

Just “A Piece of Paper?”
Domestic Violence Peace and Protective Orders
in Montgomery County District Courts
Second Monitoring Report



Court Watch
MONTGOMERY
A Public Eye on Domestic Violence

by

Court Watch Montgomery
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Court Watch Montgomery is an all-volunteer, non-profit organization that works to improve domestic violence victim safety by reducing obstacles to effective legal protection and holding offenders accountable.

Their Stories:

Here are just a few of the stories that over 510 victims we listened to in court told. We want to provide a sense of what some of them experienced:

“He’s charming until he has me against a wall trying to kill me.”

“We have a two week old baby together. We had an argument. Now he says he won’t give my son back.”

“He punched me, bit me on the cheek, choked me, kicked me, threatened me with a switchblade. He said sooner or later he will kill me.”

“My husband got upset at 1 am because I was sleepy and didn’t want to go to McDonalds. He sat on top of me in bed and used both hands to choke me. He said ‘Do I have your attention now, or are you going to sleep and ignore me?’ He hits his head into the wall with force and talks about killing himself.”

“I’d like to withdraw the whole thing. I have advanced cancer and diabetes, and he’s the one that wakes me up to make sure I get my insulin. I only have him, no one else.”

Thank you to our dozens of Court Watch Montgomery volunteers who have spent over one thousand hours monitoring the County's protective and peace order hearings.

You have helped bring needed improvements to the system, and made a difference in women's lives.

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Domestic Violence Peace and Protective Orders in County District Courts

Second Monitoring Report

Executive Summary

In the six months since Court Watch Montgomery issued its first report, the County’s district courts have made several significant improvements to protect victims of domestic violence. For the first time, abusers are now regularly held in the courtroom after protective and peace order hearings until victims have a chance to leave safely. As well, for the first time, all victims and offenders can hear an audio introduction in English and Spanish that clearly explains how a hearing will work before the judge takes the bench.

Yet this six month period also offers new reasons for serious concern. During this period victims barely gained ground on several important metrics. Given that some 76,000 women in Montgomery County are likely to be attacked by an intimate partner at some time in their lives, these lapses pose an unacceptable risk.¹

Most troubling, during this period, three Montgomery County residents were killed due to domestic violence – including an eleven year old boy. These homicides raise important questions about the efficacy of our county’s outreach efforts to victims that do not come to court, our peace and protective order process, and the county’s ability to keep offenders who violate protective and peace orders from committing lethal violence.

One case, the murder in March of Heather McGuire by her abusive husband [see sidebar, p.42], reminds us that domestic violence victims assume enormous risk when they leave their partner and seek the protection of our courts and criminal justice system.² Their brave acts challenge us to keep pushing for improvement – to work toward a system that vigorously and effectively protects domestic violence victims and their children.

In our court monitoring and this report, we have again focused particularly on peace and protective orders. Some may ask whether such an order is “just a piece of paper” – a relatively minor factor in efforts to prevent domestic violence. Too often, abusers – like the one who murdered Heather McGuire – treat these orders as if they are, indeed, meaningless.

Yet full year protective and peace orders play a central role in protecting domestic violence victims and successfully end intimate partner abuse in many instances, particularly when combined with a broader safety plan. When they don't halt the violence, studies suggest that protective orders significantly reduce the severity and frequency of abuse in many cases.^{3,4}

Is a protective or peace order “just a piece of paper?” Only if we let it be. The effectiveness of orders varies widely, influenced by broad factors, including a state's domestic violence laws, local culture, the quality of enforcement of the orders, and the availability of support services for victims. The quality, accessibility and respectfulness of local courts also play a crucial role in determining whether orders help protect victims – and that is the focus of this report and the broader work of Court Watch Montgomery.⁵

Court Watch Montgomery was founded in September 2010 to provide a public eye on domestic violence in Montgomery County, Maryland. Our original report, “Protecting Victims of Domestic Violence in Montgomery County: Challenges and Opportunities with Protective and Peace Orders” assessed strengths and weaknesses in current court procedures and suggested improvements the courts might consider. That report described data collected by 25 volunteers at over 640 intimate partner civil hearings from January 2011 to the end of July, 2011, and provides additional context for the changes described herein. (See <http://www.courtwatchmontgomery.org>). Volunteers collected information on a wide range of practices used by judges, clerks, bailiffs, interpreters and sheriffs.

Sources for best practices include the Maryland Judge's Domestic Violence Resource Manual (<http://www.courts.state.md.us/family/pdfs/dvmanualcomplete.pdf>) and recommendations from the National Council of Juvenile and Family Court Judges (<http://www.ncjfcj.org/images/stories/dept/fvd/pdf/cpoqguide.pdf> .)

In this report, we measure change in the most critical areas outlined in our first report and highlight several new areas of concern. This report looks at data collected by over 20 volunteers who monitored 510 protective and peace order hearings in the County's two district courts from October 2011 through March of 2012.

Major Findings and Recommendations

Montgomery County's district court judges continue to do a commendable job presiding over difficult civil domestic violence cases. Data we gathered in the last six months shows several important areas of improvement by these judges and other court personnel that will better protect victims of domestic violence. We commend District Administrative Judge Eugene Wolfe for his leadership in spearheading many improvements and Chief Judge of the District Court Ben Clyburn for sharing our findings with District Court judges in other Maryland counties and introducing several of our recommendations into bailiff and judicial training programs. But our data also highlights important shortcomings in our county's protective and peace order process that pose serious risks to victims of domestic violence and their children.

Our key findings and recommendations include:

1. **Finding:** In the last six months County district courts dramatically improved victim safety following hearings. "Staggered exits/victim first – allowing the victim to leave the courthouse fifteen minutes before her abuser – has been adopted as regular procedure in Rockville and Silver Spring District Courts. In 70% of relevant cases judges, bailiffs and clerks used staggered exits to allow the victim safe passage to her transportation – a large increase from only 15% use in the first study.

Every judge used staggered exits in at least half of their cases except for visiting judges, who had a lower average rate.

Recommendation: Court personnel should continue fine-tuning how "staggered exits/victim first" is implemented to ensure all victims coming to court leave safely.

A short training for visiting judges on new procedures and report findings would be useful, especially since visiting judges are currently hearing a large percentage of cases to compensate for two vacancies on the bench.

2. **Finding:** Victims continued to wait, unprotected by bailiffs or security guards, in close proximity to their ex-partners before hearings, in 99% of cases. Our report documents an example of traumatic intimidation outside the Silver Spring courtroom. Bailiffs tried to check hallways and to open courtrooms early when they could.

Intimidation and harassment of victims continues to occur not only outside civil courtrooms but outside criminal domestic violence courtrooms and outside the court building before victims enter.

Recommendation: Victim security is an urgent problem that requires action. Maryland court administrators should reevaluate court design and use-plans to assess whether there are ways to provide separate entrances and waiting rooms for all victims that come to court. Victims cannot be expected to come to court if they cannot be protected from their abusers in the courthouse and its environs.

Given the courts' current configuration we suggest a systematic personal escort service for victims with serious cases. County domestic violence coordinators might consider developing a comprehensive system to screen all victims using a standardized lethality assessment tool to prioritize cases. A mix of victim advocates, sheriffs, police and bailiffs could provide more escorts to women with high risk cases than are currently used. The lethality assessment could be added to the court file for the judge's reference as it is currently in Charles County (see Finding 10).

The Rockville and Silver Spring District Courts should post a person outside the domestic violence courtroom at all times prior to the courtroom opening to make court safer and more welcoming to fearful petitioners. This need not be a bailiff. We understand that this is difficult under current budget constraints.

3. **Finding:** English and Spanish speaking parties were greatly aided by the introduction of a succinct audio introduction to court process that is played every day in both domestic violence courtrooms before the judge takes the bench. This audio gives parties more consistent and complete information that better prepares them for their hearing.

Recommendation: Courtroom clerks could briefly introduce the audio, letting people know that the information in the audio is specifically about their type of case and will be useful to them in their hearing. State court administrators might consider making this new audio introduction available to all counties.

We continue to recommend creating a video introduction, which would do more to hold participants' attention and convey the many key details parties need to understand prior to their hearing. A video could be made available online and at libraries.

4. **Finding:** Progress was made in ensuring both parties understand that all firearms owned or possessed by respondents must be turned in to law enforcement in protective order cases.

Both the audio introduction and more frequent statements by judges when they first took the bench reiterated the importance of the statutes prohibiting firearms.

However, judges only specifically told offenders who stood before them 38% of the time

(compared to 32% in the last report) that under federal and state law they must surrender all firearms owned or possessed under a protective order. Judges may feel that the new audio introduction or their own general statements suffice.

Recommendation: There is no substitute for the judge invoking the full authority of the court by telling each respondent that they must immediately turn in all firearms to law enforcement for the duration of their order. The firearm restriction should be described to the petitioner even when the respondent is absent so that she understands specifically how the law works and may be able to facilitate turning in a gun.

5. **Finding:** Some strides were made in amplifying the deterrent effect of orders by reiterating to parties that violating orders is a crime. The information is included in the new audio introduction, so that information now reaches petitioners and respondents more consistently. Some judges also reiterated the warning as part of their initial remarks. However, judges only directly told the parties 44% of the time that it is a crime to violate a protective or peace order. This is less than a 10 point increase in the use of this best practice over the previous study period and means this is still done in fewer than half of all cases.

Recommendation: While the audio introduction does state it is a crime to violate a protective order, it cannot replace the judge using the full authority of the court to personally warn each respondent of this fact. This emphasizes the seriousness of a violation in his particular case and signals the victim that the court takes orders seriously and that she has options if he violates.

