

PS COMMITTEE #4
March 6, 2014

MEMORANDUM

March 5, 2014

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst *SJF*

SUBJECT: **Update – Court Watch Montgomery**

Today, the Public Safety (PS) Committee will receive an update from the Executive Director of Court Watch Montgomery, Laurie Duker. Court Watch Montgomery is a non-profit organization, staffed by all volunteers, that works to provide better domestic violence victim safety by focusing on obstacles to effective protective orders.

Background:

Court Watch Montgomery was founded in September 2010 to provide a public eye on domestic violence in Montgomery County. CourtWatch Montgomery issued a 2011 report on District Court procedures regarding domestic violence protective orders and peace orders.

November 2013 Report:

The newest report provides findings on protective order and peace order hearings in the Montgomery County Circuit Court. The Circuit Court hears approximately one-third of all the County's protective order cases. In FY12, more than 850 County residents requested legal protection from domestic violence in the Circuit Court. CourtWatch Montgomery volunteers monitored 225, held by 19 different judges, protective order hearings between September 2012 and September 2013. Significant findings include:

- **Staggered Exits:** CourtWatch Montgomery observed cases to see whether judges and/or sheriffs correctly used a staggered exit (with victim first). In 65% of the monitored cases, this procedure was used correctly. CourtWatch recommends that judges consider including an explanation of how parties should leave the

courtroom as part of the introduction to the docket, and that Sheriffs should consider incorporating the procedure into training for courtroom duty.

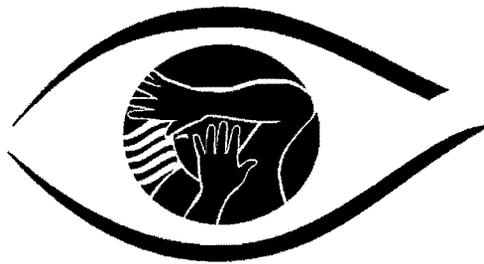
- **Informing parties that violating a protective order is a crime:** About half (47%) of respondents were never told at the court hearing that it is a crime to violate a protective order, and that it is punishable by jail time. CourtWatch indicates that judges rarely encouraged petitioners to report violations to the police or to the court. In District Court, an audio recording in both English and Spanish includes this warning. CourtWatch recommends that judges always inform respondents that violation is a crime and that it may result in incarceration. Judges should also tell victims to report all violations to the police or courts.
- **Informing respondents that they must surrender all firearms:** In 55% of observed cases, judges did not tell respondents that they must surrender all firearms owned or in their possession. Sheriffs inform respondents when they are served with a protective order, but CourtWatch recommends that judges should do the same.
- **Legal representation for petitioners:** In 55% of the observed cases, petitioners did not have an attorney present. CourtWatch recommends more pro bono lawyers at protective order hearings to represent domestic violence victims, and more victim advocates available during the morning domestic violence docket to provide support and information.
- **Judicial response when victims request to drop the protective order:** CourtWatch Montgomery indicates that 39% of judges failed to ask petitioners if they had been coerced by the respondent, family, or friends, to drop the protective order. Judges asked 30% of victims if they felt safe and encourages 30% to return to court if their safety was in jeopardy. CourtWatch recommends judges engage all victims who want to drop protective orders in a discussion about their safety.
- **Judges generally do not provide basic overview of the protective order process:** In only 11% of cases, judges provided basic introductions to their protective order dockets. CourtWatch advises that the process is complex and new to many petitioners, and basic guidance would be helpful. CourtWatch recommends a taped audio or video introduction in English and Spanish, similar to what the District Court provides.
- **Consider providing basic hotline information in women's restrooms:** CourtWatch advises restrooms are one of the few places where many domestic violence victims are allowed to go alone. Multi-lingual materials have been developed and printed, but they are going unused in the three County courthouses. CourtWatch recommends placing these types of materials, with emergency phone numbers, in every women's restroom in County courthouse.

- **Judicial demeanor was respectful of both parties in 93% of the observed cases:** There were still some incidences of judges being rude or making inappropriate comments. CourtWatch recommends that judicial training on domestic violence issues be mandatory rather than voluntary.

A copy of Court Watch Montgomery's monitoring report is attached at ©1-43.

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Protection for victims of domestic violence in Montgomery County's Circuit Court



CourtWatch
MONTGOMERY
A Public Eye on Domestic Violence

November, 2013
Court Watch Montgomery
Laurie Duker and Judy Whiton

Our mission: To reduce domestic violence in Montgomery County and in Maryland by identifying and addressing strengths and weaknesses in court process that may be putting victims and their children at risk. To improve protective orders so that they provide strong, effective, and enforced legal protection.

Dedication

The court monitoring on which this report is based was conducted by a team of 20 trained volunteers who contributed over 500 hours monitoring 225 cases. We want to express our profound appreciation for their diligent, careful and insightful work.

Their Stories

Here are just a few of the stories that over 220 victims we listened to described in court. We want to provide a sense of what some of them have experienced:

“He held me down and cut my hair off with a razor blade. He pushed me through a window. He has guns.”

“He beat me when I was pregnant. Now he is threatening to kill me and the baby.”

“My ex-husband told our five year old daughter that he could use an old tarp to ‘suffocate mom.’ ”

“My husband came home drunk and threatened me with a knife. The kids were there. They hid in the bedroom. He has threatened me before that none of us will leave alive.”

“He threatens to disappear back to Africa with the kids.”

“My husband broke my nose in 2012. My husband grabbed my throat and lifted me off the floor, then threw me toward the refrigerator. He tried to run me off the road in February. He forces me to have sex.”

“In 2011 he kicked me out of the house. He grabbed my arm and dragged me down the stairs. There was a prior incident with a machete. I have an eleven year old.

Table of Contents

Executive Summary	4
Major Findings and Recommendations	
Introduction	10
Chapter 1	12
Victim safety before, during and after court	
Staggered exits	
Courtrooms	
Hallways	
Chapter 2	16
Strengthening the deterrent power of protective orders	
It's a crime to violate a protective order	
Firearms	
Chapter 3	19
Unrepresented parties	
Chapter 4	21
Dismissals: Engaging victims who ask to dismiss their orders in discussions about safety	
Chapter 5	25
Ensuring both parties understand the proceedings	
Chapter 6	27
Judicial demeanor: treating all parties with courtesy and respect	
Chapter 7	30
Interpretation issues	
Appendices	32
List of judges monitored & Circuit Court mission statement	
Protective order process in Circuit Court	
Methodology	
Footnotes	36
Bibliography	38

Protection for victims of domestic violence in Montgomery County's Circuit Court

Executive Summary

Deaths from domestic violence are a continuing and preventable tragedy in Maryland. In each of the last three fiscal years, the number of domestic violence victims killed in Maryland has increased. From July 2011 through June 2012, 49 Maryland residents died as a result of domestic violence. Three children were among the dead. Even though Montgomery County accounts for only about one-sixth of the state's population, nearly a quarter of the past year's domestic violence deaths – 12 of the 49 – occurred in our county.¹

Montgomery County has had only one domestic violence homicide thus far in 2013. But there is still much work to be done to prevent more domestic violence fatalities.

Moreover, fatalities represent just the tip of the iceberg in terms of the toll domestic violence takes on victims and their children. It is estimated that over 93,000 Montgomery County women will be attacked by an intimate partner at some time in their lives.^{2,3} Thousands of women in our county continue to be at risk for strangulation, rape, punching, detaining against their will, stalking and numerous other forms of assault. For most victims, domestic violence is not a single isolated act but rather a series of escalating incidents throughout the year.

