



# COURT WATCH REPORT

**21<sup>st</sup> Circuit St. Louis County, Division 37  
July 1<sup>st</sup> – December 31<sup>st</sup>, 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. Best practices are designed to create safeguards for victims of domestic violence during elevated risk, such as the order of protection process.

The St. Louis County Domestic Violence Court and Family Violence Council have been continuously supportive of the mission of the Court Watch Project. The DV Court should be applauded for its continuing interest in self-evaluation and community feedback the Project can provide. St. Louis County Domestic Violence Court has recently asked the Center for Court Innovation to complete a Needs Assessment specifically identifying the strengths, weakness and opportunities for the Court moving forward. This assessment is anticipated to begin April 2018.

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, especially around areas of firearms. St. Louis County Domestic Violence Court has been working with St. Louis County Police Department drafting protocols for firearm surrender. Implementation of these protocols is anticipated to begin in Spring of 2018.

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, *Justice for Families Grant*, 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”**

JULY 1<sup>ST</sup> – DECEMBER 31<sup>ST</sup>, 2017

21<sup>st</sup> Circuit St. Louis County, Division  
The Honorable John Essner, 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.

*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 Missouri Coalition Against Domestic and Sexual Violence, the Missouri Bar Association 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.

*During this six-month period, 23 dockets were observed by 18 individual monitors. Each docket typically has 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.*

- Promote victim safety and offender accountability.

*Safety recommendations noted in the last report were provided to the St. Louis County Elected Sheriff Jim Buckles, Judge Victoria Mullen McKee, the Presiding Judge, Judge Douglas Beach, and the chair of the St. Louis County Family Violence Council. Over the course of this reporting period, new protocols were drafted specifically for the Adult Abuse dockets. Focusing on 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.

*The Court Watch Project Coordinator met with several key court personnel to discuss the recommendations of the last report. Recommendations from the last*

*report suggested the St. Louis County Domestic Violence Court review protocols for handling no service/no return cases to ensure dockets are running efficiently and litigants are not held for extended lengths of time waiting for their case to be heard. Other recommendations encouraged the Domestic Violence Coordinator and administration review the procedures of the volunteer advocate program and timing of their interventions. The Court Watch Project Coordinator and a member of Leadership Team met with the Domestic Violence Court Coordinator to discuss the recommendations and offered alternative approaches to current practices. The observations from this current reporting period reflected positive changes occurring in the advocacy program. The current recommendation regarding the handling of no service and no return on service cases will be discussed later in this report.*

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

*An additional four volunteer courtroom monitors were trained in August 2017 for Court Watch Project. As 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. Past reports are 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.*

## METHODOLOGY OF THE COURT WATCH PROJECT REPORT

There are two Court Watch monitor forms: 1. Courtroom Protocol and 2. Case Observations. Each monitor completes one Courtroom Protocol form for the entire docket. The Case Observation form is used for individual “default” or “full hearing” case only. Information regarding “consents”, “continuances” and “child orders” are not collected. However, all Courtroom Protocol narrative observations are collected for the entirety of the docket even incidents occurring during one of the types of hearings not formally being collected in a Case Observation form. The purpose of the narrative observations is to provide a more comprehensive perspective of the courtroom, the staff and the proceedings and fill in any gaps the standardized questions cannot capture.

The data are broken out into “default” cases and “full hearing” cases, notated as such within the report, and are separated out because some questions are only applicable to full hearings. Continuances and dismissals are not recorded for the same reasons. Narrative comments from monitors are noted in italic purple below. The Project Coordinator reviewed each 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 this and earlier completed reports. The questions below are the direct questions completed on the forms. Some questions are not used for external reporting at this time, 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 collected and to identify ways to improve the instruments for the next cycle. There have been some questions identified in this five-month cycle that were revised to ensure the information collected is more objective and to decrease inconsistent or inaccurate results. Forms were revised in December 2017 to reflect those changes. The following are the elements of Courtroom Protocol and Case Observations we aimed to measure, the questions we used to measure those elements, and the findings of those questions.

