondents who have been ordered to batterers intervention or substance abuse treatment and offer a separate show cause docket to Petitioners to file a motion for contempt of an order, ensuring an extra layer of accountability. While batterer intervention programs are often used as a sanction or diversion in criminal courts, they are often used as an accountability factor in civil orders of protection cases. However, research has shown that judicial monitoring is only effective when sanctions for non-compliance are utilized.³

The Commissioner also reviewed parenting plan arrangements that may need to be discussed prior to an order if one is granted. She had parties meet with the volunteer lawyers on site and reviewed with litigants the purpose of their role.

“When I think back about my monitor experience, I was surprised that the first thing I thought of was how hard the Commissioner was working to find the right solutions for the parties. I did not always agree with her conclusions, and I think it would have been helpful if she had explained her reasoning in some of the situations that arose – but looking back, I was impressed by her careful considerations and her hard work.”

RECOMMENDATIONS

Recommendation 1: Utilize other court personnel for no service/no return cases and reduce of the number of no service cases.

On average, one hour per docket each week was spent in the beginning of the dockets on no service and no return cases. In 84% of the observed dockets no service and defaults were handled first, allowing cases where both parties are not present to leave the court room first. However, the time spent on no service and no return of service cases unnecessarily lengthened the proceedings. In the St. Louis Circuit Court Division 64 over the last 6 months, the number of no service/no return cases would reach 40% some weeks.

³ Labriola, M., Rempel, M., and Davis, R. (2005) Testing the Effectiveness of Batterer Programs and Judicial Monitoring. Research report submitted to the National Institute of Justice. (61-64)

The Commissioner typically called all the no service cases and no return cases to the bench individually to speak with them about new addresses, or asked advocates to assist with finding out about no return of service. This is a process that could be streamlined in several ways. First, no return of service cases could be researched and reviewed in advance by either the court clerks or advocates and those cases could be addressed to the side by the clerk once docket has been called. Second, no service cases can also be addressed by the clerks or advocates leaving the Commissioner to only be responsible for defaults and full hearings. In St. Louis City Circuit Court adult abuse dockets, the clerk handles all alias cases by talking with the Petitioners individually then having the Judge sign the needed papers for next court date. A similar procedure should be reviewed for implementation in the County adult abuse dockets to increase efficiency and reduce the time judges and commissioners are spending addressing administrative issues.

In Winnebago County, Illinois the Domestic Violence Court recognized an issue with the large number of no service cases that were continuously on their dockets each week, jamming up the overall time the dockets were taking and causing Petitioners to return to court multiple times. More importantly, for the Petitioners it created a perception of disregard to the seriousness the Courts and Sheriff's department were placing on serving the orders of protection. To resolve this issue, there was increase in communication and commitment from the Court and Sheriff's department to ensure priority to the service of orders. The advocates and the Domestic Violence Coordinator would weekly review the upcoming dockets to check on no service cases. When possible, Petitioners were contacted for alternate addresses. The clerks or advocates captured contact information at the time of service to reach Petitioners in cases of no service. The coordination between the clerks, advocates and Sheriff's Office reduced the number of overall no service cases at the time of the full hearing docket.

“The process is more informal and slower than I expected. Those on the docket can sit and wait a long time before being called to talk with the Commissioner. I wonder why those cases where Respondent has not yet been served must come to court at all; isn't there another method of communication to set the next date and save time for everyone with an actionable case who must sit and wait through all of the Respondent not served cases?”

Recommendation 2: Litigants need a transparent process, specifically around a more detailed explanation of the court process.

Much of what occurs in the courtroom may seem confusing and intimidating to someone not familiar with its process. Ensuring understanding is a key component of integrating procedural justice into domestic violence courts. As recommended in the Fall 2016 report, it would be beneficial to provide more detailed opening instruction either verbally or via the televisions within the courtroom regarding the court process, the meaning of commonly used legal terms involved during the dockets, as well as information about the safety of the Petitioners and general FAQs.