Court-issued protective orders help domestic violence survivors stop or dramatically reduce the violence in their lives, particularly when the order is combined with a broader safety plan.⁴ While protective orders cannot physically protect every domestic violence victim at all times, studies show that a majority of domestic violence victims who obtain orders say they are glad they did. Even victims whose orders were violated reported they were glad they obtained an order and that the violence in their lives lessened substantially.⁴

Court Watch Montgomery has previously published two reports, both of which focused on domestic violence protective and peace orders in Montgomery County's two lower District Courts.⁵ This is the first of two reports analyzing 225 protective orders monitored by volunteers in the Montgomery County Circuit Court. Circuit Court judges, like their colleagues in District Court, hear initial and final petitions for protective orders. Circuit Court judges evaluate them under the same Maryland statute as the District Courts. (See Appendix 1 for the Circuit Court mission statement and a list of judges we monitored).

The Montgomery County Circuit Court hears approximately one-third of the county's protective order cases. Generally, Circuit Court cases involve more couples with children than the District Courts' cases. Parties with open custody or divorce cases are usually directed to Circuit Court, which has jurisdiction over these family matters, and more time, expertise and professional services to offer high conflict couples and their children. Circuit Court judges can benefit by seeing both the protective order and other open cases at the same time. In the 2011-2012 fiscal year over 850 county residents requested legal protection from domestic violence at the Montgomery County Circuit Court.⁶ (See Appendix 2 for more information on Circuit Court process.)

Court Watch Montgomery volunteers began monitoring protective order hearings at Circuit Court in the fall of 2012. This report covers September 2012 through September 2013. Volunteers observed 225 Circuit Court protective order hearings held by 19 different judges. The report looks at court-wide trends and practices but does not name judges or give individual breakdowns on such data. A full description of the methodology is in Appendix 3. More data is needed in order to have reliable results for individual judges; Court Watch Montgomery volunteers continue to observe new cases.

In this report, as in our previous reports on the County District Courts, we focus on court processes relating to short term victim safety as well as those that effect longer term victim safety and the overall effectiveness of protective orders. In addition to observing the process, monitors observed judges, sheriffs, clerks and interpreters. As in our earlier reports on the County's two District Courts, we rely on a nationally recognized guide developed by judges outlining specific approaches to be used in court to improve a domestic violence victim's safety as well as the victim experience.⁸

Our next report, which will shortly follow this broader appraisal, will look at how the Circuit Court handled emergency custody, visitation, and Emergency Family Maintenance in the same 225 cases. That report will also offer comparisons to national and state standards that help keep women and children safe.

Major Findings and Recommendations

Circuit Court judges, like their District Court counterparts, have difficult jobs handling complex and sometimes heartbreaking cases of intimate partner violence. We acknowledge the challenges they face.

We witnessed many positive practices in the cases we observed. For example, in 86% of relevant orders in this study, Circuit Court judges asked the parties if they understood or had questions about their orders. Most Circuit Court judges also acknowledged the role of victim advocates and allowed advocates to sit next to domestic violence victims during hearings. As a whole, judges were polite and used language that both parties could understand.

Yet we observed many practices that cause us concern – particularly so because many of the important national and state best practice standards developed by judges and widely shared by Court Watch Montgomery since our first report in 2011, are not common practice in our County's higher court.

We highlight such findings in an effort to make recommendations to help judicial and law enforcement leaders improve their procedures and make court processes safer and more user-friendly for victims of domestic violence. Major findings and recommendations include:

Finding 1: In 65% of relevant Circuit Court cases we monitored, judges and/or sheriffs used staggered exits/victim first correctly, but 35% of the time the procedure was either not used or used incorrectly in a way that left victims at risk. As recommended by the national *Guide for Improving Practice*, staggered exits allow the victim safe passage to her transportation by holding the respondent for at least 15 minutes inside the courtroom.

The majority of our recommendations cost nothing and do not take more of the judges' time.

Recommendation 1: Judges should ensure that all court personnel use "staggered exits/victim first" in the manner recommended by the *National Guide for Improving Practice*. To ensure victim safety, a team approach between judges and sheriffs is best. One sheriff should always remain in the courtroom when the judge leaves the bench, remaining attentive to the parties as they review their orders. A sheriff should remain in sight of the respondent until 15 minutes have passed after the petitioner leaves the courtroom. Judges should consider including an explanation of how parties will leave the courtroom in an

introduction to the docket. Staggered exit protocol should be incorporated into sheriff training for courtroom duty.

Finding 2: Almost half of all respondents (47%) left the Circuit courthouse never having heard that it is a crime to violate a protective order and that it is punishable by jail time. This also left petitioners without an understanding of the legal power behind their order. Judges only rarely encouraged petitioners to report violations to police or to the court. In contrast, in District Court 100% of the offenders hear an audio in English and Spanish that clearly includes this warning.

Recommendation 2: Judges should strengthen the deterrent power of protective orders by always informing each individual respondent that violating his order is a crime that may result in imprisonment. Judges should encourage victims to report all violations to the police or the courts and encourage them to call 911 if the violation of the protective order is an emergency. An introductory audio is a very helpful tool that may save judges' time.

Finding 3: A majority of the time – in 55% of the relevant Circuit Court cases - judges did not tell respondents that under federal and state law they must surrender all firearms owned or in their possession.

Recommendation 3: Although sheriffs inform respondents when they are served with their protective order that they must surrender firearms, judges should use the power of the bench to reiterate the law for both parties. Judges should explain that it is a crime to withhold a firearm during an order. It is important for the petitioner to know about this provision as well.

Finding 4: In our sample, petitioners did not have an attorney 55% of the time. (In 8% of those hearings petitioners did have a victim advocate at their side). Not having an attorney put petitioners at a significant disadvantage - particularly given that Maryland is the only state in the nation requiring "clear and convincing evidence" to grant an order.⁹

Recommendation 4: More pro bono lawyers are needed to represent domestic violence victims in protective order hearings. More victim advocates should be available during the morning domestic violence docket to answer questions about the process, offer in-court support if it is requested and inform unrepresented petitioners about pro bono lawyers, counseling and other important services in the event they do not go to the Family Justice Center.

Finding 5: Victims came to court to ask that their order be dropped in 13% of all hearings. This presented an important opportunity for judges to potentially improve victim safety, since victims sometimes make such requests as a result of coercion by their abuser or fear of retaliation for coming to court. Yet in 39% of all such cases, the Circuit Court judges failed to ask petitioners if they had been coerced by the respondent, his family or friends. Judges only asked 30% of these victims if they felt safe and only 30% of the time encouraged them to return to court if their safety was in jeopardy.

Recommendation 5: Judges should engage all victims who want to dismiss their case in a discussion about their safety. The national *Guide for Improving Practice* recommends that judges should carefully consider all requested dismissals and should ask a victim if she was coerced into requesting the dismissal, and if she feels safe. The judge should also remind her that she is welcome to return to court if she feels in danger.

Judges might also keep many victims safer by simply inquiring whether the petitioner might want an alternative, more limited order. A protective order that requires only “no abuse”, or contact only under certain conditions, such as only in public places, or at the discretion of the petitioner, provides more safety than no order at all.

Finding 6: The protective order process is complex and new to many petitioners, yet Circuit Court judges gave basic introductions to their protective order dockets only 11% of the time. Even these tended to be quite brief, and not a full recitation of important facts such as potential criminal penalties, or the meaning of “consent” in these hearings. Judges did, however, ask parties if they had questions about their orders 86% of the time, a practice that improves the effectiveness of orders. (In comparison, District Court judges asked only 62% of the time.) With 75% of the cases involving one or more parties without legal representation or an advocate, more explanation is essential.