### Courtroom Protocol –

*Sample size – 39 Forms collected from 18 monitors attending 23 separate dockets*

*\*denotes monitors’ comments*

#### Timeliness of the Docket

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

**Finding:** The Judge consistently called the docket within an average of five minutes of the scheduled docket time. The majority of the time, the Judge was consistent with a start time of 8:30am, with a few delays due to technical challenges.

*Once again technical difficulties accessing the electronic record caused a 10-minute delay in starting the hearing. IT was called and arrived within a few minutes which was fast. Judge moved courtrooms, another 40-minute delay.*

*Microphone was not recording and caused a delay. Equipment should be tested before entering the courtroom.*

### Efficiency of the Docket

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

**Finding:** In 97% of the dockets observed, the whole docket was called before proceeding to hear individual cases. On a few occasions, the Judge addressed specific cases before completing the rest of docket call, however this was a rarity. It should be noted that the Judge has a docket time of 8:30am but the docket is called then a recess is taken to allow for latecomers. It is recommended that this downtime be utilized in some way, especially for individuals that are present, and their case is either no service or no return. Advocates did occasionally utilize this downtime to speak to individual Petitioners that were already present, but the majority of the time it was observed that parties sat waiting and was not addressed by court personnel.

*Called twice, with a delay for possible latecomers.*

*Very slow pace of the docket. Technical issues made the pace even slower.*

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

**Finding:** In 54% of the dockets, cases where there was no service to the Respondent or defaults were handled first. The order of the docket was reported by several monitors to be confusing. Name change and custody cases not on the docket were often addressed before defaults or full hearings. Because the Judge addressed each of the no service and no return cases individually, conversations with Petitioners were quite lengthy often involving other areas of custody or property.

*There were a lot of attorneys in court today. Cases with attorneys handled first, but there was so much downtime.*

*Difficult to follow.*

*Docket moved very slowly*

*Also, lots of wait time. People appeared confused when there was a wait, and nothing was happening.*

*Judge Essner asks a lot of questions of the Petitioner and seems genuinely interested in the safety and wellbeing. However, his conversations are time consuming.*

### Transparency of the Process

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

**Finding:** Approximately 82% of the responses noted that the Judge explained the process prior to the start of hearings. Monitors observed parties receiving handouts as they entered to explain the court process. The Judge often reminded those attending to pick up a handout from Bailiff. There were no other instructions regarding the proceedings by the Judge.

*Bailiff stood at entry to courtroom and gave out handouts and answered questions until 8:30am when he relocated to desk. Sat there the remainder of the court.*

**Question 6:** Did the Judge call out the Respondent's name before proceeding with a default?

In 15% of the responses, the Judge did not call out the Respondent's name before proceeding as a default. It should be noted that because of the varying responses by the monitors that this question may have been difficult to capture because of its placement on the Courtroom Protocol form and not individual Case Observations. The Leadership Team reviewed this question and has since revised for the new 2018 forms.

*There was a Respondent who was present and Essner started a default until Petitioner pointed out Respondent was in the room.*

### Safety and Security

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

**Finding:** In 69% of the dockets monitored, the response was yes. But the monitors' description of the Bailiff's presence varied in consistency.

*Bailiff disappeared for a couple of minutes.*

*Judge's mouse stopped working so Bailiff was sent to his office to get batteries.*

*When one Bailiff left courtroom another one came in and sat at his post until he returned*

*The hallway Bailiff (Court Officer) wanders in and out regularly.*

*Judge asked Bailiff to call in another Bailiff before leaving again.*

**Question 8:** Was the Bailiff watching the court proceedings or monitoring the courtroom? (This question has since been revised and will no longer be a “yes/no” response but a Likert scale of attentiveness from 1 to 5.)

**Finding:** 51% of the responses reported the Bailiff did not appear to be watching the court proceedings or monitoring the courtroom.