As stated previously, as high as 86% of litigants are self-represented and lack information about the court process, how to present their case, or what information is admissible. It is not uncommon for those without counsel to leave court without understanding how to access resources to ensure their safety — such as obtaining a protective order — or what is expected of them to ensure compliance with a court order. In addition, the court experience may be a safety concern to some Petitioners. For example, it would be useful for Petitioners to know that if they felt unsafe getting to their mode of transportation after a hearing, they can request a Bailiff to escort them.

In 42% of the observed dockets the Commissioner explained the process prior to the start of hearings. While the Commissioner does address some options with the parties as they approach the bench, there were often observations that this was also inconsistent. A more standardized explanation with details of the process has been recommended in past reports.

While no court personnel should assume that every party hears and understands every portion of the introduction, nothing can replace the Commissioner using the full authority of the court to personally warn Respondents about the consequences of violating an order. Reminding the Respondent of the consequences of violating an order of protection emphasizes the seriousness of Court's order as well the validation of the victim and the accountability of the Court. The Commissioner or advocates can also consistently discuss with Petitioner their available options if the order is violated, such as calling 911 or filing a contempt in the Court.

The Commissioner should consider more consistently reading the provisions of the order in plain language, and identifying consequences if violations occur. The Commissioner might consider also asking both parties if they fully understand what behavior is allowable and what behavior is a violation of their order and end by asking if they have any questions.

“The O.P process is designed so a person without a J.D or any court experience could apply and represent themselves, however, unless the Commissioner thoroughly explains the process and why they behave the way they do, it can feel intimidating and confusing for the parties involved. Ex: when the Commissioner asks, “why did you apply for the order of protection”, rarely do petitioners go straight to specific dates and evidence of actual or threatened physical harm, often the petitioner will give back stories, emotions, recounts of arguments, etc. which are normal for them but unnecessary for the Commissioner. “

Recommendation 3: Implement enhanced safety measures to ensure separation of parties and security of court room before, during, and after proceedings.

Minimizing contact with a victim’s attacker or abuser is critical. Half of domestic violence victims show one or more symptoms of Post-Traumatic Stress Disorder (PTSD).⁴ This increases the fear and trauma a victim experiences when there is interactions with the abuser. Victims will not continue through the courts if there is not a perception of safety and security. A Bailiff’s presence makes court a safer and more inviting place, assuring victims they will be protected from unwanted contact with their abuser or his family and friends. As noted in the findings, in only 67% of the cases, precaution was taken to ensure separation immediately after the proceedings. There were times the Bailiff was needed outside the court room, leaving no security inside. When dockets run past 4:30pm, it is recommended another clerk or runner be available to assist with securing signatures for the Commissioner and not utilizing the bailiff.

We recommend a continuous increase in the safety practices within the court, specifically during the time of testimony and staggered exits. During the first part of the 6-month cycle, the court personnel were struggling with IT issues and the Commissioner preferred to continue hearings in her courtroom on the 2nd floor. The Petitioner would then be in the witness stand during testimony providing space from the Respondent. The Commissioner continues this

⁴ Bureau of Justice Statistics Special Report: Violence Against Women: Estimates from the redesigned survey (NCJ-154348), August 1995, p. 4.

practice regularly in the street level courtroom now that there is no shuffle between the two rooms. However, we are still concerned with the practice of having the parties shoulder to shoulder for any prior conversations. We advise utilizing the courtroom space and front tables for all proceedings to provide more separation including the initial conversations with the Commissioner.

Only one microphone was available for both the Petitioner and the Respondent to use.

“It has given me an insight that while the courts are there so parties can work out their differences in a safe space, individuals without any experience end up feeling victimized, intimidated and confused and thus may not really understand what the OP is granting them.”

Recommendation 4: Review current procedures and roles of the domestic violence advocate program and policies regarding presence of children in proceedings.