Recommendation 6: In the District Courts at the beginning of the court session before the judge takes the bench, domestic violence petitioners and offenders hear a taped introduction – in English and Spanish – explaining the proceedings they are about to encounter. Such an introduction could be used by the Circuit Court as well. A video introduction (such as the video introduction played for jury candidates) would be an even better option. Both respondents and petitioners would benefit from more information about their options and the legal consequences.

Finding 7: In earlier reports, we stressed the importance of having basic hotline information in women’s bathrooms, since that is one of the few places where many domestic violence victims are allowed to go alone, free from being observed by their abuser. Multilingual, low literacy

materials have been developed and printed and a system has been developed for distribution and maintenance, but these materials are going unused in all three County courthouses.

Recommendation 7: Multi-language, low literacy materials with emergency numbers should be placed in every female bathroom in all three County courts. The Circuit Court website's information on domestic violence should also be available in Spanish and Korean.

Finding 8: Judicial demeanor was respectful of both parties in an impressive 93% of the cases we observed. Many Circuit Court judges went out of their way to ensure that victims and respondents were given adequate time to testify and to ask questions. However, 7% of the time four judges were rude, or brusque, or made comments during hearings that were inappropriate. More data is required to accurately rate individual judges. One judge complained about taxpayers having to pay for interpreters. Another groused that the hearing was "supposed to take only 15 minutes".

Recommendation 8: Currently judicial training on domestic violence issues is available but not required. State court leaders should require Circuit Court judges and other court staff involved in protective order hearings to participate in continuing education on domestic violence issues to help ensure appropriate demeanor toward all parties. Training can also help judges assess the dangerousness of specific batterers, identify the types of emergency protection and relief that domestic violence victims need, and encourage effective intervention and accountability mechanisms for batterers.

Endnotes for executive summary

1. Individuals who have died as a result of domestic violence in Maryland from July 1, 2011 through June, 2012. <http://mnadv.org/mnadvWeb/wp-content/uploads/2011/07/Memorial-1.png>. 2012.
2. U.S. Census Bureau, DP-1. Profile of general demographic characteristics: 2010, Census 2010 Summary File, Montgomery County Maryland.

Tjaden, Patricia & Nancy Thoennes. National Institute of Justice and the Natl. Center for Disease Control and Prevention. "Extent, nature, and consequences of intimate partner violence: findings from the National Violence Against Women Survey", 2000.

The most conservative population rate of domestic violence for women over 18 in the U.S. is 1.3%, (see NIJ and CDC report). We applied that rate to the population of females over the age of 18 in the County.

The figure for numbers of women abused over their lifetimes in the county (93,000) was arrived at by applying the national lifetime domestic violence

rate, 22.1% (NIJ, CDC report).

3. For purposes of this report we refer to victims as female. There are male victims of domestic violence. But women are the victims of the vast majority of serious partner abuse (see Logan, T.K., Walker, Robert, et al. 2009. Rennison & Welchans, 2000; and Tjaden. 2000). Female victims tend to sustain more serious injuries. Injuries to male victims are often due to self-defense on the part of the female partner. In 70-80% of intimate partner homicides, no matter which partner was killed, the man physically abused the woman prior to the murder.
4. Logan, T.K. et al. The Kentucky civil protective order study: a rural and urban multiple perspective study of protective order violation, consequences, responses and cost. National Institute of Justice Grant. 2009.
5. Logan, T.K., Walker, Shannon, R, Jennifer Cole. "Factors associated with separation and ongoing violence among women with civil protective orders." Journal of Family Violence. Vol. 14, No. 2. 2009
6. Duker, Laurie and Judy Whiton. "Just a piece of paper? Domestic violence peace and protective orders in Montgomery County District Courts". Available online at www.courtwatchmontgomery.org 2012.

Duker, Laurie and Judy Whiton. Protecting victims of domestic violence in Montgomery County: challenges and opportunities with protective and peace orders. 2011. Available online at www.courtwatchmontgomery.org
7. Administrative Office of the Courts. Maryland judiciary annual statistical abstract fiscal year 2012. 2013.
8. The National Council of Juvenile and Family Court Judge's (NCJFCJ)'s 2010 publication *Civil Protections Orders: a Guide to Improving Practice*, the result of a three year multidisciplinary study which thoroughly examined domestic violence and the treatment of victims in the court system, provided us with substantial guidance, as did our own state's *Maryland Judges Domestic Violence Resource Manual* produced in 2009, a guide for judges in applying Maryland domestic violence law in accordance with best practices.⁸ (See <http://www.vaw.umn.edu/documents/civilprotectionordersguide/html>. a Guide to improving Practice; and *Maryland Judges Domestic Violence* at <http://www.courts.state.md.us/family/pdfs/dvmanualcomplete.pdf>).
9. Standards of Proof for Domestic Violence Civil Protection Orders (CPOs). ABA Commission on Domestic Violence. 6/2009.

Introduction

Court Watch Montgomery is a non-profit, all volunteer organization founded in 2010 to provide a public eye on domestic violence in Montgomery County by observing and reporting on practices in the court system. Court Watch Montgomery volunteers began monitoring protective order hearings at Circuit Court in the fall of 2012. This report covers September 2012 through September 2013. Volunteers observed 225 Circuit Court protective order hearings held by 19 different judges. The report generally looks at court-wide trends and practices but does not name judges or give their individual breakdowns on such data. More data is needed in order to have reliable results for individual judges; Court Watch Montgomery volunteers continue to observe new cases.

The process for obtaining a protective order is the same for both Circuit and District Courts, with the important difference that parties to District court cases who also have an open family case in Circuit Court are generally sent to Circuit for further proceedings. For a more in depth description of the role of Circuit Court in the County and how Circuit Court domestic violence dockets are organized, see Appendix 2.

Major issues studied and results

In this study, we evaluate the protective order process in the Montgomery County Circuit Court and make recommendations that we believe can:

- Improve the real and perceived physical safety of domestic violence victims during and after hearings on orders;
- Strengthen deterrence for offenders, thereby reducing protective order violations;
- Improve the effectiveness of protective orders;
- Increase the number of victims in Montgomery County who successfully obtain comprehensive final protective orders;
- Help link a higher percentage of victims to social services;
- Increase victim trust in the court system;
- Educate the broader community about the role of courts in domestic violence and the importance of citizen oversight.

As in our earlier reports on the County's two District Courts, we rely on numerous guides developed by judges themselves outlining specific approaches to be used in court to improve a domestic violence victim's safety as well as the victim experience.¹⁰ In each chapter we report key findings, offer specific examples drawn from our monitoring of 225 hearings and make recommendations that reflect national best practices as well as Maryland State policies. Our

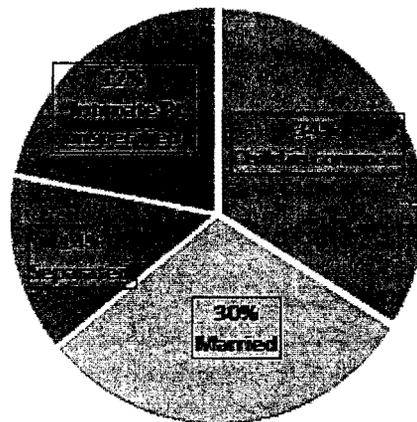
methodology is similar to that used in our two previous reports on the County's District Courts and is fully described in Appendix 4.

One of our goals is to fairly and accurately describe the court process from a domestic violence victim's point of view. We provide the data, stories and quotes that reflect their experience. Our recommendations are based on these as well as the data gathered indicating where practices can improve victim safety and increase the number of victims who return to court for final protective orders.