6. **Finding:** In a full 20% of all cases, petitioners dismissed their orders, either by requesting that the judge dismiss their order or by not appearing in court for a scheduled hearing. When a victim asked the judge to dismiss her case judges only asked her if she had been coerced into dropping her order 37% of the time. Only 30% of victims asking to dismiss their cases were encouraged to return to court if they felt in danger again. Virtually none of these petitioners were referred to on-site victim services.

Fifteen petitioners asking the judge to drop their case were asked no questions at all by the judges, nor were they referred to on-site victim services.

Recommendation: More attention needs to be focused on this large portion of cases. Many dismissal cases we reviewed involved very serious domestic violence.

When a petitioner asks to dismiss her protective or peace order, judges should use the opportunity to engage her in a discussion about her safety and ensure she has not been coerced into dropping her order and that she knows that she can return to court for another

order if she feels unsafe in the future.

If all case files included a brief lethality assessment some portion of the petitioners who were absent from court could be prioritized for safety checks or victim advocate follow-up. On-site victim advocate and legal resources are provided in the courthouse for a reason. Victims that come to court to dismiss or rescind orders should be directed by either judges or clerks to victim services, either before or after their hearing.

7. **Finding:** Although there has been progress on some of the major issues raised in our last report, domestic violence victims continue to face barriers to services at both courthouses. Domestic violence victims have not had regular access to pro bono lawyers within the Rockville courthouse as they do in Silver Spring; the court has now made an office available to House of Ruth lawyers. Signs in the Rockville District Court are still confusing, making victim services hard to locate; the court is now working on clarifying signage. Recently the Administrative Judge obtained funding to put an information kiosk in the front lobby of the Rockville courthouse.

The Silver Spring courthouse continues to lack any readily visible information about County services, including hotline numbers and information about the county's Family Justice Center. The Rockville court has a small amount of information available but needs more; plans to provide more information on services are underway.

There continues to be no seating for victims using the Rockville domestic violence clerk's office. Victims need to be able to sit with a clipboard to write their petition or wait for their papers from the clerks.

Recommendation: No victim should ever leave a Montgomery County courthouse without being made aware of on-site services and the county's Family Justice Center, either by judges or clerks. Court personnel should continue efforts to ensure that every petitioner sees hotline numbers and information about the Family Justice Center in the clerk's offices and in women's bathrooms, as these are sometimes the only places a victim is allowed to be out of her abuser's presence.

Victims need to be given space and some degree of comfort in which to write their petitions. Seating is desperately needed outside the inappropriately small domestic violence office in the Rockville courthouse.

8. **Finding:** Overall, judicial demeanor in peace and protective order cases improved significantly since our last report. Six judges had perfect records in treating parties with respect, compared to three in the last report.

Two judges still repeatedly appeared to be forcing some respondents to consent to orders. This took the form of rapid fire questions pressuring respondents to agree to a consent order

(even though 70% of respondents had no lawyer) and very rude treatment if the respondent had any questions or requested a hearing, which offenders have every right to.

One judge showed disrespect to all parties by regularly starting court at least 20 – and sometimes 45 - minutes late, requiring residents to spend far longer than necessary away from work, children or other commitments.

Recommendation: Respondents should be made aware of their options (a consent agreement or a hearing) in a neutral manner and should be given an opportunity to ask brief questions to clarify their options. Being treated rudely or unfairly in the courtroom may deter women from further contact with the court, and/or aggravate already angry offenders, thereby putting victims at additional risk.

Sitting judges, visiting judges and other court personnel might be well-served by regular, required training and updating on domestic violence issues. Training could include topics such as understanding the dynamics of domestic violence, current domestic violence case law and legislation, victim safety assessment, cultural competency and the use of court interpretation in domestic violence hearings.⁶

9. Finding: There were approximately 380 children linked to the 510 cases we monitored. Many of these children witnessed domestic violence. Monitors heard many stories of children witnessing incidents and at least three cases in which a child was injured during a domestic violence incident.

Although Montgomery County is home to a highly regarded counseling program for children who witness domestic violence (SAFE START), both district courts and the circuit court ordered few children to counseling, only 22 in 2011 and 2 in the first quarter of 2012.

Recommendation: Judges should consider ensuring that more children who witness violence receive help by ordering more children into the SAFE START counseling program.

10. Finding: Quickly assessing danger levels on the bench during protective and peace order hearings can be difficult. A reliable tool to help judges more quickly understand the seriousness of each case could save judge's time and improve the chances that particularly dangerous cases never slip through the cracks.

Recommendation: Judges should consider adding lethality assessment scores gathered by county police (at 911 calls) and victim advocates to official court records as is currently done in Charles County, Maryland.

Introduction

National statistics suggest that 76,000 women in Montgomery County will be attacked by an intimate partner at some time in their lives.⁷ If not halted early, such violence tends to escalate in frequency and severity.⁸ In the six months since our first report in October 2011, domestic violence led to the deaths of three Montgomery County residents, including a ten year old boy. More needs to be done to protect victims of abuse.

Protective and peace orders play a central role in protecting domestic violence victims. In many cases they completely end intimate partner abuse, particularly when combined with a broader safety plan. Even when they don't halt the violence, protective and peace orders appear to significantly reduce the severity and frequency of abuse in many cases.^{9,10}

Our original report, "Protecting Victims of Domestic Violence in Montgomery County," offered findings from data gathered in over 640 intimate partner civil hearings over an earlier 6 month period. This second report evaluates data from an additional 510 hearings observed in the succeeding six month period. Our methodology and data gathering instrument are essentially the same as those used in the initial study and are set out in Appendix 1. The full original report is available on our website, <http://www.courtwatchmontgomery.org>.

In this report, we measure changes in the most critical areas outlined in our first report and highlight several new areas of concern. We look at data collected by over 20 volunteers, who monitored 510 protective and peace order hearings in the county's two district courts (Rockville and Silver Spring), from October 2011 through March 2012. Tables and charts beginning on page 41 summarize the data set and individual judge's ratings. This report, and the broader project, could not exist without the effort and diligence of our volunteers.

In this report we sometimes refer to petitioners as victims and to respondents as offenders. It is not our intention to imply that all respondents are guilty or to make the assumption that petitioners are always victims of abuse. Determining that is the judge's job. We have attempted to use the terms victim and offender, petitioner and respondent where they seem logical and appropriate in the context in which they appear.

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 violence (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.

The Peace and Protective Order Process: Background

Eleven judges serve in Montgomery County's two district courts on a rotating basis. Two District Court judges handle all hearings on protective and peace orders each day. There are currently two empty seats due to resignations. For a list of our sitting judges and the court's mission statement, see Appendix 2.

Maryland's domestic violence statute is one of the most conservative in the country.¹¹ Maryland is the only state that requires domestic violence victims to show "clear and convincing evidence" that they meet the statute's relatively narrow definition of domestic violence in order to obtain a protective or peace order. Most other states only require "good cause", "a preponderance of evidence", or leave the determination to a judge's discretion.

The flow charts in Appendix 3 shows the three ways county residents can obtain protective and peace orders, and the steps in that process.

Major issues studied and results

In this study, we evaluate the protective and peace order process and make recommendations that we believe will:

- Improve the real and perceived physical safety of domestic violence victims before and after hearings on orders;
- Strengthen deterrents, reducing protective order violations;
- Increase the number of victims in Montgomery County who successfully obtain comprehensive and effective final protective or peace orders;
- Improve the effectiveness of 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 preventing domestic violence and the importance of citizen oversight.

As in our first report, we rely heavily on a number of guides developed by judges themselves outlining specific approaches to be used in court to improve a domestic violence victim's safety. One of the most recent and comprehensive was developed by The National Council of Juvenile and Family Court Judges (NCJFCJ). Their 2010

publication, *Civil Protection Orders: a Guide for Improving Practice*, resulting from a three year multidisciplinary study which thoroughly examined domestic violence and the treatment of victims in the court system, offers approaches to guide judicial personnel and improve the victim experience in court. (See: <http://www.vaw.umn.edu/documents/civilprotectionordersguide/civilprotectionordersguide.html>). This publication provided us with substantial guidance, as did our own state's *Judges Domestic Violence Resource Manual* produced in 2009, a guide for judges in applying Maryland domestic violence law in accordance with best practices. (See <http://www.courts.state.md.us/family/pdfs/dvmanualcomplete.pdf>).

Other states have guides to best practices as well, and most of them offer strikingly similar approaches. Court Watch Montgomery has incorporated some of their recommendations to identify how our local courts can best respond to the needs of victims and better guarantee their safety. In each chapter we report key findings, compare them to findings in our first six month study, offer specific examples drawn from our monitoring of over 510 hearings and make recommendations that reflect national best practices as well as State policies.

Chapter One: Keeping victims safe before and after court

The murder in March 2012 of county resident Heather McGuire by her abusive husband reminds us that domestic violence victims assume enormous risk when they leave their partner and seek the protection of our courts. (for further discussion of this case, see sidebar on pg. 42). Studies show this is a time when abusers are particularly likely to initiate and escalate violence, often with lethal results.¹¹ Heather McGuire had recently separated from her abusive husband and had obtained a final protective order when he murdered her on March 13 of this year. If victims of domestic violence are to view the courts as viable sources of relief and protection, the first challenge is to ensure victims feel, and are, safe throughout the protective and peace order process.