The role of an advocate in domestic violence cases is vital. Advocates can reduce the trauma and intimidation factor the courtroom and hearing process to victims by providing clarity and understanding. St. Louis County is unique in that they have a staff dedicated to providing volunteer advocates during order of protection full hearings. However, the current practices and procedures should be reviewed to ensure they are congruent with the needs of the victims. For example, while advocates at times did meet with individuals prior to them meeting with the Commissioner, the majority of interactions with Petitioners do not occur until after the hearings are complete. This does not provide petitioners with needed information prior to the proceedings. Delaying interventions till after the hearings also interrupted staggered exits of the parties for security purposes. The Commissioner at times used the advocates to look up no return cases, assist with technical matters or other unrelated issues. This is not an effective use of the advocate staff and takes away from the priority of having them accessible to the Petitioners. In other courts such as Greene County, MO and Winnebago County, IL, advocates assist the bailiff with checking in Petitioners, providing Petitioners with a court resource prior to the proceedings and addressing any safety concerns or special needs the Petitioner may have. Promoting helpfulness and ensuring understanding of the process are key elements of procedural justice and advocates play a major role in providing this to victims.

Inevitably, some parties arrive with children for the proceedings. Children who grow up with violence in the home learn early and powerful lessons about the use of violence in interpersonal relationships to dominate others, and might even be encouraged to do so currently or later in life.⁵ During the dockets, testimony can often be graphic and re-traumatizing. During several dockets, the Commissioner showed no opinion about whether children were present during testimony. It is recommended that all children either be removed from the courtroom once identified, and the case be continued unless childcare is secured in the meantime. If other childcare options are not available, other courts have the parents wait outside with the child and a designated advocate will sit with the child while the parent is speaking to the Judge. It is recommended the court develops a consistent policy and procedure regarding children in the courtroom or developing a partnership with a local YMCA for childcare assistance and referral.

Young child was left in the courtroom, hearing started before child left. Discussion of verbal threats, past physical violence before child left room. Advocate finally asked Commissioner if she can take child into hallway. Commissioner indicated she thought the child was asleep. Did not seem to care if the child stayed or left.

Recommendation 5: Stricter adherence to professional standards by court staff including proper attire, restricted cell phone use and reduction in side conversations must be prioritized to validate the seriousness of the proceedings.

A common thread during the last 6-month cycle reported through narrative observations was the lack of formality or professionalism during the docket, not by the Commissioner but by attorneys and advocates. As noted in the narrative observation, both were observed using cell phones or having personal side conversations while parties are meeting with the Commissioner. Advocates and attorneys were observed reviewing social media and participating in non-court related activities, often distracting the actual proceedings despite the Bailiff's reminders to parties to stay off phones and refrain from talking. This seems to be a disparity in the eyes of the parties participating and counterproductive to emphasizing the seriousness of the order of protection process. Research on the importance of procedural justice has shown that the court experience is more influential than the outcome itself. All court staff play a role in the perception of fairness and the seriousness of the proceedings and outcomes.

⁵ Baldry, A.C. (2003). Bullying in Schools and Exposure to DV. Child Abuse and Neglect. vol. 27, no. 7. pp. 713-732.

It should be noted that the Court Watch Coordinator did meet with the Domestic Violence Coordinator and Volunteer Coordinator regarding observations in April of this year. Concerns regarding the advocates lack of professionalism, inattentiveness during proceedings, and cell phone use were discussed.

We recommend a set of clear rules for all litigants, court personnel and parties to follow, including refraining from personal cell phone use and other court matters not pertaining to the docket at hand, and appropriate professional attire and behavior in the courtroom. Attention to the Commissioner's activities and testimony must be prioritized to validate the seriousness of the proceedings. This is also vital so that safety concerns related to individual situations can be intervened upon as quickly and effectively as possible.

For litigants and other parties entering the courtroom, it is recommended that clear signage be posted outside the courtroom with simple, easy to read set of rules. Signage should include pictures when possible.

Other Resources

1. INTEGRATING PROCEDURAL JUSTICE IN DOMESTIC VIOLENCE CASES: A PRACTICAL GUIDE.

RESOURCE AVAILABLE AT

<http://www.courtinnovation.org/sites/default/files/documents/Practice-Guide-PJinDV.pdf>.

2. ADAPTING DETERRENCE STRATEGIES FOR DOMESTIC VIOLENCE OFFENDERS. RESOURCE AVAILABLE AT

http://www.courtinnovation.org/sites/default/files/documents/FactSheet_December2016_Deterrence_DV.pdf.

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