Table 1. Gender of petitioners and respondents (448)

	Number female	% female	Number male	% male	Totals
Petitioners	197	87%	28	12.5%	225
Respondents	33	14%	192	86%	225

Relationship between parties in monitored protective order hearings (225)



Chapter 1

Victim safety before, during and after court

The period when a victim attempts to separate from her abuser is a particularly dangerous time in their relationship. Victims are reasonably fearful that simply pursuing legal protection may lead their abuser to further escalate the violence against them.¹¹

It is essential that victims feel – and are-- safe from threats, unwanted or illegal contact or physical injury throughout the protective order process. Improving victim safety is crucial, so that victims will feel encouraged to return to the court should they need further help.

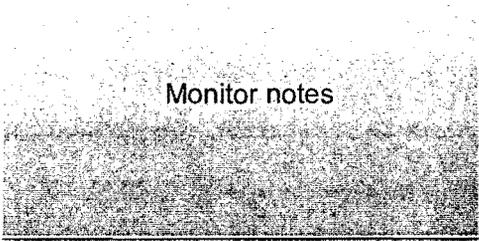
Keeping victims safe as they leave the courthouse

The most serious problem we observed with courtroom/courthouse safety in the Circuit Courts involves the process of a victim and alleged abuser leaving the court. Although court orders can improve a victim's safety, the end of a protective order hearing is paradoxically a dangerous moment. The abuser may emerge from the hearing feeling angry, humiliated, and determined to reassert control. Even if a "no contact" order has just been handed down, the abuser may attempt to talk to the victim, try to get her to drop her order, or attempt to hurt her in retribution for coming to court.

The National Council of Family and Juvenile Court Judges strongly recommends that all judges use the "staggered exits/victim first" process in any civil domestic violence hearing.¹² Holding the respondent in the courtroom for at least 15 minutes enables the victim to leave the courthouse and reach her transportation safely without fear of attack or harassment by her abuser.

Several offenders were told to wait ten minutes but were not supervised. They left quickly.

Monitor notes



Finding 1: In 65% of relevant Circuit Court cases we monitored, judges and/or sheriffs used staggered exits/victim first correctly, but 35% of the time the procedure was either not used or used incorrectly in a way that left victims at risk. As recommended by the national Guide to Improving Practice, staggered exits allow the victim safe passage to her transportation by holding the respondent for at least 15 minutes inside the courtroom.

Circuit Court judges often attempted to stagger exits as recommended by the *Guide for Improving Practice* and did so correctly a majority of the time. In many cases, however, the exits were not staggered correctly. Some respondents were ordered to remain in the courtroom, but got up and left after 5 or 7 minutes. This is insufficient time, particularly if the petitioner must wait for the elevator before exiting the building and getting to her car or bus safely.

Some judges did not stagger exits at all but the sheriff did catch up with the respondent and told him to remain in the courtroom. In one case the sheriff incorrectly sent the respondent out first.

Monitor notes

The judge asked the petitioner's attorney in two cases if staggered exits were appropriate and in both she replied that they were. (There is no assurance that attorneys will be able to escort their clients downstairs and they rarely deliver them to their transportation. They often have other cases or business in the courthouse they need to attend to.)

Several offenders were told to wait ten minutes but were not supervised. They left quickly.

One judge said to the couple, "Have you read your orders? And you understand them? Okay, then Ms. Smith if you could please leave now, and Mr. Smith you can leave in like 5 minutes."

Recommendation 1: Judges should ensure that all court personnel use "staggered exits/victim first" in the manner recommended by the National Guide for Improving Practice. To ensure victim safety, a team approach between judges and sheriffs is best. One sheriff should always remain in the courtroom when the judge leaves the bench, remaining attentive to the parties as they review their orders. A sheriff should remain in sight of the respondent until 15 minutes have passed after the petitioner leaves the courtroom. Judges should consider including an explanation of how parties will leave the courtroom in an introduction to the docket. Staggered exit protocol should be incorporated into sheriff training for courtroom duty.

Relying on attorneys to enforce staggered exits is not appropriate. Incorporating staggered exits into court procedure assures they will be uniformly used to ensure the safety of all victims, whether or not they are represented.

Safety in the Courtroom

In the Circuit Court, the Sheriff's Office is responsible for courtroom safety, unlike the County District Courts, which use a bailiff system. Our monitors virtually always observed one sheriff, and sometimes two in the courtrooms we monitored. As a rule, the sheriffs were appropriately unobtrusive, imposing their authority by the fact of their uniform and firearm, and we witnessed very few instances of disruptive behavior.

Monitor notes

In one hearing the respondent appeared quite agitated. A sheriff got up and quietly stood between the agitated respondent and the petitioner, which appeared to calm them both.

In one hearing the respondent appeared quite agitated. A sheriff got up and quietly stood between the agitated respondent and the petitioner, which appeared to calm them both.

Monitor note

There were two cases in which the sheriff could have been more proactive. In each, the respondent was making gestures and talking directly at the petitioner instead of to the judge. Neither sheriff nor judge seemed to notice. Both these respondents continued with this intimidating behavior for some time before their hearings came to an end.

In a different case, the judge left the bench while the parties in a very heated case were sitting near each other reviewing their orders. The sheriff had his back turned, speaking with the clerk for about five minutes. While the sheriff surely could have reacted quickly had the respondent become violent, it would be more reassuring to have a judge or sheriff watching or standing close by, particularly when the victim and her ex-partner are so close together.

On two days when the dockets were moved to a nearby building, there was no sheriff present when the judge began hearing cases.

On one of the days there was no sheriff until 11 am.

Safety in the halls

With no separate entrances and waiting rooms for victims and limited security dollars for sheriffs in entrance lines and waiting areas, our courthouses can seem threatening to victims of domestic abuse. This undermines their confidence that they will not be forced into proximity with their abusers or be harassed by them.

Our monitors did not observe any incidents in the hallways or waiting area outside the courtroom (we have seen this in District Court), but we were not able to regularly have monitors both inside and outside of the courtroom. This good record might be attributed to Circuit Court's two-clerk system enabling the judge to process and deliver orders to the party's right in the courtroom instead of an unguarded area. This system reduces, but does not eliminate, the likelihood that the parties will have unwanted contact in the hallway. Monitors never observed security personnel overseeing the large waiting area outside the four courtrooms on each floor.

Chapter 2

Strengthening the deterrent power of protective orders

Ultimately, protective orders can only be effective if they are consistently explained and strongly enforced. Protective orders work better if offenders understand the likely consequences of violating them. The more the petitioner knows about the order, the better she will be able to help ensure it is followed.

Telling respondents it's a crime to violate a protective order

As part of its study on best judicial practices, the National Council of Juvenile and Family Court judges took a careful look at the issue of protective order violations. In their *Guide for Improving Practice*, they recommend that judges use the power of the bench by reiterating to each respondent, in the presence of the victim, the criminal penalties for violating a protective order. This practice has the two-fold effect of reminding the abuser of his individual responsibility, and of reassuring the victim that the court means business. It also serves as an opportunity to educate the victim on what she can do in the event of a violation.

Finding 2: Almost half of all respondents (47%) left the Circuit Courthouse never having heard that it is a crime to violate a protective order, and that it is punishable by jail time. This also left petitioners without an understanding of the legal power behind their order. Judges rarely encouraged petitioners to report violations to police or to the court. In contrast, in District Court 100% of the offenders hear an audio in English and Spanish that clearly includes this warning.