*The Bailiff monitored the proceedings when someone was in motion.*

*He sits at the desk and appears to be doing nothing. If someone started an altercation I don't think he would be able to stop it or get to it quickly enough to make a difference.*

*The advocate noticed Respondent acting up in court and had to alert Bailiff since he wasn't watching.*

*The hallway Bailiff watched from the back of court.*

*Petitioner and Respondent that got a continuance left at the exact same time after Respondent was making faces and hand gestures at Petitioner the whole time.*

*He often seemed distracted and not following the proceedings. Kept napping during court.*

*Quite a few people in the room on their cell phones.*

*Respondent made verbal contact with Petitioner and Bailiff did nothing.*

## Case Observation –

Sample Size – 24 default observations and 13 full hearing observations (individual cases) collected from monitors attending 23 separate dockets.

### Litigant Support

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

**Finding:** In 18% of the observed default cases, Petitioners were represented by an attorney. In 15% of the observed full hearings, Petitioners had an attorney present. In 26% of the full hearings, Respondents had attorneys. There were three full hearings with Respondents represented by an attorney, yet the Petitioner was not.

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

**Finding:** After conversations with the Domestic Violence Court Coordinator and regular inconsistencies received from monitors, it was determined that this outcome was not consistent enough to report as currently written. After meeting with the DV Court Coordinator in September, it was decided that the Coordinator will provide a more accurate number to Court Watch Project each week with the number of Petitioners that Advocates met with. This is because this information is already collected for the Court's statistical purposes. Based on the information from the DV Court Coordinator, approximately 96% of Petitioners met with Advocates. Because of the multitude of cross filings or prior interactions, not all Petitioners will meet with an advocate at the time of a hearing. Narrative observations were collected and noted below.

*The Advocates were very active and engaged. Seemed to be more on top of it than anyone else in the court.*

*Judge more actively involved with advocates than previous judge. Called them up, explained and provided direction.*

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

**Finding:** There was one observed case that interpreters were not ordered for the hearing ahead of time. The case was continued because of no available interpreters.

Judicial Manner

**Question 6-7:** Did the Judge treat the Petitioner with respect? Did the Judge treat the Respondent with respect?

**Finding:** The monitors noted in 100% of the observed cases that the Judge did treat the Petitioner and Respondent with respect. In 100% of default cases the Judge did treat the Petitioner with respect.

*Judge clearly and patiently talked her through custody and divorce law that she could pursue after this hearing.*

*Judge asked good, in-depth questions of both Petitioner and Respondent to clarify conflicting testimony.*

*The Respondent was constantly interrupting the Judge to speak but the Judge calmly and patiently handled him.*

*Judge was kind and caring. He explained things patiently and thoughtfully. He seemed to really care about both parties and wanted to work through issues to reach an amicable agreement.*

*Maintained eye contact and attentiveness.*

**Question 9:** Was a full order of protection granted?

**Finding:** In 100% of the observed default cases, the full order was granted. Two of the 13 full hearings observed were granted, all others were taken under advisement. 85% of the full hearing outcomes were unknown. The Court Watch Coordinator did research via Casenet the full hearings that were identified and the majority did have decisions made approximately two weeks after the time of the full hearing. However, not all the names of the cases were captured so the outcomes of all 13 hearings are still not known.

**Question 10:** Did the Judge explain the ruling in plain language?

**Finding:** In 90% of default cases, the Judge explained the order to the Petitioner. In 57% of full hearings, it was noted that the Judge explained the ruling in a language that seemed clear and in recognizable legal terms. The percentage for full hearings is low because most outcomes were taken under advisement so there were no details regarding a ruling that needed to be discussed.

*Thoroughly explained options for custody/support and visitation limitations for child.*

*Through the questions Judge asked he mentioned topics that would be covered in the order.*

*He went through all the possible protections with her.*

*He explained supervised visitation, child support and Batterer's Intervention Programs.*

*Explained how to create a permanent parenting/custody agreement. Didn't explain how many feet for distance was she is not allowed to do or where Respondent is not allowed to go.*

There were several narrative observations regarding the actual volume of the Judge's voice.