Findings:

- ***In the last six months County district courts dramatically improved victim safety following hearings. Staggered exits have been adopted as routine procedure in Rockville and Silver Spring District Courts.***
- ***In 70% of relevant cases judges, bailiffs and clerks used “staggered exits/victims first” to allow the victim safe passage to her transportation – a large increase from 15% average use in the first study.***
- ***Every judge used staggered exits in at least half of their cases, except for visiting judges who, on average, used staggered exits less often.***

“We’ll get you out of here as soon as possible. There’s no sense issuing an order for no contact, then have you wait together, so I’m going to ask the respondent to stay in the courtroom to avoid even the possibility of one interacting with the other.”

Judge B, Rockville District Court

In October, 2011, judges and bailiffs began to implement staggered exits at both courthouses as standard procedure. The “staggered exits/victim first” procedure allows victims to leave the courthouse safely while their partners stay in the courthouse for an additional 15 minutes *after* the petitioner leaves the building. Without imposing any

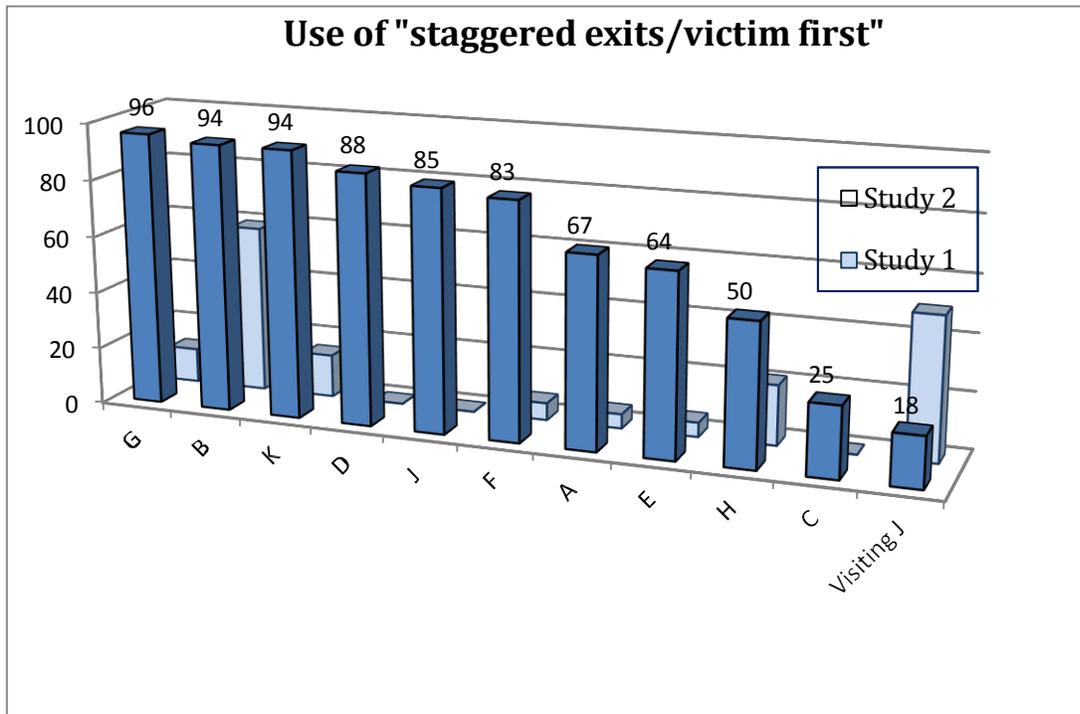
“The bailiff gave a friendly, calm introduction first thing in the morning, reminding people of courtroom basics and describing how staggered exits would work.”

Monitor, Rockville District Court

significant burden on the courts or respondents, this approach avoids unwanted contact between the parties, harassment, and even physical harm outside the courthouse following often emotionally fraught hearings.

As a whole, staggered exits did not appear to be disruptive or time-consuming. Bailiffs and judges coordinated the process, and staggering was done with a no-fuss attitude. Judges often reiterated the concept in their individual introductions to the court session to ensure the procedure was understood. We expect that as we continue to work on implementation problems with bailiffs and judges, the rate of usage will continue to improve.

Chart 1



Implementation issues

As with the adoption of any new policy, there were some glitches in implementation as well as some unforeseen circumstances that merit discussion:

- Some judges continue to tell respondents they may leave in exactly 15 minutes, which results in both parties waiting in near proximity since most orders take more than 15 minutes to be completed by the clerks. Furthermore, it is critical that respondents wait ten to fifteen minutes *after* the petitioner has left the building. Telling either party they will have their order in fifteen minutes creates an expectation that is virtually never met. Continuing work to shorten wait times for orders will make staggering exits easier. A small number of respondents became upset about having to wait in the courtroom. When they did, bailiffs tried to calm them down. In some of these cases the respondent was taken out of the building in an attempt to short-circuit his building anger. While bailiffs were careful in these cases to have the petitioner wait, we are still concerned about these petitioners' safety when they leave the building, since the respondent can easily wait for them to come out. Given that such respondents are likely to be among the *most* dangerous, it makes little sense to treat them with a less safe procedure.
- There was some confusion as to how to handle staggered exits when the respondent was represented by counsel. One judge asked the lawyer to "keep an eye on him" and excused both the respondent and petitioner at the same time. This is unsafe because lawyers often don't wait with parties for official papers, and thus may leave the parties

Bailiffs played important roles in improving use of "staggered exits/victim first," often quietly correcting the problem when judges staggered in the wrong order, and reassuring respondents that they would get their orders as soon as possible.

and their families alone together in the clerks' waiting area. More recently judges have been asking respondents to wait in the courtroom, with or without their lawyer.

- Sometimes victims stayed at court to meet with a House of Ruth lawyer or an advocate.
In these cases it seems unfair to hold the respondent until the victim is finished.
- Error rates were on average higher for visiting judges than for sitting judges. These judges may not have received full briefing on the rationale behind staggered exits or how to implement them correctly. Bailiffs were less likely to try to

implement or fix the staggered exit order when a visiting judge was on the bench than when one of the currently appointed judges was on the bench.

Recommendation:

Judges, bailiffs and clerks should continue to use the “staggered exits/victim first” process to maximize victim safety in and near the courthouse. In cases where the respondent is represented by counsel, judges should not rely on respondent’s counsel to implement a staggered exit. The administrative judge should discuss with bailiffs some procedure for ensuring that respondents in cases late on the docket are held for the requisite time period, even if the courtroom must be closed. Continuing work to shorten wait times for orders will make staggering exits easier. Advocates and lawyers who plan to work with victims following hearings should let the clerk know that the respondent can be released as soon as the order is completed. House of Ruth staff could request a sheriff escort for the victim to her transportation if it is needed when their business is completed.

Danger in the courthouse

Minimizing contact with a victim's attacker is critical. Half of domestic violence victims show one or more symptoms of Post-traumatic Stress Disorder (PTSD). This magnifies the fear and trauma a victim experiences when there is contact.¹² Victims cannot be expected to come to court if they are not protected from their abusers. 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.

At both courts, the continued absence of a bailiff in the waiting areas means that a respondent or family member can approach, threaten, or try to exert pressure on the victim to drop her case.

Finding:

In virtually every case – 99% of the time – no bailiff was present to protect victims from harassment, intimidation or fear in the waiting area before the courtroom opened.

This lack of protection is potentially dangerous and can be terrifying for victims who must wait in close proximity to their abusers.

Although bailiffs and others are quick to respond when trouble breaks out, by then the victim has already been traumatized and may be too frightened to return to court for the next hearing.

Some bailiffs assigned to courtrooms have made efforts to step out into the hall, when they can, to check for any problems. Others, particularly in Silver Spring, have been opening the courtroom earlier than usual, which gives a victim a safer place to wait, as long as the bailiff stays in the courtroom.

“There was no way I was getting in that courtroom past him. I couldn't get around him.”

A petitioner who tried to attend her temporary protective order hearing. She had given up and was headed to the entrance when a police officer who heard the respondent yelling came to the victim's defense, temporarily putting the respondent in handcuffs.

“When traumatic stuff happens you don't always recall things, but I remember when the clerk was swearing him in he didn't look at the judge once – he was turned facing me, tapping his foot and glaring.”

Security in the courtroom again appeared strong during this monitoring period. No jailed respondent was ever brought into the courtroom without two sheriffs. Two bailiffs were present virtually every day during hearings on protective and peace orders.

Recommendation:

Both the Rockville and Silver Spring District Courts should have a person posted outside the domestic violence courtroom at all times prior to the courtroom opening to make court safer and more welcoming to fearful petitioners. This need not be a bailiff.

We understand that budgets are tight and that the court continues to seek qualified bailiffs to fill empty posts. The County or State might consider hiring lower-paid, appropriately trained security officers, if possible.

Dismissal of Orders

Judges face a special challenge when a petitioner asks to drop her protective or peace order. Only a week prior, the same victim came to court in fear to seek the court's help. What should a judge do when this same person returns and asks to drop her case?

The National Guide to Improving Practice suggests that judges engage victims in a conversation to elicit information about their safety before dismissing their cases. The guide recommends that judges ask each victim if she was coerced into requesting the dismissal and if she feels safe. This not only gives the judge more information but reminds victims that the courts take their cases seriously.

Additionally, a victim may imagine that the court will be angry with her for dropping her order and may be less inclined to return to court if she feels in danger unless the judge lets her know that it is fine to return to court at any time and file another petition should she feel in danger.