Many of the parties in Circuit Court cases are represented and their attorney may be expected to discuss with them the serious legal consequences of violating orders. However, a surprisingly large number of respondents, 55%, were not represented in the cases we monitored. These unrepresented parties did not have the benefit of an audio explaining the penalties for violations, as they do now in the County's District Courts.

Recommendation 2: Judges should strengthen the deterrent power of protective orders by always informing each individual respondent that violating his order is a crime that may result in imprisonment. Judges should encourage victims to report all violations to the police or the courts and encourage them to call 911 if the violation of the protective order is an

emergency. An introductory audio is a very helpful tool that may save judges' time.

Explaining to respondents that guns must be turned in

Women are at particularly high risk of injury or homicide if an abuser has readily available firearms. If an abuser has used or threatened to use a firearm, the victim's risk of homicide is 20 times that of the average domestic violence victim.¹³ A gun was used in 57% of Maryland domestic violence homicides from July 1, 2011 through June 2012.¹⁴ Weapons were used in a minimum of 14% of cases in this study and included guns (one was an AK 47), knives, machetes and belts.

Maryland requires that no respondent under a final protective order may own or possess any firearm.¹⁵ Under federal law, respondents under a final protective order are subject to up to a \$250,000 fine or 10 years in prison for possession of any firearm.

Sheriffs attempt to remove firearms from abusers when they serve them with protection orders. But judges issuing final protective orders should use the authority of their position to underscore that the respondent must turn in any guns in their possession. Final protective orders contain written language about these firearm restrictions, but parties are given a great deal of paperwork that they may or may not read. Those who do not speak or read English are unlikely to comprehend these firearms restrictions from their printed order.

Finding 3: A majority of the time – in 55% of the relevant Circuit Court cases - judges did not tell respondents that under federal and state law they must surrender all firearms owned or in their possession.

Judges varied widely on whether or not they verbally ordered respondents to turn in any firearms in their possession. Given that many cases were consents and revealed sparse information about the particular facts, we have no way of determining how many abusers in the study did possess guns. Maryland law only requires confiscation when the weapon is a firearm.¹⁶

Recommendation 3: Although sheriffs inform respondents when they are served with their protective order that they must surrender firearms, judges should use the power of the bench to reiterate the law for both parties. Judges should explain that it is a crime to withhold a firearm during an order. It is important for the petitioner to know about this provision as well.

National authorities agree that judges should not depend on written prohibitions where firearms are concerned.¹⁷ Judges should inquire about the presence and location of all firearms, including those possessed by other family members who may give the respondent indirect access to weapons. Judges should not assume that the respondent's attorney has done so.

Ideally, judges should take steps to ensure victims are safe from other weapons as well, particularly if the victim has noted them in her petition or testimony.

Chapter 3

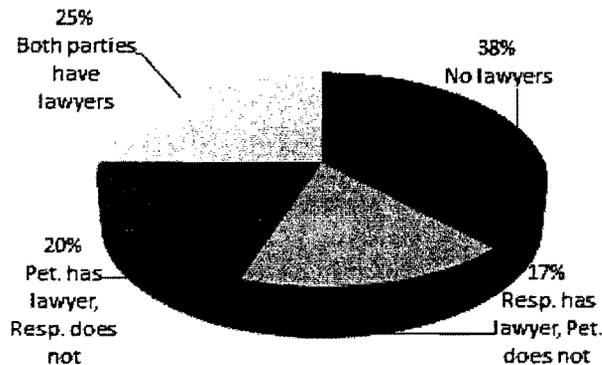
Unrepresented parties

Finding 4: *In our sample petitioners did not have an attorney 55% of the time. (In 8% of those hearings petitioners did have a victim advocate at their side). Not having an attorney puts petitioners at a significant disadvantage - particularly given that Maryland is the only state in the nation requiring “clear and convincing evidence” to grant an order.*

When only one of the parties had a lawyer judges usually allowed counsel to speak with the opposing party. Judges didn't always make it clear to the party without counsel that the lawyer represented only their client and not the court.

When a petitioner lacks counsel but the respondent has a lawyer she is in a very difficult situation. She may be asked by the judge to “question” her ex-partner as if she knew the rules of inquiry or understood the most important questions and answers to have on the record. Asking a victim to communicate with her abuser at the same time she is seeking a ban on all contact with him is untenable.

Legal Representation for Protective Order Parties



Monitor notes

In one morning docket the judge completely lost patience with a couple who had no counsel, telling the respondent "This is my courtroom – don't talk until I address you. This is not TV." She said to them both, "Do you understand why you're here? This is not a divorce hearing."

At the end of the hearing she sent them both back to their seats and told them not to move. The monitor did not observe anything in this couple's behavior that differed from the behavior of the parties who had attorneys. The monitor saw great differences in the way the judge treated this couple compared to those with attorneys.

"The respondent had a lawyer but the petitioner did not. The petitioner started to ask the judge about having a lawyer. The judge replied "you don't have to have a lawyer". The parties had a hearing and the judge denied the protective order.

Recommendation 4: More pro bono lawyers are needed to represent domestic violence victims in protective order hearings. More victim advocates should be available during the morning domestic violence docket to answer questions about the process, offer in-court support if it is requested and inform unrepresented petitioners about pro bono lawyers, counseling and other important services in the event they do not go to the Family Justice Center.

Monitor note

Chapter 4

Dismissals: Engaging victims who ask to dismiss their orders in discussions about safety

When a victim asks the judge to drop her order

In some of the cases monitored, victims came to ask the judge to drop her protective order. Sometimes women do this because the temporary order worked and her needs have been met. The victim may be asking to drop the order if she thinks that will defuse her abuser's escalating anger. She may think moving to a shelter is too disruptive for her children. Her boss may have told her she would lose her job if she went to court again during work hours.

In many cases, dismissing an order does not mean the petitioner feels, or is, safe. The victim may be asking to drop the order under coercion from the abuser. A request to drop an order is therefore a moment that deserves particular scrutiny from the court, to determine whether the victim is seeking this action for sound reasons, and to take steps to ensure their safety. It is also a moment that requires a good deal of sensitivity to victims, since they may imagine that the court is angry at them for such a request, or that they cannot return to court if they need legal protection in the future.

To ensure safety, judges need to probe the reasons that a victim seeks to drop her order and they need to stress that she can come back anytime she feels in danger. A responsive judge will try to ensure that she has not been coerced by her abuser or his family, and that she feels safe. Such an inquiry has been recommended by the National Council of Juvenile and Family Court Judges.

Finding 5: Victims came to court to ask that their order be dropped in 13% of all hearings. This presented an important opportunity for judges to potentially improve victim safety, since victims sometimes make such requests as a result of coercion by their abuser or fear of retaliation for coming to court. Yet in 39% of all such cases, the Circuit Court judges failed to ask petitioners if they had been coerced by the respondent, his family or friends. Judges asked only 30% of these victims if they felt safe, and only 30% of the time encouraged them to return to court if their safety was in jeopardy.

Judicial discussions with victims who wanted to dismiss their orders



Monitor Notes

Volunteers observed that some judges actively engaged victims in discussions about safety when petitioners asked to drop their orders. Most judges were careful to remind petitioners that in the absence of an order they would not be as safe.

One judge refused to grant a dismissal to a petitioner because of the seriousness of the allegations she had made against her husband and insisted on a hearing.