*Respondent indicated that the Judge speaks softly, and he couldn't hear him.*

*Judge's voice is barely understandable. He does not enunciate well, so he sounds as if he is slurring his words.*

*Judge Essner is difficult to understand, mumbles rather than enunciates.*

*iii. Courtroom Safety*

*(The following questions are specific only to the 13 full-hearing cases observed)*

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

**Finding:** In 65% of the cases observed, the Bailiff did not stand between the parties. The parties were seated at the tables for full hearings. The Bailiff was often seated at his desk.

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

**Finding:** In 57% 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 precautionary procedure and the Advocates and Bailiffs should communicate to ensure this practice is being followed.

*Bailiff held back Respondent while Petitioner went to new room.*

*Judge asked the Advocates to talk to Petitioner. Respondent left but did not observe Bailiff addressing staggered exit times. Did not tell Respondent to wait.*

*The advocate took the Petitioner out of the courtroom before the paperwork was done for her protection.*

*Bailiff didn't attend to either party after the hearing, just picked up flyers.*

*The attorney had to ask Bailiff to hold back the Respondent for Petitioner to leave.*

*There was no effort to keep Respondent in the courtroom after a continuance was granted or any other case that day. In many cases the Petitioner and Respondent left together.*

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

**Finding:** In 61% 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. The Bailiff at times did stand at the doors as parties

entered. Other times, he sat at the desk and instructed people to come to him. He would then check them in and tell them which side to sit on. There are also signs posted by the front row directing Petitioners to the right and Respondents to the left. Monitor narratives did show some inconsistencies from docket to docket as noted below.

*Bailiff did not instruct people to go to separate sides nor did he check people in and individually tell them where to sit.*

*Petitioner and Respondent walked to a small conference room twice and filled out papers together.*

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

**Finding:** In 70% of the cases, precaution was taken to ensure separation during the proceedings. The Judge brought both parties to the bench for preliminary discussion, leaving them only inches from each other. The Bailiff is typically still seated unless otherwise instructed by the Judge therefore the separation of the parties is largely enforced by the use of the tables which are approximately ten feet or more apart.

*Bailiff left courtroom for most of the testimony.*

*Bailiff left courtroom when microphones were not working so he did not stand between Petitioner and Respondent. Petitioner awkwardly stood to the side and took a step back. It looked like an awkward position for the Petitioner.*

*Respondent, his attorney and Petitioner went into room to do a consent or dismissal with no advocate or bailiff.*

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

**Finding:** In 43% of the cases, precaution was taken to ensure separation after the proceedings.

*Bailiff allowed parties to leave together.*

*Judge announced that Respondent would have to stay in courtroom for 10 minutes after Petitioner left.*

*Respondent got up to leave and the hallway Bailiff headed him back to his seat.*

*Bailiff asked Respondent to sit and wait for paperwork away from Petitioner.*

*It concerns me the judge said he doesn't understand Facebook. Social media is such a part of the fabric of society.*

*Court clerk looked like she was sleeping during testimony and Judge's questions.*

*Judge instructed parties to continue conversation in his chambers together.*

*Bailiff was standing to the side watching while Petitioner and Respondent were at bench. He was also watching and alert while they were with the clerk. However, he did not stand between them or attempt to separate.*

## COMMENDATIONS

### **Judge Essner's demeanor during hearings and individual conversations was respectful and reverent to the expressed concerns of the parties.**

Overwhelmingly, the narrative responses from the monitors regarding Judge Essner's demeanor was very positive. Monitors noted that the Judge appeared respectful to all parties in 100% of the observed defaults and full hearings. Judge Essner was very thorough when talking through evidence and respectful to both parties. He often explained to the Respondent and Petitioner why he was asking certain questions, sometimes to de-escalate the Respondent when agitated. One unique method Judge Essner uses that seemed especially helpful for Petitioners is that he often reads from the petition instead of having the Petitioner start from scratch. This allows the Petitioner to validate rather the information in the Petition is accurate and true. This practice seemed to be a bit easier for Petitioners, when they were nervous to speak.