Finding:

- ***In a full 20% of all cases, petitioners dismissed their orders, either by requesting that the judge dismiss or by not appearing in court for a scheduled hearing.***
- ***When a victim asked the judge to dismiss her case, judges only asked her if she had been coerced into dropping her order 37% of the time. Only 30% of victims asking to dismiss were encouraged to return to court if they felt in danger again. Fifteen petitioners were asked no questions at all.***

- ***At least seven dismissed cases involved firearms.***

Recommendation:

Each of these requests for dismissal presented an important opportunity to keep a victim legally protected and to improve her safety.

Court Watch Montgomery recommends that Montgomery County judges continue to make every effort to ask each victim if she was coerced into requesting the dismissal, and to assure her that she is welcome to return to court for another order if she feels in danger.

Pro bono lawyers or victim assistants should be consistently available on-site to educate petitioners about options other than a complete dismissal of the order, particularly if there is a firearm present in the home. A less stringent order might not require the respondent to vacate or allow contact with the petitioner, but it would keep the firearm under the Sheriff's Office's control for the duration of the order. The court might also consider making a list of rescission hearings available to victim assistants and House of Ruth lawyers, who may be able to help petitioners who want to drop their final orders to problem-solve and better understand their options.

When a victim fails to come to court

During this monitoring period, 59% of dismissed cases were due to the petitioner failing to return to court for her hearing. While not able to study all 102 cases dismissed in this manner, we did identify some dismissal cases where victims were at very high risk. In one dismissed case the petitioner had written in her petition that respondent was HIV positive and stated he didn't care about life. He was suicidal and talked about killing himself, the victim and their children. In another dismissed case the petitioner had alleged the respondent had attacked the petitioner with a knife and attempted strangulation.

These types of cases may need additional scrutiny to ascertain the reasons petitioners did not return to court and identify ways to address any obstacles to their obtaining protection appropriate to their situation.

Recommendations

Judges or their clerks might consider routinely reviewing the files of "no show" petitioners to determine if the level of danger might merit extra scrutiny. Judges or their clerks could make sure a victim assistant was working to locate the victim. Additional action, such as requesting a non-emergency police safety check, might be warranted. A system for flagging dangerous

cases, based on the petition and the offender's criminal record, could identify cases meriting additional scrutiny and a referral to victim advocates.

In Charles County, Maryland the courts, in collaboration with the sheriff's office and the domestic violence program, have initiated a procedure to insure that Lethality Assessments gathered by police or victim advocates are placed in each protective/peace order file so that judges can identify high risk victims. District court judges and county partners might consider using a similar procedure to ensure that judges are apprised of high risk cases.

Chapter Two:

Improving longer-term victim safety Strengthening the deterrent

Studies show that protective and peace orders work better if offenders understand the likely consequences of violating them.¹³ The more the petitioner knows about the order the better she will be able to help ensure it is followed.

Finding:

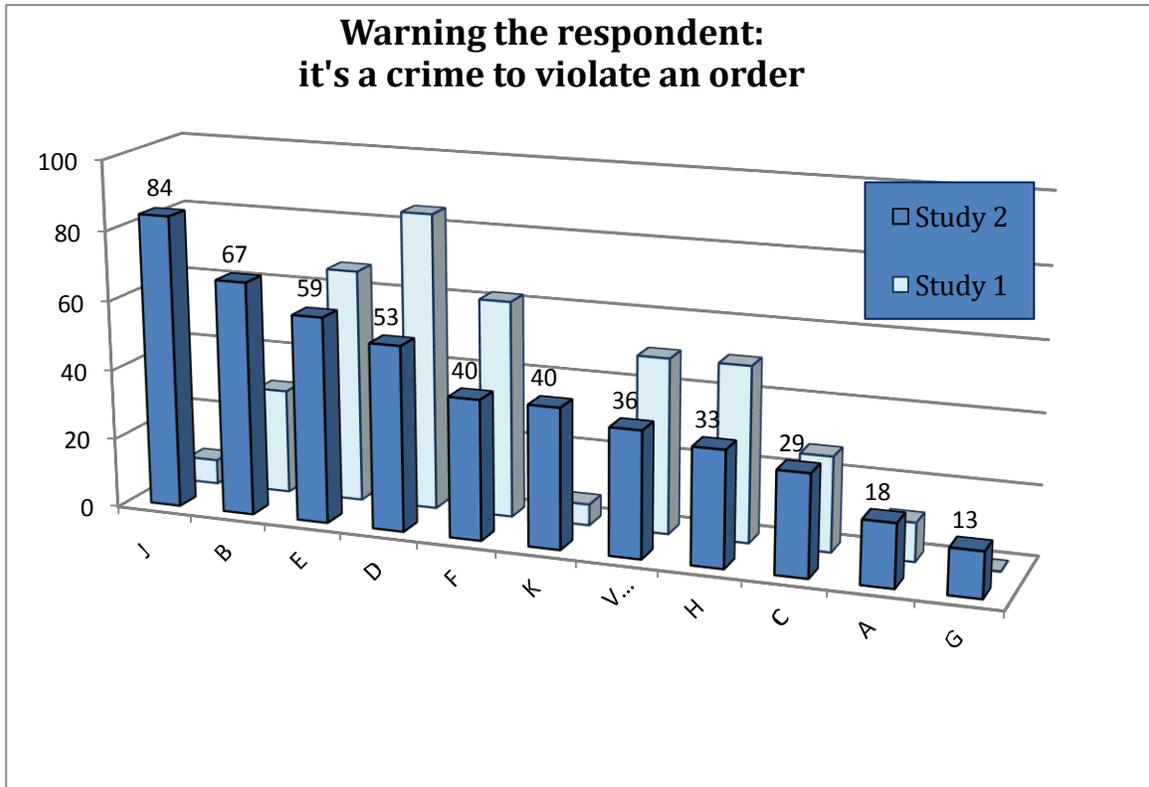
- ***General warnings that violating orders is a crime increased.***
- ***However, judges only told each individual respondent directly at the end of his hearing 44% of the time that it was a crime to violate his protective or peace order.***
- ***While 5 judges increased the frequency of such warnings from our first monitoring period, 5 judges actually provided this warning less often.***
- ***Informing 44% of respondents is less than a 10% increase over the previous study period. Judges are still failing to give this crucial warning over half the time.***

The judge double-checked that the audio introduction had been played in English and Spanish. He told those in the courtroom:

“We take these orders very seriously. Violating an order is a criminal offense.”

Judge B, Rockville District Court

Unfortunately, although the parties are summonsed to be in court by 8:30 am, many people come to court late or return to the hallway when they see that the judge is not yet on the bench, thereby missing these important warnings in the audio summary. Some judges reinforced the warnings from the audio by emphasizing in their opening statements that they take violations of orders very seriously and that there can be criminal penalties for violating.



Recommendations: Judges should not assume that every party hears and understands every portion of the audio introduction. Nothing can replace the judge using the full authority of the court to personally warn each respondent about the consequences of violating an order. Speaking directly to an individual respondent about the consequences of violating an order emphasizes for the respondent the seriousness of a violation in his particular case and signals the victim that the court takes orders seriously and that she has alternatives if respondent violates.

Reminding each petitioner to call 911 in the event of a physical violation may improve the chances she will report violations.

Firearms

More domestic violence victims are killed by firearms than by all other means combined. If an abuser has used or threatened to use firearms, a domestic violence victim's risk of homicide is 20 times that of the average domestic violence victim.¹⁴

Final protective orders do contain written language about firearm restrictions, but parties are given a great deal of paperwork that they may or may not read. Those who do not speak English or need low literacy materials will almost certainly not learn about firearms restrictions from their printed order.

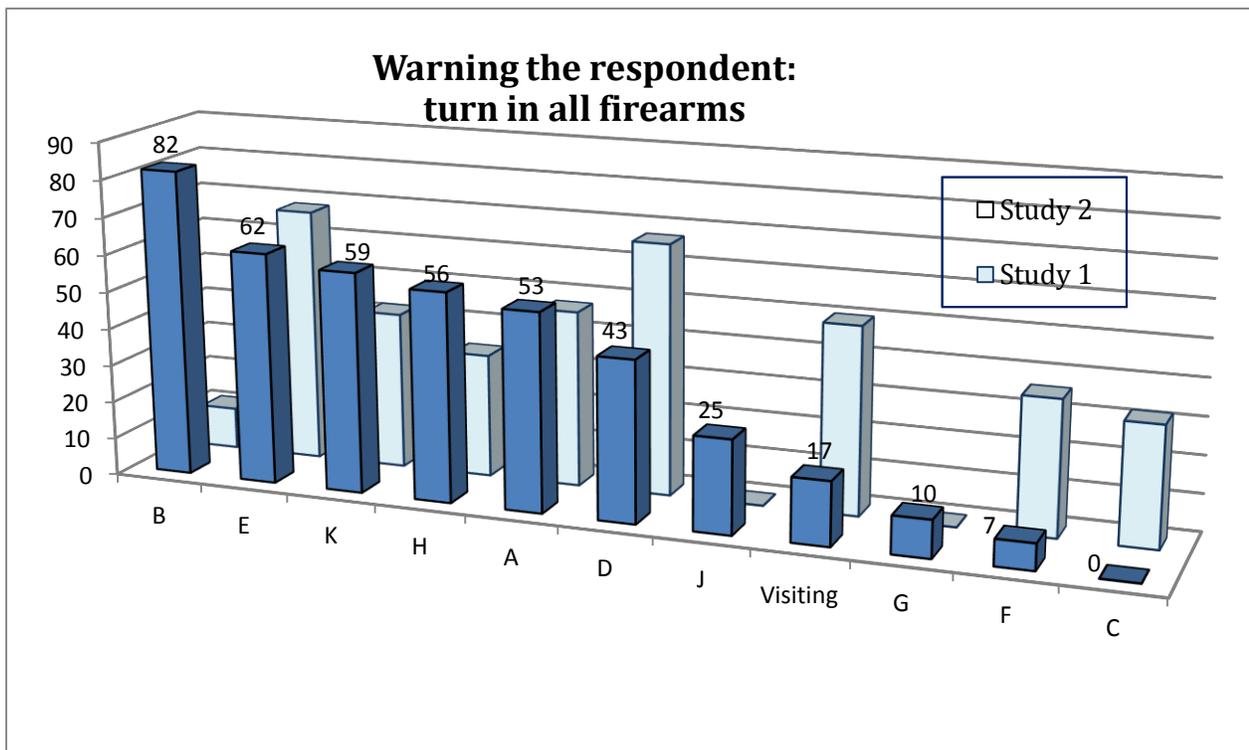
Finding:

- ***The new audio introduction to domestic violence court explained the firearm prohibition in English and Spanish before the judge took the bench. Unfortunately, each day a portion of the parties were not in the courtroom to hear it.***
- ***Judges only told offenders who stood before them 38% of the time that under federal and state law they must surrender all firearms owned or possessed for the duration of a protective order.***

“He threatens to break my dog’s legs. He says he’ll bash my face in, or shoot me. He drives by my house and my mother’s house at night. He’s not stable and he has a gun.”

Petitioner, Rockville District Court. Under Maryland law she is only eligible for a Peace Order, which does not include gun confiscation.

Chart 2



While this is a minor improvement over the last study period (32%), judges continued to omit this critical information in most cases, perhaps feeling that the new audio introduction or their statements at the beginning of the docket were sufficient

Monitors documented 19 protective order cases (10% of all cases that had hearings) in which one of the parties stated that the respondent had a gun. In over half of those cases a respondent had threatened to kill the petitioner. In four cases involving guns, death threats were made not only to the petitioner, but also to the children.

Monitors reported on two serious cases where the victims had been dating their abusers and a gun was involved. Since the victims only qualified for peace orders, the offenders were not required to turn in guns under current Maryland law, even though, in one case, there were clear threats to kill the petitioner with the gun, the respondent was allegedly mentally ill and had previously broken her eye socket.

Recommendations

Asking both parties if the respondent has any firearms and explaining the penalties for keeping one under a protective order is one of the most important steps a judge can take to improve a victim's security. National authorities agree that judges should not depend on written prohibitions where firearms are concerned.¹⁵

There is no substitute for an individual warning about the prohibition on guns, whether or not parties assure the judge they have no firearms. Judges should use the authority of their position to ask each party under oath if there are firearms available to the respondent and underscore to the respondent that any firearms in his possession must be turned in.

Even when the respondent is not present, the firearm provision should be explained so that petitioners more fully understand that firearms are banned for the duration of the order.

Chapter Three:

Ensuring victims and offenders are treated with courtesy and respect

Judicial demeanor

When a victim of domestic violence testifies about her traumatic personal life with a court official, particularly a judge, the experience should stand in stark opposition to what she is facing at home. Disrespectful judicial demeanor during domestic violence protective and peace order hearings creates a dangerous situation. A victim may decide not to return to court to keep her order in place. An offender may be angry over his treatment in court and more likely to attempt to hurt the victim.

We understand that judges hearing domestic violence cases have difficult jobs. The fact that a large percentage of petitioners and respondents do not have lawyers places extra burdens on judges to explain terms and handle emotional testimony. The fact that six judges had perfect records on demeanor, however, tells us that domestic violence cases can be handled in a calm and respectful manner despite time constraints or confused parties.

The only issues relating to demeanor raised in this study are patterns of negative behavior that occurred repeatedly and created a courtroom where one or more parties

might reasonably be expected to feel disrespected, intimidated or afraid to ask questions about what terms meant or what their options were.

“The judge was very abrupt with the parties throughout the docket. In one case the judge asked the respondent if he agreed to stay away or not. The respondent started to ask a question, unsure what was entailed in consenting. The judge raised his voice and said, glaring, “This is a yes or no answer!” ”

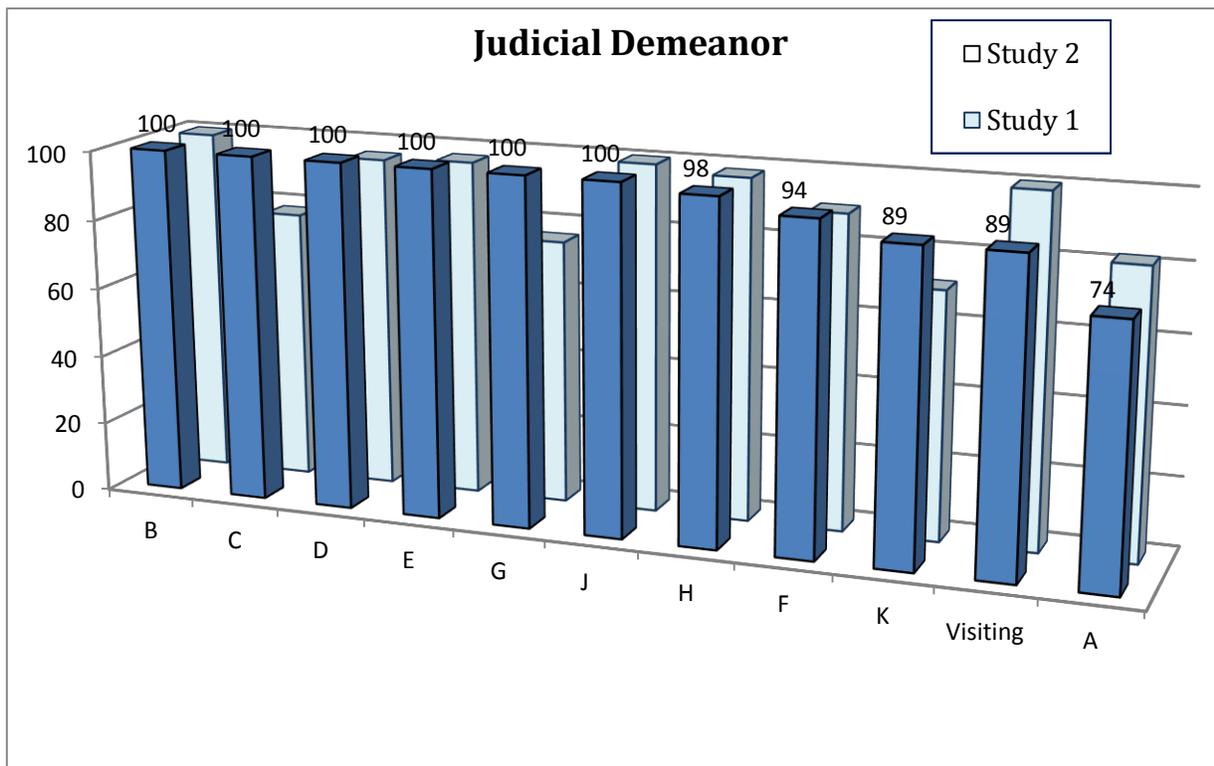
Monitor, Rockville District Court describing Judge A’s courtroom.

Findings

- ***Overall, judicial demeanor improved significantly. Six judges had perfect records in***

treating parties with respect, compared to three in the last report.

- *Two judges still repeatedly appeared to be forcing some respondents to consent to orders. This took the form of rapid fire questions pressuring respondents (70% of whom had no lawyer) to agree to a consent order. In addition, these judges doled out very rude treatment if the respondent had any questions or requested a hearing, which offenders have every right to do.*
- *One judge did not allow court-based victim assistants to accompany victims to the table for moral support during their hearing. A number of victims asked the judge if the victim assistant could come with them but were told no.*



- ***Only one judge regularly started fifteen or more minutes late. He was an average of 20 minutes late and was more than 30 minutes late on four out of 15 days. On three days he started the docket 40 minutes or more late.***

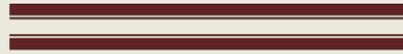
Judge A was disrespectful or intimidating in a full 26% of his cases, or in 1 out of 4 protective or peace order hearings he presided over. No other judge scored a negative score higher than 13%. This judge was significantly out of step with his colleagues. The judge's negative rating on demeanor increased significantly from the first to the second report. The problems that monitors noted most often were anger at respondents who were not ready to consent to an order immediately or moving through the docket in a very abrupt manner showing consideration only for court employees or lawyers.

Judge A was also the only judge who was consistently, significantly late starting his docket, appearing more than one day as late as 9:45 am,



"The only persons [the judge] treated with patience and respect were the lawyers and the interpreter. It was as if the petitioners and respondents were of no significance."

Monitor, Silver Spring District Court. Judge A presiding



"The judge never told the victim that she might want to -- or had the right to -- wait a week for the final hearing, so she could bring evidence and witnesses, and that there were usually pro bono lawyers available."

Monitor describing a case in which Judge K converted a temporary hearing into the final hearing without getting consent from the petitioner. The victim's order was denied.

The respondent had a lawyer but the victim did not. The judge did not have a copy of a prior order between the two to review.

when petitioners and respondents are told to be at court by 8:30 am. Starting very late is disrespectful of all involved. The courtroom may have as few as six people waiting or as many as twenty or more petitioners, respondents, family members and witnesses who are frequently made to wait for extended periods. Late starts may sound minor, but County residents deserve court efficiency at the least.