Another judge appeared to be confused about applicable law when confronted with a victim requesting a dismissal because she needed her ex-partner to pick up their child regularly so she could get to work. The petitioner told the judge her ex had threatened to kill himself if she didn't resume their relationship, and that the situation had been going on for over a year. The judge suggested she could file a peace order in District Court. Since the case involved a couple with a child in common a peace order was not the correct remedy; a "protective order" was. The judge allowed the petitioner to dismiss her case and leave the courtroom with no legal protection in hand. The judge might have asked if the victim wanted to obtain a modified order (with a well-defined exception to 'no contact') to meet her needs. This situation might have been avoided had a victim advocate been available in the courtroom to discuss the situation with the petitioner and put her in touch with pro-bono attorneys from the House of Ruth.

Recommendation 5: Judges should engage all victims who want to dismiss their case in a discussion about their safety. The national Guide for Improving Practice recommends that judges should carefully consider all requested dismissals and should ask a victim if she was coerced into requesting the dismissal and if she feels safe. The judge should also remind her that she is welcome to return to court if she feels in danger.

Judges might also keep many victims safer by simply informing the petitioner of the possibility of an alternative, more limited order. A protective order that requires only “no abuse, or contact only under certain conditions, such as only in public places, or at the discretion of the petitioner, provides more safety than no order at all.

Petitioners who fail to come to court

Petitioners who are granted a temporary protection order must return to court to get a final order in order to receive full protection. If they do not appear in court, it may not necessarily signify that they have changed their mind. Their failure to appear may be a sign that they were coerced into not returning to court or in some instances that they are in danger from their abuser. This raises important questions about victim safety.

Finding: During this monitoring period, only 14% of the dismissed cases were due to the petitioner failing to return to court for her second hearing. Judges usually asked clerks or advocates to call and check on the petitioner. There may have also been wellness checks by non-emergency police but we did not observe a judge asking for one. Many petitioners do not know this option is available.

Monitor Notes:

In three instances the judge deferred the hearing so that the clerk could phone the petitioner and check on her whereabouts. In another case the judge waited until 10:00 AM and tried to reach the petitioner by phone, but could not. That judge would not dismiss the order, and instead extended it for 30 days. We did not observe any judge requesting a safety check on the petitioner or instructing one of his clerks to do so, but we were unaware of the particular facts of these cases.

Recommendation: In cases where the petitioner fails to come to court it would be helpful if the judge could read the petition before dismissing the case to ensure the petitioner is not at heightened risk. In cases of

heightened risk a judge, clerk or advocate could request a “wellness check” by non-emergency police.

An even better way to assure that protective order hearing judges can quickly assess high risk victims would be to place a lethality assessment gathered by police in each protective order file, as is currently done in Charles County, Maryland.

Chapter 5

Ensuring both parties understand the proceedings

Judicial Introductions:

Justice requires that the parties to a protective order understand the proceedings and what their rights and responsibilities are. The relative complexity of the process and the variety of hearing levels (interim, temporary, final, each with a different burden of proof) can be difficult to grasp for those with no legal representation, legal training, or familiarity with the court system.

Finding 6: The protective order process is complex and new to many petitioners, yet Circuit Court judges gave basic introductions to their protective order dockets only 11% of the time. Even these tended to be quite brief, and not a full recitation of important facts such as potential criminal penalties, or the meaning of “consent” in these hearings. Judges did, however, ask parties if they had questions about their orders 86% of the time, a practice that improves the effectiveness of orders. With 75% of the cases involving one or more parties without legal representation or an advocate, more explanation is essential.

A brief but thorough introduction at the opening of the docket would greatly aid all parties, particularly those who are unrepresented. Differentiating temporary and final orders, explaining the difference between consents and hearings and covering what to do if an order is denied are merited. Informing respondents of criminal penalties and the need to turn in any guns they own or are in their possession are fundamental. Parties should be told to call 911 if they feel in imminent danger.

An audio covering these issues would ensure all parties received the same complete information about their choices and how the system works.

Recommendation 6: In the District Courts, before the judge takes the bench, domestic violence petitioners and respondents at the start of each court session hear a taped introduction – in English and Spanish – explaining the proceedings they are about to encounter. Such an introduction could be used by the Circuit Court as well. A video introduction (such as the video introduction played for jury candidates) would be an even better option. Both respondents and petitioners would benefit from more information about their options and the legal consequences.

████████████████████
████████████████████

“The judge explained nicely and in plain English that he could extend the order and all provisions would remain in place. Then he asked if she understood and if she has any questions.

Monitor note

████████████████████

Reiterating orders and asking if parties have questions

The Circuit Court’s practice of presenting orders to parties in the courtroom and giving them the opportunity to read them before signing goes a long way towards ensuring that both parties understand each provision of their orders. However, hurried petitioners and respondents may not always take advantage of this opportunity and the low literacy population and non-speakers of English often require help from attorneys or interpreters. Even represented parties would benefit from a discussion with the judge of elements they don’t understand or may be in disagreement over before the hearing is completed.

Monitor notes

Monitors noted that one “petitioner was homeless and was confused about the order. All she wanted was to see her daughter.”

In another case the monitor wrote “the judge explained nicely and in plain English that he could extend the order and all provisions will remain in place. Then he asked if she understood and if she has any questions.”

Chapter 6

Judicial Demeanor

Treating victims and offenders with courtesy and respect

For a domestic violence victim, who may be recovering from recent abuse or even suffering post-traumatic stress disorder, and whose self-esteem may be at a low point, the demeanor of judges, bailiffs, interpreters, and clerks matters greatly. For a respondent, the sense that he has been treated fairly and his rights considered may increase the likelihood that he will obey the order.

We acknowledge that Circuit Court judges, like their District Court counterparts, face unique challenges in hearing domestic violence cases and often must make extremely difficult decisions. Eliciting testimony from traumatized victims and sorting through disputed facts in often complex cases is not easy. Circuit Court judges appear to have far lighter caseloads, hearing on average 1-3 cases in the space of a morning docket, while District Court judges might average 5-12 cases. Circuit Court protective order cases do occasionally run over until the afternoon, which is very rare in District Court.

Finding 8: Judicial demeanor was respectful of both parties in an impressive 93% of the cases we observed. Many Circuit Court judges went out of their way to ensure that victims and respondents were given adequate time to testify and to ask questions. However, 7% of the time four judges were rude, or brusque, or made comments about their cases that were inappropriate. More data is required to accurately rate individual judges.

One judge complained about taxpayers having to pay for interpreters. Another groused that the hearing was "supposed to take only 15 minutes".

One judge, who had been "dealing with an agitated and confused respondent in a particularly fraught case", told the respondent to take a break and read the order and be sure he understood everything before leaving. This seemed to calm the respondent down.

Monitor note

Clerks and sheriffs showed courtesy and respect in the great majority of hearings and were uniformly kind and patient to petitioners.

“One judge seemed upset by the demands made on him and responded in a brusque manner.

He responded to a request for routine consideration of custody and visitation by scowling and remarking “That’s for another hearing. This is only supposed to take 15 minutes.”

Monitor note

Despite a generally positive pattern of demeanor, four judges were rude or inappropriate to one or both parties. Many other judges were respectful in 100% of their hearings.

Monitor Notes

Our monitors most often described judges’ behaviors as neutral, calm, fair and pleasant. They also noted that respectful judicial responses seemed to create a calmer courtroom atmosphere.

Some judges went out of their way to exhibit courtesy and concern for the parties. One judge, who had been dealing with an agitated and confused respondent in a particularly fraught case, told the respondent to take a break and read the order and be sure he understood everything before leaving. This seemed to calm the respondent down. Another judge had a pregnant petitioner complete a Waiver of

Appearance on the spot so she would not have to return to court in the event the respondent was still not served by the next hearing. One judge offered a “nice smile to the petitioner” and many made eye contact with both parties as they listened to their testimony.