*Judge educated the Respondent on that it's not just physical violence that abuse could be physical and emotional.*

### **Advocates utilized time between docket calls to meet with Petitioners.**

Another noticeable difference between this docket and ones observed in the past was the activity of the Advocates prior to the Judge meeting with Petitioners. Monitors observed the Advocates utilizing downtime between the first reading of the docket and the 15-20-minute break immediately following to speak with Petitioners outside of the courtroom. This provided an opportunity for Petitioners to receive information and address any concerns prior to the docket beginning. It was also observed on a handful of occasions that the DV Coordinator would also address brief questions or concerns that Respondents had if they approached the Bailiff or Advocates with a question. As outlined in the *Civil Protection Order Guide: A Guide to Improving Practice* developed by the National Council of Juvenile and Family Court Judges, Advocates are an essential resource for victims in navigating the complex system of obtaining protection orders. Advocates are the primary source of information and resources for

victims, and interventions or “check-ins” should regularly occur throughout the process. The Advocates’ practice of meeting with the victim prior to docket call is a valuable tool to ensure a discussion of the court process, explore options available to her and address safety planning. This practice should be encouraged by all court personnel and judges. Because other judges may not take breaks after first docket call as Judge Essner has, it is suggested that the Advocates arrive early and work with the Bailiff during check-in to begin conversations with Petitioners as they arrive.

## RECOMMENDATIONS

The court process can be re-traumatizing for victims, especially if there had been past negative experiences with the court or law enforcement. Factors such as continuous court delays, complex court proceedings, discourteous court staff, misinformation about the court system given by the abuser, uninformed service providers, vague court orders, and court orders that require the victim to cooperate with the abuser may bring additional stress or be re-traumatizing to victims and validate those past negative experiences.<sup>1</sup> Knowing this, the Court Watch Project makes the following recommendations based on the six months of weekly observations.

### **Recommendation 1:** Increase efficiency of the docket overall.

One of the overarching themes notated by monitors was the amount of downtime and the extremely slow pace of the overall docket. Dockets with little to no default or full hearings would often take over three hours to complete.

There were noticeable patterns of administrative behaviors that often-caused prolonged lapse of time. First, a considerable amount of time was spent on no service and no return on service cases. A recommendation from the Spring 2017 report included utilizing other court personnel for most no service/no return of service cases and reducing the number of no return of service cases by researching these prior to the docket. It was observed that the Judge had Advocates call about no return cases, removing Advocates out of the courtroom for extended periods of time. While there may be extenuating circumstances for this to occur at times, this is a misallocation of Advocate resources. It is recommended that no return of service cases be confirmed prior to the docket by the clerks. The Court did indicate after the Spring 2017 report that software systems to assist with filings were being researched but that software has not yet been implemented.

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<sup>1</sup> Domestic Violence Benchbook: A guide to Court Intervention (2015). Ling, E. and Crank, K. Center for Court Innovation.

Petitioners who arrived at 8:30am and were noted to be no service/no return had to wait until the docket was called again for latecomers before their case was addressed. While it is commended that the Judge does allow time for latecomers, it is recommended that the Court utilize this time between docket calls to handle no service cases for Petitioners already present. If a petitioner is present at the first 8:30am docket call, the clerks or Advocates could discuss next steps, special process servers and complete continuance memos while they are addressing safety planning and resources with Petitioners. During this six-month period, monitors observed lengthy conversations between the Judge and Petitioners addressing no service cases. The Judge was very thorough and respectful to Petitioners, yet oftentimes conversations involved other matters Advocates were available to address than addressing no service.