Demeanor issues among visiting judges tended to be different than those among sitting judges. One visiting judge made inappropriate comments, stating that "women are the strong ones," and, after asking a respondent whether he

“Even though the respondent initially consented to stay away, he was obviously confused about what he consented to. When the judge was writing a final order the respondent objected, saying that he wanted to put on the record that the petitioner had made false allegations.

The judge went ballistic and said loudly ‘I told you three times that you could consent or not! So, okay, you want a hearing, ok we’ll have a hearing.” The judge was obviously disturbed about the progression of events and conducted the hearing in a surly and unfriendly manner.”

Monitor, Rockville District Court
Judge K presiding

had a gun stating “you don’t look like the type to me.” Another visiting judge rolled his/her eyes during multiple cases.

“Court accompaniment” has been standard practice by all other seating judges for many years. Victim assistants can provide emotional support and a physical shield between the victim and her offender. Both can be calming and help victims concentrate on their testimony.

Blaming the victim

Monitors reported that at times, another judge seemed to equate a female’s verbal aggression or minor physical contact as a legitimate reason for a physical attack by her partner. In one case, the petitioner described an incident thus:

“I poked my husband on the back when he didn’t answer a question. He said ‘If you touch me again I’ll kick your ass.’ I made a smart remark. My ex-husband then hit me with his chest, swung and knocked me down. My glasses went flying. I got up and stumbled back and he came at me again and knocked me down again. Three neighbors called the police and yelled ‘Stop!’

After hearing this testimony, the presiding judge told the petitioner “you know, you really started it, by poking him and making a smart remark.” The judge went on to say that if the petitioner’s ex-husband had been present and filed, the judge would have given him an order as well. The judge granted the victim only a “no hostile contact” order instead of the full “no contact” order the petitioner requested.

It should be clear to judges that women are the victims of the vast majority of serious partner violence and that female victims tend to sustain far more serious injuries.²⁸ In most cases, a male offender’s physical strength and ability to defend himself are far more likely to cause serious injury than a female aggressor’s and should not be equated.

What’s Good for the Goose

Monitors reported that several judges said during court, usually when ordering both parties to separate counseling, that “what’s good for the goose is good for the gander.”

When a judge uses this phrase he or she appears to equate what the respondent did – physically attack his intimate partner or make her fear for her life - with what the petitioner has done – come to court seeking help against physical violence. Would this expression ever apply in the case of a victim who was assaulted or raped by a stranger? The two parties’ actions and legal positions of respondent and petitioner before the court, are clearly distinguishable and when a judge grants an order then implies that both parties somehow share equal fault for serious physical violence it sends a mixed message to them and to everyone in the courtroom.

Finding:

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

“The judge didn’t start until 9:45 am, but gave no apologies or explanation to the 22 people in the courtroom, [who were told to be present at 8:30 am]. To add insult to injury, then he was brusque and at times rude in my opinion.”

Monitor, Silver Spring District Court,
Judge A presiding

Bailiffs and clerks worked with judges to make the “staggered exit” system work. We found them to be polite and helpful with very few exceptions. Clerks throughout the court deal with victims in many different contexts and it is important that all clerks be pleasant and helpful to all people needing assistance.

Recommendation

Judges and other court personnel might be well-served by required training and updating on domestic violence and cultural competency. Training should include topics such as understanding the dynamics of domestic violence, current domestic violence case law and legislation, victim safety, and the use of court interpretation in domestic violence.¹⁶ Visiting Judges particularly need information on recent changes in law and standard procedures such as staggering exits.

Chapter Four: Accessing and Expediting Services in the County's District Courts

Shortening the process for victims

Finding:

- ***Judges almost always started the domestic violence docket within minutes of 9 am, with some judges starting early, which helped some parties get out of court faster.***
- ***Time waiting for official orders has been cut significantly at the Silver Spring courthouse. Shortening the current time it takes to get official papers from the clerks at both courthouses will let parties get back to other important activities quickly and make staggered exits easier to implement.***
- ***As a whole, our observers reported that most judges moved cases through the morning docket efficiently and that this was helped by the practice of having all the domestic violence and peace order cases combined into a single docket. Often the judges who were most thorough were also the fastest.***

"The clerk said 'you're at the wrong place.' I tried to tell them what I needed and the clerk said 'If I tell you you're in the wrong place you are'.

She was loud and scowling. It's not giving a good impression. We're supposed to be a model for justice and I want to believe it's fair. This is not the way I want to be treated. I think it is because of my accent".

Petitioner recounting an incident with a civil clerk, 2012, Rockville District Court

Recommendation

Those responsible for courthouse management might consider implementing some system of accountability for judges regarding system-wide standard court procedures such as court start-times and staggered exits.

Accessing services in court

It is unnecessarily difficult for domestic violence petitioners to access needed services in the County's district courthouses. The new Rockville District Court house is particularly problematic. The Domestic violence clerk's office is extremely small. There is little available seating for victims to fill out petitions or wait for their orders in either courthouse. There is currently scant information on important victim services available through the Family Justice Center or Health and Human Services in the Rockville district courthouse. In Silver Spring, at this writing, there is none.

Progress is being made on many issues. The chief administrative judge is working on changing the confusing signage designating victim services offices at the Rockville courthouse and has offered office space to House of Ruth attorneys there. An information kiosk for the first floor in Rockville is underway. In the last several months, the District Court's Self-Help Center has begun posting phone numbers and website information crucial to parties with ongoing civil cases, including domestic violence petitions.

Linking victims with on-site and community services

The improvements listed above will not resolve a continuing challenge - the problem of an effective linkage strategy for the courts with on-site and community victim services.

On-site victim services can provide immediate assistance to unaccompanied petitioners who are at risk of continued abuse, providing safety plans, referrals to shelter and counseling on strategies to keep victims and their families from further harm. These services are available in both courthouses, although on a limited basis in Silver Spring. In Rockville, APP victim advocates are regularly in the courtroom during domestic violence sessions and staff the victim services office daily. Judges may fear that referring victims to advocates in the course of a hearing could compromise judges' impartiality, giving the impression they were in the petitioner's camp.

We recognize the need for judges to remain impartial. However, collaboration with trained domestic violence practitioners is necessary, especially where victims may be at heightened risk. Petitioners who are unaware of the services available to them may not recognize the degree of danger they are in or that there are alternatives to returning to their abusers, such as limited orders. They may testify reluctantly for a myriad of reasons, from worrying that their abusers will retaliate to concern that they will go to jail, causing victims to lose the family breadwinner. Some victims may ask that their orders be dismissed or rescinded or simply fail to appear. Unless domestic violence victim advocates, who are readily available, are called in to

talk with these victims and discuss the totality of their situation, including their history of family violence and an assessment of the danger posed by their individual circumstances, the victims may be sent home with no order, no legal protection and no plan for their future safety.

Using risk screening tools to help judge's identify high risk victims

Other than referral to victim services, how is a judge to determine which victims merit special scrutiny without lengthy questioning of often reluctant petitioners? There is a mechanism that could inform the judge of an individual petitioner's degree of risk - a standardized, well-validated method for appraising the likelihood an abuser will be a continuing threat to a victim.- the Lethality Assessment. This 11 question form is based on 25 years of research into lethality factors in domestic violence cases is currently used by Montgomery County Police officers in 911 calls. In a protocol developed by the Maryland Network Against Domestic Violence, officers administer the questionnaire, which includes such questions as, "Does he have a gun?" and "Does s/he ever try to choke you?" If pivotal questions are answered positively, the officer is instructed to call a domestic violence hotline number and stay with the woman as she makes arrangements to receive services from domestic violence programs.

Expanding the use of lethality assessments makes sense. Judges in other jurisdictions such as Anoka, Minnesota and Tulsa, Oklahoma, use these assessments in making decisions as to whether to allow bail for domestic violence offenders in criminal cases. In Minnesota and other jurisdictions lethality assessments are incorporated in judge's "bench books" as guidelines for assessing victims' risk. While useful, such bench book assessments still require a judge to proceed through a lengthy line of questioning of a victim. An alternative would be to provide judges with the Lethality Assessment, as is currently done in Charles County, Maryland. There, in a collaboration between law enforcement, the domestic violence program and the judiciary, each protective/peace order file has the Lethality Assessment on record prior to the first hearing. This allows judges to access this important risk tool before they make decisions that might place a victim within reach of further abuse.

Recommendation

Whenever possible, judges presiding over protective and peace order hearings should make use of on-site victim services to help petitioners who appear to be at increased risk by referring them immediately to on-site victim services. Judges might also want to consider using the standardized Lethality Assessment as a routine method of assessing petitioners' risk of future violence by their abusers.

“The audio said I can get a recording of my hearing. How do I do that?”

Petitioner asking the judge.
Silver Spring District Court

Chapter Five: Helping both parties understand their options and orders

Justice requires that all parties understand their legal options. Given the complex nature of domestic violence proceedings and the relatively low rate of legal representation this is a particular challenge – and it is even greater when parties are not English-speaking. We found that 61% of intimate partners in recent protective and peace order hearings did not

have lawyers. About 11% of the parties did not speak English.

Audio Introduction

In our first six months of studying the district courts, our monitors noted that judges' introductory statements varied quite a bit and often failed to include basic information, such as the advantages and disadvantages of consenting to an order versus requesting a hearing, or how to appeal. We recommended a video be developed that could save the judge's time at the beginning of the docket and could make the mornings' hearings run more smoothly and efficiently.

In early November the district court produced an audio in English and Spanish which court clerks and/or bailiffs have been playing regularly, about 15 minutes before the judge taking the bench. We applaud the local district courts for taking the initiative in this important matter.