One judge reportedly “didn’t give [the parties] time to explain themselves and cut them off when they tried to speak.” Another was “brisk and condescending.” One appeared to be in a great hurry to get through the case and explained nothing to either party. Another left the parties standing through a lengthy and emotional hearing; in the hearings before and after theirs the parties were allowed to sit. In a case where the petitioner was not represented, the judge appeared to be biased towards the respondent’s attorney, addressing all remarks to the attorney and not allowing the petitioner to speak except to answer the judge’s brusque questions.

One judge seemed upset by the demands made on him and responded in an inappropriate manner. He responded to a request for routine consideration of custody and visitation by scowling and remarking “That’s for another hearing. This is only supposed to take 15 minutes.” This same judge responded to another petitioner’s request for an interpreter with the remark “The taxpayers aren’t going to pay for this.”

In another instance, the same judge allowed the respondent to question the petitioner aggressively, although, according to her testimony, the respondent had recently texted the petitioner "If I have to die, so be it. You'll never get anything from me" and owned an AK- 47. When the petitioner's attorney tried to bring up the lengthy history of physical abuse that kept the petitioner in fear of the respondent, the judge responded "we're not going back to 2004 as far as this protective order covers."

Our monitors were concerned when judges appeared to favor one party or one party's attorney over the other. On several occasions, the judge rushed the petitioner's attorney, while seeming to give more time to the respondent's. In another case where the petitioner was not represented, the monitor reports the judge "addressed all remarks to the attorney and did not allow the petitioner to speak except to answer the judge's questions."

In one morning docket the judge completely lost patience with a couple who had no counsel, telling the respondent "This is my courtroom – don't talk until I address you. This is not TV." She said to them both, "Do you understand why you're here? This is not a divorce hearing." At the end of the hearing she sent them both back to their seats and told them not to move. The monitor reports that she did not observe anything in this couple's behavior that differed from the behavior of the parties who had attorneys. The monitor saw great differences in the way the judge treated this couple compared to those with attorneys."

Recommendation 8: Currently judicial training on domestic violence issues is available but not required. State court leaders should require Circuit Court judges and other court staff involved in protective order hearings to participate in continuing education on domestic violence issues to help ensure appropriate demeanor toward all parties. Training can also help judges assess dangerousness of specific batterers, identify the types of emergency protection and individual relief that domestic violence victims need, and encourage effective intervention and accountability mechanisms for batterers.

Judges, like highly trained experts in any other field, would benefit from these interactions and keeping current with best practices.

Chapter 7 Interpretation issues

The use of interpreters at hearings

Interpretation services are an integral part of the Circuit Court's pledge to provide equal justice to all parties. Legal terminology and legal options can be difficult to understand for those with only a minimal grasp of English. Without the critical presence of interpreters the 27% who did not speak English in the hearings we observed would not have fully understood the contents of their hearings. Complete and accurate – as well as emotionally neutral – interpretation is essential.

The Circuit Court Montgomery currently employs Spanish interpreters who are on-site to provide interpretation at most hearings. Clerks can also draw from a list of interpreters in 36 other languages now spoken in the County. Parties requiring these services must apply for them prior to a hearing. Headsets are available to all interpreters interpreting for both parties in the same language.

The judge thought that her English was "good enough". The judge said "the taxpayers aren't going to pay for this."

Monitor note

Findings:

- ***Monitors found most county-provided interpreters at court to be courteous, respectful and professional in manner. They almost always used the interpretation headsets, recommended for use when both parties need interpretation, thereby avoiding petitioner anxiety or trauma when required to stand in close proximity to the respondent.***
- ***Interpreters of other languages, not employed by the Court, on at least one occasion did not appear to be familiar with the requirements of simultaneous translation or court process and did not translate word for word.***
- ***Spanish-speaking parties did not have the benefit of an introductory audio in English and Spanish as they currently do in the County's District Courts. This audio introduction gives Spanish-speaking parties an overview of***

protective and peace order hearings and defines some of the terms that will be used.

Monitor Notes

In one case the Bengali interpreter interpreting for the respondent did not interpret word for word either the judge's or the respondent's responses. The interpreter appeared to be carrying on a separate conversation with the respondent during the hearing. The judge admonished the interpreter several times and finally said "You have to interpret everything I'm saying word for word." After that, the interpreter seemed to offer more simultaneous interpretation.

One judge went so far as to comment "the taxpayers aren't going to pay for this" when met with a request for an interpreter. Everyone who feels they need an interpreter has a right to one. By denying the victim an interpreter a judge can put a petitioner at a substantial disadvantage in the hearing. Belittling comments, such as this judge's, are highly inappropriate and only traumatize a victim for a second time.

On several occasions the headsets provided interpreters did not function and they had to revert to listening to the testimony without the audio aid.

Recommendations: New or inexperienced interpreters would benefit from the opportunity to observe cases in the courtroom handled by more experienced interpreters prior to their first time interpreting for a petitioner or respondent in a protective order case. The judge should always be quick to caution any interpreter who is not interpreting word for word or who shows bias toward one party.

Interpreters should always use head-sets - already available at court - whenever both parties need translation. This would result in far more complete translation for both parties and allow victims to keep their distance from abusers. Headsets should periodically be checked to ensure they are functioning.

Appendix 1.

Circuit Court judges presiding in Court Watch Montgomery's 225 monitored cases

John W. Debelius III, Circuit & County Administrative Judge

Anne K. Albright, Associate Judge

Joan E. Ryon, Associate Judge

Michael J. Algeo, Associate Judge

Steven G. Salant, Associate Judge

Marielsa A. Bernard, Associate Judge
Katherine D. Savage, Associate Judge

David A. Boynton, Associate Judge

**Circuit Court for
Montgomery County
Mission Statement**

Sharon V. Burrell, Associate Judge

Cynthia Callahan, Associate Judge

Joseph A. Dugan, Jr., Associate Judge

Robert A. Greenberg, Associate Judge

Eric M. Johnson, Associate Judge

Richard E. Jordan, Associate Judge

Michael D. Mason, Associate Judge

Cheryl A. McCally, Associate Judge

Mary Beth McCormick, Associate Judge

Terrence J. McGann, Associate Judge

Joseph M. Quirk, Associate Judge

Ronald B. Rubin, Associate Judge

Nelson W. Rupp, Jr., Associate Judge

The mission of the Circuit Court is to serve the Sixth Judicial Circuit residents in the determination of litigation in serious criminal matters, substantive civil cases, domestic and child support cases in accordance with the Constitution while administering justice in an honest, fair, and efficient manner.

Appendix 2. The Circuit Court process for protective orders

Any Maryland resident who has been the victim of bodily harm or is threatened with bodily harm by a current or former spouse, the father or mother of a child in common, or a live-in partner (of 90 days or more) can obtain a protective order in either Montgomery County's highest court, the Circuit Court, in Rockville, or in one of the two lower District courts, in Rockville and Silver Spring. All three courts accept protective order petitions and apply the same Maryland Protective Order law. Only District Courts handle peace orders, which are available to couples dating, landlord/tenants and neighbors who feel they need protection.

Each county in Maryland has a circuit court which has jurisdiction over major civil cases, serious criminal matters, and all family matters including juvenile cases, custody and divorce.

¹Generally, Circuit Court cases involve more married couples than District Court's cases, and more partners with children in common, especially those with open custody or divorce cases over which the Circuit Court has jurisdiction. Protective order cases that involve children and have other open divorce, custody or child support cases are regularly transferred from District Court to Circuit Court for adjudication. The Montgomery County Circuit Court handles approximately one-third of the county's protective order cases.