*First cases called were failure to serve and each seemed to take an extraordinary amount of time.*

Secondly, it was reported that cases were called in front of the Judge in no apparent order and there were often lengthy delays without any explanation or identifiable activity. In 54% of the dockets, the cases handled first were cases where there was no service to the Respondent or defaults. However, cases were often called strictly in the order the names were listed on the docket. After second docket call, the Judge regularly asked individual parties if they wanted a hearing or consent, often resulting in lengthy conversations. This often caused a long delay for individuals whose names were last on the docket, especially those low on the list that were already listed as a no service case. Lengthy hearings with attorneys and multiple witness were heard before pro se cases and even before defaults. For example, a pro se case waiting over three hours was heard after a case with interpreters and lawyers. The Judge informed the pro se parties that the hearing would be lengthy and offered to continue their case, however the Petitioner indicated she would not be able to get off work again.

*There were so many long pauses when Judge apparently is reviewing information. No one called to bench. It looks like he is doing something that could have been done at his desk. Not taking everyone else's time to wait.*

*Only 1 default; didn't call out her name but waited so long to get started room was empty. It was known she hadn't just come in the room.*

*The hearing lasted about 40 minutes. Judge Essner was thorough but very slow. There was a default hearing waiting after this.*

Thirdly, it was reported that technical issues were a constant in this court often causing lengthy recesses or relocation of litigants to another courtroom. In the first two months of observing, the court was relocated to the second floor five times. The relocation of courtrooms not only caused a delay, but also provided

an opportunity for increased security risks. There are increased opportunities for abusers to intimidate or harm victims. Toward the end of the reporting period, the monitors often noticed a male clerk testing microphones and the recording system prior to the start of the docket. Because of this practice, the relocation of courtrooms due to microphone or recording issues was less frequent in the last eight weeks. However, there were other times cases were relocated to an upstairs courtroom if the Judge felt the hearings might be lengthy and extend into the 1:30pm docket in the same courtroom.

*Microphone and recording issues. Asked parties to sit down while they worked on the issues. Moved to another courtroom.*

*Moving upstairs took about 15 minutes to get all set up and running again.*

Other delays reported to be a result of parties waiting for final paperwork. Monitors observed Petitioners with no service cases regularly waiting for long lengths of time for their paperwork to leave. The Court Watch Project Coordinator often observed the clerk having paperwork returned to her by an Advocate because of a mistake or Advocates alerting her to Petitioners still waiting for their paperwork. While the clerk seemed very cordial and approachable, Petitioners were noticeably frustrated by the delays. The Clerk often handed paperwork to Respondents without notifying the Bailiff to hold them in the courtroom. Overall, there was no observable coordination between court staff working to ensure efficiency or safety unless the safety factor was overt in nature.

*Bailiff and court clerk appeared to be sleeping for short intervals during Judge's conversations with Petitioners and/or Respondents.*

*1 hearing took 1 hour because Judge seemed to be asking same questions repeatedly and kept repeating story.*

*The judge spent quite a bit of time with a man that was not on the docket. Seemed to be a waste of time for those there for full hearings. The judge said this wasn't an issue for the court but continued to allow the man to speak for a great length of time.*

*Late start, unclear prolonged period of inaction not explained to room.*

**Recommendation 2:** Designate dockets for adult abuse hearings only and address the seriousness of the proceedings.

Almost weekly, monitors observed that cases involving name changes or Family Access cases that were not listed on the docket mixed into the morning's proceedings. Dockets should be reserved for adult abuse cases because of the sensitivity of these cases and to limit individuals not needed in the courtroom

for additional security measures. It was regularly noted that Petitioners waiting for their default hearing often were pushed back for random name change cases in front of the Judge. There were two observed Family Access hearings before full hearings for adult abuse cases.

*A name change case was processed in the middle of the other orders of protection. There seemed to be no consistent logic on which cases were brought to the bench first. At least the Judge did not share his logic if he had any.*

*Judge spent a considerable amount of time on a custody case that was not on the docket.*

**Recommendation 3:** Implement enhanced and standardized safety protocols for litigants that must relocate to a courtroom that is not the one stated on the order of protection summons.