The audio introduction is clear and concise, uses language that a layman can understand and provides a comprehensive overview of the protective order process, including the process of modification and appeal, the fact that it is a crime to violate an order or to fail to turn over firearms and some of the differences between temporary and final orders. Parties who listen to it will have a better sense of their rights and responsibilities when their own hearing is called.

Recommendation

While the audio recording is helpful, a video introduction would get more attention and be even more effective. Producing such a video, perhaps through the State's Administrative Office of the Courts, seems well worth the investment.

Moreover, such a video could also be made available on-line and at county libraries, allowing people to better prepare for their hearing and view the courtroom setting they will be in at some point.

The courtroom clerk could announce the current audio before it is played to ensure that parties are paying attention and know that its contents will impact their hearings that very day. Finally, the later that the audio can be played, the more parties will see it, since many arrive only near the start of court. In the meantime, State court administrators might consider making this new audio introduction available to all counties.

Clarity: What does an order mean?

While playing the audio introduction at the beginning of each civil session is a valuable addition to parties' general understanding of the protective order process, clear explanation of individual orders is still necessary. As the national *Guide for Improving Practice* points out, "courts should issue protection orders that are clear, comprehensive and tailored to the specific needs of the individual petitioner."¹⁷

Each order has provisions that are particular to the couple's situation, such as mandatory domestic violence counseling or substance abuse treatment. Given the spread of communications by e-mail, Facebook and other social media, no contact provisions need to be spelled out.

A victim cannot effectively ensure that her order is followed if she does not understand what are violations and what are not. Judges need to reiterate and explain the provisions in a couple's final protective or peace order and ask if each party understands or has questions about its contents.

Finding:

Judges clearly explained individual orders to the parties 92% of the time, a large increase over the first study when the contents of each order were clearly explained only 73% of the time.

Recommendation:

Judges should consistently describe the key specific provisions of every protective or peace order they grant, whether temporary or final, explaining in plain language what the parties may and may not do. This does not require reading the entire order into the record. The judge might consider also asking both parties if they fully understand what they may do and what behavior is a violation of their order and ask if they have any questions.

With the exception of Judge D, judges almost never tell parties that they will follow an individual's final order for its duration. This would reassure fearful petitioners that they can return to the same judge who granted the order and is familiar with their case. It would also remind respondents that one judge will be keeping an eye on their behavior for as long as a year.

Ideally, judges could also note that an order is only one part of a safety plan. Judges could ask the domestic violence clerks to automatically give petitioners information about on-site pro bono lawyers and victim advocates from the Abused Persons Program and services at the nearby Family Justice Center.

Chapter Six

Interpretation issues

The use of interpreters at hearings

Montgomery County continues to provide a pool of excellent on-site interpreters in Spanish, French, and Portuguese. Without the critical presence of interpreters, the 11% of parties who did not speak English could not fully understand what goes on during their hearings and receive the “equal and exact justice” that is the mission of the District Courts. Complete and accurate -- as well as emotionally neutral -- interpretation is essential.

Findings:

- ***Monitors found most county-provided interpreters at court to be courteous, respectful and professional in manner. Incidences of rudeness and an intimidating manner reported in our first study were less common.***
- ***Spanish-speaking parties were greatly aided by the use of an introductory audio in Spanish instituted in the fall of 2011. This audio introduction, for the first time, gives Spanish-***

Both parties needed Spanish interpretation. The interpreter asked the parties to move toward the center, so they could both hear him. The judge intervened and explained the court wanted to avoid having the petitioner stand uncomfortably close to the offender. But the interpreter didn't use a headset so he spoke loudly to let both parties hear.

When the petitioner moved to the witness box and the respondent was at his table it was impossible for both parties to hear and understand the interpreter standing in the middle of the room.

The interpretation was disruptive and could have been done so simply and quietly with a headset.

Monitor, 2/10/12 Silver Spring District

speaking parties a general introduction to protective and peace order hearings and defines some of the terms that will be used.

- ***Interpreters seldom used the interpretation headsets available in both courthouses for use when both parties need interpretation.***
- ***Interpreters at times appeared to take on an additional role, summarizing or adding to parties testimony instead of interpreting word for word.***

Interpretation headsets are available at both courthouses and Court Watch recommended in its first study that they be used whenever both parties need the interpreter however they were only rarely used. The use of the headset (with earphones for each party) allows both parties to better hear the interpretation. Using headsets avoids having petitioner and respondent stand closer than is comfortable for frightened petitioners in order to hear.

Monitors found most interpreters at court to be courteous, respectful and professional.

The Spanish interpreter, reacting to the petitioner's description of the event, told her "That's not important!" and reiterated the question the judge asked.

Monitor, Silver Spring
District Court

Sometimes interpreters inappropriately attempted to edit or interrupt a party's testimony in order to speed up the process. In two or more different hearings, the Spanish interpreter listened to the petitioner's somewhat long and meandering story, then appeared to summarize briefly for the judge what had been said, in a much shorter form. Trying to help the judge get the information he or she needs faster is not the interpreter's job. Any editing of a party's testimony can be intimidating and reduces the testimony put forward to the judge.

Commenting on the importance of any portion of a party's testimony is intimidating. Several times monitors noted that the judge stopped the interpreter before the interpreter had completed his simultaneous translation. Important information might be missed in this effort to speed up the process.

Monitors noted a lack of multi-lingual materials available at either court. The Rockville

courthouse always displayed the Family Justice Center brochure in English, and usually in Spanish but they were not very visible. The Silver Spring court had no materials about the Family Justice Center, or shelter or other county services in any language.

Recommendations

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.

An interpreter should never try to speed up a party during a hearing or put pressure on them to answer a question; these functions do not appear in the Interpreters' Code of Conduct. A respectful and courteous approach increases the chances a victim will be able to tell her story calmly and accurately to the judge, get the specific help she needs and feel comfortable asking questions if she has them.

Chapter Seven: An initial look at issues regarding children

During this six month round of court observation Court Watch monitors counted the number of children discussed in protective order hearings. The 510 cases Court Watch observed in the district courts involved a minimum of 380 children.

We were not able to count an additional group of children present in these violent homes who were the product of previous relationships. They were often not discussed in hearings. The number of these additional children witnessing domestic violence could be pinpointed by an analysis of domestic violence petitions.

In addition, our initial count does not include children in families whose cases are heard in Circuit Court, theoretically the venue for all Montgomery County domestic violence petitions for which there are open divorce or custody cases. Also uncounted are the many children whose mothers have never come to court seeking safety.

Monitors heard stories of children witnessing violent acts at close range. Monitors also heard cases in which children became directly involved in violent incidents, sometimes in an attempt to protect their mother, sometimes as an unintended casualty who was too close when violence broke out. One child was injured during a violent dispute over his own custody.

“The eleven year old daughter tried to pry his hands off her mom’s neck. The daughter was screaming ‘let her go.’ Two neighbors called 911. The eleven year old suffered a sprained wrist and a bite on her hand, from when her step dad pulled her off him and bit her.”

Monitor, Rockville District Court, 2012

The impact of domestic violence on children

Current research suggests that family trauma damages children in more fundamental and physical ways than have been previously understood. Evidence is mounting that during childhood, when the brain is still developing fundamental systems and pathways, trauma actually alters the physical structure of the brain, putting at risk many essential skills such as the ability to concentrate and reason.¹⁸ In a recent study children were able to accurately describe more incidents of abuse than their parents believed the children had witnessed.¹⁹

As if this were not enough, children living with intimate partner violence in their home are vulnerable twice over. First, they are much more likely to be physically abused themselves, although estimates vary widely (from 40% to 75%).²⁰ Second, mothers in violent relationships are less likely to be fully emotionally available and

supportive of their children due to their own continuing physical and psychological trauma.²¹

As they age, children who witness or are involved in domestic violence at home are at greater risk for serious health problems such as substance abuse, obesity, cancer, heart disease, and depression.²² Girls who witness domestic violence or are physically abused are twice as likely to become domestic violence victims when they reach adulthood.²³ They are also at higher risk of unintended pregnancy, sexually transmitted disease and HIV transmission.²⁴ Boys are twice as likely to become domestic violence perpetrators than children who did not witness violence.²⁵

Children and the district courts

The lives of children in violent homes are greatly impacted by decisions made at protective order hearings. Judges are asked to –within one relatively short hearing – assess the risk to the petitioner and her children, set conditions for contact and emergency custody, visitation and child support for one year, while also protecting the father’s rights.

Judges routinely set visitation arrangements in protective orders that call for unsupervised visits between a child and their father beginning within days of a violent incident between their parents that may well have been witnessed by the child. Although concerned mothers may ask the court to grant supervised visits, Montgomery

County has no public visitation center to provide professional supervision of visits and ensure a safe place to pick up and drop off children for visits. Victims’ only option for supervised visits is to call on close friends or family, who often find it hard to carve out the large amount of time required and may be less than adequate supervisors.

Early counseling can help children overcome the trauma in their childhood home and help them break the cycle of violence as they grow up. Though many petitions for domestic violence orders include stories of children witnessing or being inadvertently involved in physical attacks on one parent, children are only rarely ordered to participate in counseling.

Montgomery County is extremely fortunate to have in place a highly regarded counseling program for children who witness domestic violence - SAFE START. Judges may refer or order children to attend. Court ordered child counseling can supersede an offender’s refusal to have his children participate.

“The respondent got mad and pulled the two year old by the arm, then grabbed him from the petitioner. The child’s head hit the wall... The judge did not send the case to child protective services.”