Each week a different Circuit Court judge hears all temporary and final protective order cases in a docket each morning focused only on protective orders. For a list of Circuit Court judges we monitored and the court's mission statement see Appendix 1.

Either party to a District Court protective order can appeal the judge's decision in a final protective order to the Circuit Court within 30 days. He or she will receive a *de novo* hearing in which the facts of the case are heard again as if there had been no adjudication. Parties to a final order decided by a Circuit Court judge, however, generally must appeal the decision to the Maryland Court of Special Appeals on issues of law.

Appendix 3. Methodology

This report is based on our first set of Circuit Court data, which documents aspects of the protective order hearing process that we believe are most likely to impact victim safety. Court Watch looked at the entire range of services in the courthouse that could affect a victim's desire or ability to obtain a final protective order, as one part of her broader safety plan. We observed judges, clerks, bailiffs, interpreters, and sheriffs during each protective hearing, and, to the extent possible, watched the dynamics in the waiting areas where parties sometimes necessarily waited in close proximity.

We trained volunteers in a three hour classroom setting, and then did extensive "on the job" training at court. A supervisor was scheduled for each day who knew court process well and who discussed the docket when the team of two volunteers finished, making sure their forms were completely filled out and answering any questions.

Teams of two observers at a time allowed us to gather more insights and improve reliability. They sat in different parts of the courtroom and sometimes were able to pick up on different aspects of the hearing, such as what the clerk was doing. Monitors were in court 3 to 5 mornings a week in Circuit Court. Once in court, we tried to observe the entire docket.

We chose not to equalize the number of hearings we monitored for each judge, but rather to let collected data speak to the randomness of judge's schedules and that fact that some judges appear to be hearing more domestic violence cases than others.

Court Watch Montgomery monitors used a three-page checklist to assess courtroom process, as well as the demeanor of judges, interpreters, bailiffs and clerks. The form was tested in court by Steering Committee members and revised. The form was revised numerous times after monitoring began as we got feedback from volunteers about what aspects of it worked well and which were problematic.

We want to note some caveats about our findings. First, although we monitored a broad and extensive sample of relevant cases, we did not monitor every case, and our results may reflect inadvertent sampling errors.

Second, in displaying the performance of the various judges across a range of metrics, we have not tried to adjust for factors such as the size of each judge's caseload, or the nature of their case mix; however, nearly all of the factors we evaluate (e.g., "did the judge inform abusers it is a crime to violate their order?") should not depend on caseload or case mix.

Third, while some of the factors we monitored are self-defining (e.g., "was the respondent present?"), others were more subjective (e.g., "did the judge treat parties with respect?"); we developed detailed procedures to train our citizen-monitors and define criteria for such questions; but such assessments remain subjective.

Fourth, those of us doing the scoring admittedly approach this project with a concern about domestic violence victims, which may introduce bias. Yet the fact that our study

documented many positive and admirable practices (e.g., we found that, on average, judges treated parties with respect in 93% of cases) suggests any such bias was not overwhelming. There is a slight risk that biases by our observers and analysts could have led to more “negative” findings about the performance of court personnel. However, given the fact that judges and court personnel were aware of our presence in court (we alerted all 22 judges in advance of all the factors we would be monitoring, and had each of our monitors wear a lapel button during each monitoring session, clearly identifying them as Court Watch Montgomery monitors), there is also a risk that these data could be unrepresentative in showing a more “positive” picture than the daily reality in the Montgomery County district courts.

Ultimately, this is not an academic paper, but a report on an extensive body of data collected by citizen volunteers who participated in this effort with the hope that such data would inform debate and change practices in ways that help reduce the incidence of domestic violence in our County.

Footnotes

1. MCADV. Individuals who have died as a result of domestic violence in Maryland from July 1, 2011 through June, 2012. <http://mnadv.org/mnadvWeb/wp-content/uploads/2011/07/Memorial-1.png>. 2012.

2. U.S. Census Bureau, DP-1. Profile of general demographic characteristics: 2010, Census 2010 Summary File, Montgomery County Maryland.

Tjaden, Patricia & Nancy Thoennes. National Institute of Justice and the Natl. Center for Disease Control and Prevention. "Extent, nature, and consequences of intimate partner violence: findings from the National Violence Against Women Survey", 2000.

The most conservative population rate of domestic violence for women over 18 in the U.S. is 1.3%, (see NIJ and CDC report). We used the female population of females over the age of 18 in the County.

The figure for numbers of women abused over their lifetimes in the county (93,000) was arrived at by applying the national lifetime domestic violence rate, 22.1% (NIJ, CDC report).

3. For purposes of this report we refer to victims as female. There are male victims of domestic violence. But women are the victims of the vast majority of serious partner abuse (see Logan, T.K., Walker, Robert, et al. 2009. Rennison & Welchans, 2000; and Tjaden. 2000). Female victims tend to sustain more serious injuries. Injuries to male victims are often due to self-defense on the part of the female partner. In 70-80% of intimate partner homicides, no matter which partner was killed, the man physically abused the woman prior to the murder.
4. Logan, T.K. et al. The Kentucky civil protective order study: a rural and urban multiple perspectives study of protective order violation, consequences, responses and cost. National Institute of Justice Grant. 2009.
5. Logan, T.K., Walker, Shannon, R, Jennifer Cole. "Factors associated with separation and ongoing violence among women with civil protective orders." Journal of Family Violence. Vol. 14, No. 2. 2009
6. Duker, Laurie and Judy Whiton. "Just a piece of paper? Domestic violence peace and protective orders in Montgomery County District Courts". Available online at www.courtwatchmontgomery.org 2012.

Duker, Laurie and Judy Whiton. Protecting victims of domestic violence in Montgomery County: challenges and opportunities with protective and peace orders. Available online at www.courtwatchmontgomery.org
7. Administrative Office of the Courts. Maryland judiciary annual statistical abstract fiscal year 2012. 2013.

8. The National Council of Juvenile and Family Court Judge's (NCJFCJ)'s 2010 publication *Civil Protections Orders: a Guide to Improving Practice*, the result of a three year multidisciplinary study which thoroughly examined domestic violence and the treatment of victims in the court system, provided us with substantial guidance, as did our own state's *Maryland Judges Domestic Violence Resource Manual* produced in 2009, a guide for judges in applying Maryland domestic violence law in accordance with best practices.⁸ (See <http://www.vaw.umn.edu/documents/civilprotectionordersguide/html>. a Guide to improving Practice; and *Maryland Judges Domestic Violence* at <http://www.courts.state.md.us/family/pdfs/dvmanualcomplete.pdf>).
9. Standards of Proof for Domestic Violence Civil Protective Order (CPOs). ABA Commission on Domestic Violence. 6/2009.
10. The National Council of Juvenile and Family Court Judge's (NCJFCJ)'s 2010 publication *Civil Protections Orders: a Guide to Improving Practice*, *op.cit.*
11. Klein, Andrew, R. Practical Implications of Current Domestic Violence Research: for law enforcement, prosecutors and judges. National Institute of Justice. June 2009. Department of Justice. www.ojp.usdoj.gov/nij. Also see Jackie Campbell in bibliography.
12. The National Council of Juvenile and Family Court judges, *op.cit.*
13. *Ibid.*
14. MCADV. Individuals who have died as a result of domestic violence in Maryland from July 1, 2011 through June, 2012. *Op cit.*
15. Md.Code, §§ 405 Family Law and/or Md. Code Ann. Pub. Safety §§ 5-133(b)(8)).
16. *Ibid.*
17. The National Council of Juvenile and Family Court judges, *op.cit.*

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