As stated above in Recommendation 1, there were multiple times the courtroom needed to relocate for either technical reasons or the Judge's preference. Monitors observed no coordinated security practices between the court Bailiff, Advocates or court personnel to address the relocation and safety concerns. The Court Officer was often not called into the courtroom by the Bailiff to assist with relocation till after the parties began to leave. At times, the Bailiff was observed directing some litigants to the next courtroom, and the Court Officer did hold Respondents back if he was notified in advance of the courtroom change. However, there was no concentrated nor consistent effort to separate parties thereafter. The monitors at times observed Respondents and Petitioners taking elevators or stairs together. It is recommended that the Bailiff coordinate with the Court Officer when there is a need for relocation and all parties clearly be separated.

Once upstairs, litigants often waited in a common hallway before being allowed into the courtroom presenting another opportunity for risk and another lack of separation. Security was not present in the hallways if the Court Officer was still closing the court downstairs. The Bailiff was not observed until the courtroom was open and there was no effort to separate parties once inside the courtroom. Multiple Domestic Violence Court protocol models suggest that parties be separated, security be present at all times, that a safe space for Petitioners be provided and if possible a separate space for Respondents. The St. Louis County Domestic Violence Court does have safety protocols written to address the unique security measures needed for Order of Protection dockets. It is recommended that the protocols already developed be consistently implemented and all staff within Division 37 be re-trained on domestic violence dynamics and the security measures. It is also recommended that the Bailiff coordinate with the Court Officer when there is a change in court. The

Advocates can also play an important role in escorting Petitioners and ensuring they are provided a safe space if needed.

*There was a change in courtrooms due to technical difficulties. The Respondent was held back but not long enough as there was time in front of the new courtroom hallway that the Petitioners and Respondents were left alone in the hall with no bailiff. Although there were Advocates in the hallway, there was no attempt to separate litigants or pay attention to what was going on.*

*When switching courtrooms, the Bailiff held back the Respondent but when we got upstairs no one was separating/protecting parties. Judge McKee's Bailiff happened to be in hallway but not Judge Essner's for several minutes.*

*Once in new courtroom, before the docket started again, a Respondent approached Petitioner and gave her something, this happened while the Advocates were chit chatting and the bailiff was on his phone.*

**Recommendation 4:** Improve and standardize security practices in the courtroom. Implement mandatory training of all judges, bailiffs and courtroom personnel that serve in adult abuse court divisions regarding dynamics of domestic violence.

As in past reports, it is recommended that all security staff and court personnel working specialized dockets addressing intimate partner violence receive training, to ensure all staff assigned to the dedicated dockets are sensitive to the unique needs and dynamics surrounding domestic violence.

Practices within court that may be standard for other dockets may not transfer to a docket that addresses safety of victims and their children. For example, it was observed on a regular basis that Petitioners and Respondents were asked to write their phone and contact information on continuance memos, so the court could contact them if needed. In other civil matters this may not be a concern, but when working with victims that are requesting safety and confidentiality from the court this practice is disconcerting. On one occasion the Petitioner expressed concern with the Respondent knowing her phone number and the Judge did state she could use a friends' information, but this was not common practice. Security practices should be reviewed at administrative levels and be a collaborative effort between all personnel working within that division, including the judges, bailiffs, clerks and advocates.

The separation of parties before, during and after proceedings should also be monitored more closely. There were several noted instances where the Petitioner and Respondent were observed entering conference rooms together with attorneys. On one occasion, a volunteer lawyer was requested by the Judge to work on visitation schedule and asked both Petitioner and Respondent to sit

down with him to discuss situation. The Judge also requested a Petitioner and Respondent continue conversation with him in his chambers to discuss a visitation schedule since no volunteer lawyer was available. For most of the observed cases, the Judge did utilize the tables to separate parties during full hearings. However, parties were also brought to the bench to discuss cases prior to hearings standing just inches from each other with Bailiff not close or at times seated. It is recommended that divisions that will hear adult abuse cases, implement and adhere to the protocols outlined by the St. Louis County Domestic Violence Court consistently.

As stated in past Court Watch Project reports, 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).<sup>2</sup> 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. In 51% of the observed dockets, the Bailiff did not appear to be watching the court proceedings or monitoring the courtroom and only in 61% of the responses did monitors observe the Bailiff separating the parties before court. There was no clear understanding of the seriousness of security by the Bailiff observed.

**Recommendation 5:** Litigants need a transparent process, specifically around a more detailed explanation of the court process and outcomes of the order.

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 and Spring 2017 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. Since the Spring 2017 report, the Domestic Violence Court has information displayed via the televisions in the Adult Abuse Office that provides revolving information to Petitioners about the application process and community resources.

As stated previously, as high as 85% of Petitioners were self-represented in full hearings 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

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<sup>2</sup> Bureau of Justice Statistics Special Report: Violence Against Women: Estimates from the redesigned survey (NCJ-154348), August 1995, p. 4.

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 22% of the observed dockets monitors noted that the Judge explained the process prior to the hearings. This Judge did have handouts available that were provided to parties as they entered the courtroom. The Judge addresses options with the parties as individual parties approach the bench and discusses with each party the options available to them. This can often be quite time-consuming, and conversations often veered to other civil matters. A more standardized explanation with details of the process has been recommended in past reports and would provide litigants with a clearer understanding of the process and seriousness of the matter. The Judge should consider more consistently reading the provisions of the order in plain language, and identifying consequences if violations occur.

As stated in the findings, 80% of the outcomes of the observed full hearings were taken advisement. While it is at the discretion of each judge to do so especially for testimony review or security concerns, the ongoing practice leaves litigants with no immediate resolution to their case. It can also create a false assurance that an ex-parte is in place due to a delay in notification. Parties should have a timely resolution to their case and provided with a clear understanding of the parameters of the order if it is granted. With so many cases taken under advisement, Petitioners and Respondents are leaving the courtroom with no outcome.

While no court personnel should assume that every party hears and understands every portion of the introduction, nothing can replace the Judge 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 Judge 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.

**Recommendation 6:** Review language access protocols for non-English speaking litigants to ensure interpreters are available at the time of the scheduled hearings.

There were only two observed cases that parties needed interpreters. Of those two observed cases, both were continued at least once because no interpreter was present. One case was continued by an attorney because interpreters were not ordered for the Petitioner or Respondent. Another monitor observed a

Petitioner speaking with an interpreter on the phone in the courtroom and was also told her case would be continued until an interpreter was available in person. It is recommended that the St. Louis County Domestic Violence Court access their current language access procedures to ensure litigants have interpreters available to them at the time of their scheduled hearings.

**Additional Comments:** Because of the scope of the Court Watch Project at this time, the BIP Compliance program is not being monitored. The Court Watch Project Coordinator has spoken with the Domestic Violence Coordinator regarding the program's BIP Compliance Coordinator has been available to assist with individual questions as they arise. Because this is not an area that Court Watch Project is specifically addressing or monitoring, it was recommended to the Center for Court Innovation that the civil compliance strengths and weakness be reviewed during the Needs Assessment in April to ensure the outcomes and procedures are working effectively and in accordance with evidence-based research.

The complete data report can be found at <https://slevawn.org/>.

## Other Resources

1. CREATING A DOMESTIC VIOLENCE COURT: ADAPTING THE MODEL TO YOUR COMMUNITY.  
<https://www.supremecourt.ohio.gov/JCS/domesticViolence/topics/DVCourts/DVCToolkit.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](http://www.courtinnovation.org/sites/default/files/documents/FactSheet_December2016_Deterrence_DV.pdf).
3. CIVIL PROTECTION ORDERS: A GUIDE FOR IMPROVING PRACTICE IS AVAILABLE ON-LINE AT:  
[HTTP://WWW.NCJFCJ.ORG/IMAGES/STORIES/DEPT/FVD/PDF/CPO\\_GUIDE.PDF](HTTP://WWW.NCJFCJ.ORG/IMAGES/STORIES/DEPT/FVD/PDF/CPO_GUIDE.PDF).