Monitor, Rockville District Court

Heather McGuire, a 36-year-old Montgomery County resident, obtained her last protective order against her long-time abusive partner Philip Gilberti in November of 2011. She had left her husband numerous times before, but this time she moved ahead with a divorce.

Heather's husband had a long criminal record, a history of violence, and had violated protective orders between the two numerous times before.

Gilberti became increasingly threatening and police arrested him for violating her order and threatening her. He was released before noon the same day. When he violated her order again, within 24 hours, Heather filed new charges. A District Court judge freed Gilberti on an unsecured personal bond of \$57,500; Gilberti was a free man.

On March 13, 2012 Heather McGuire was fatally shot by her long-time abusive partner, Philip Gilberti, who then took his own life. They leave three orphaned children.

Recommendation

Judges should consider ensuring that many more children who witness violence receive help by ordering more children into the SAFE START counseling program.

Conclusion

Court Watch Montgomery's last six months of monitoring document great improvement in numerous areas of court process and procedure that daily affect domestic violence victims. We applaud the court's initiative in developing an introductory audio in Spanish and English and the implementation of staggered exits. In our view, these have been extremely positive changes in courtroom practice, allowing parties uniform information about the protective/peace order process as they go into hearings and letting victims exit the courthouse with their orders without fear of harassment or physical injury. Judicial demeanor has improved and there are now fewer incidences of rudeness or other inappropriate behavior among clerks, bailiffs and interpreters. As a whole, our District Court judges continue to do a commendable job in presiding over protective/peace order hearings.

That said, we have been both impressed and disappointed by the district court judges response to recommendations made in our first report of October, 2011. While some reforms were enacted within 48 hours of the report being published, others have not yet been addressed. Individual judges vary widely in their use of warnings to individual respondents about criminal penalties for violations and firearms possession, as they do in questioning petitioners asking to dismiss their cases about their safety. The result is that overall, there has been little change in the numbers documenting use of these procedures since our first report – and some judges in fact use the procedures less frequently than before.

This, our second report, is not a compliance check list and it is not our intent to question the decisions made by judges and refined by their years of experience on the bench. Whatever a judges reasoning, we urge the routine use of these procedures because they are current best practices that national authorities strongly recommend to keep victims safer and produce better protective orders. As such, they are no different than asking a surgeon to use a checklist continually updated in light of the latest medical findings.

The tragic murder of Heather McGuire by her long-time abuser in March has raised public questions about the efficacy of protective orders (Heather had one) and the county's ability to keep offenders in violation of those orders from lethal violence.

Studies verify that final civil protective/peace orders can be central to stopping abuse. While other County departments are responsible for service and enforcement of orders and prosecution of their violations, as well as for providing social services to victims and their families who have orders, only a well-conceived protective or peace order can provide victims with a window of time in which to reorder their lives with legal protections from abuse.

We thank the County's District Courts for their openness to our concerns and hope we can continue to work in collaboration with them and other County service providers to improve the safety and effectiveness of protective and peace orders.

Victims apply for protective and peace orders at great risk to themselves. Our courts – and our broader community - owe these victims our very best efforts, and that includes using current best practice procedures and policies that will ensure the short and long-term safety of petitioners.

Future study

Court Watch Montgomery plans to add several new facets to our program over the next year. First, we are planning to begin monitoring civil protective order hearings at Montgomery County's Circuit Court in the fall. We also hope to begin monitoring bail bond hearings at the Rockville District Court before the year is out.

We will continue monitoring in District Court on a more limited basis to assess implementation of court best practices and to look at some new issues, including court ordered offender counseling and referrals to the SAFE START children's counseling program.

For offenders, one positive and constructive thing judges can do is order them to a state-accredited counseling program such as Montgomery County's New Beginnings. A Chicago study of more than 500 court-referred domestic violence offenders referred to 30 different programs found that recidivism after an average of 2.4 years was 14.3% for those who completed the program, compared to twice the recidivism (34.6%) for those who did not complete the counseling program.²⁶ Two studies – across four states - have found that doing nothing with regard to offenders who refuse to come to counseling results in significantly higher rates of re-abuse²⁷.

Court Watch Montgomery is also beginning a study to look back at orders we monitored one year ago and gather data on domestic violence-related criminal charges against either party such as violations of protective and peace orders, assault, and stalking and the outcomes of those cases. We will also look in depth at the weapons-related and strangulation cases in our database, which now holds well over one thousand cases.

Charts and Tables

Chart 1. Outcomes of all cases (512)

Resolution of restraining order cases

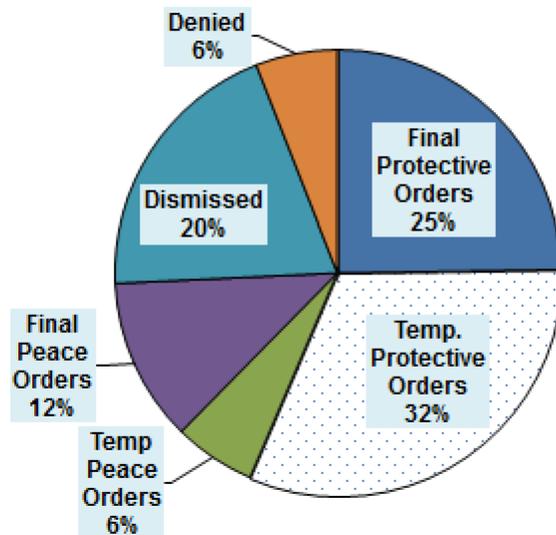


Chart 1 shows orders granted, which include interim orders granted as temporary orders, temporary orders issued for the first time, extended temporary orders, and final orders. Cases that did not result in orders were either dismissed or denied. All cases are intimate partner violence. Some are protective orders while others are peace orders. Some of the temporary orders – 5% of them – were transferred to Montgomery County Circuit Court to be combined with open divorce or custody cases. 14% of cases were postponed (58% of these for lack of service).

Chart 2. Relationships between parties (512)

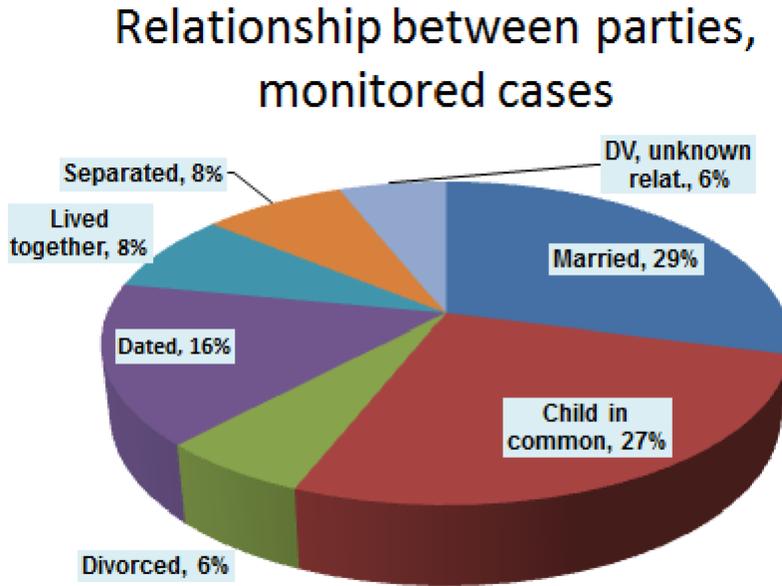


Table 1. Gender of petitioners and respondents (512)

	Number female	% female	Number male	% male	Totals
Petitioners	451	88%	61	12%	512
Respondents	63	12%	449	88%	512

Table 2. Legal representation of the parties

Representation	Percentage of all cases
Petitioners represented by counsel	24%
Petitioners without counsel	76%
Respondents represented by counsel	30%
Respondents without counsel	70%
Petitioner w/ an advocate	18%

Table 3. Orders granted by consent or hearing

Type of Order	Percentage of cases granted
Consent order	38%
Order following a hearing	62%

Table 4. Number of cases heard and resolution by judge, 512 monitored cases

Judge	Total number of cases heard	% of all cases heard by Judge that were granted	% of all cases heard by Judge which were denied
AVERAGE	46	91%	6%
Judge A	62	85%	8%
Judge B	47	92%	6%
Judge C	16	92%	8%
Judge D	48	92%	5%
Judge E	59	96%	4%
Judge F	42	81%	19%
Judge G	45	97%	3%
Judge H	57	88%	13%
Judge J	46	97%	0%
Judge K	62	91%	7%
Visiting Judges	29	91%	9%

* Average is not weighted by number of cases per judge. Visiting judges' percentages reflects an average of all visiting judges.

Table 5. Rates of using best practices by judge*

Table 5 records the percentage of cases in which each judge used best practices, as defined by the Maryland Judge's Resource Manual (2009), and/or the National Association of Juvenile and Family Judges (2010). An upward arrow indicates that the judge's score has risen since the first study. A downward arrow indicates that the score has dropped. The dash indicates no change in judge's %.

JUDGE	% of cases judge used staggered exits/victim first	% of cases judge told resp. to surrender firearms	% of cases judge told resp. it's a crime to violate	% of cases judge showed courtesy and respect	% of cases judge reviewed what was in the order, asked if questions
Judge A	67% ↑	53% ↓	18% ↑	74% ↓	85% ↓
Judge B	94% ↑	82% ↑	67% ↑	100% ---	100% ↑
Judge C	25% ↑	0% ↓	29% ↑	100% ↑	91% ↑
Judge D	88% ↑	43% ↓	53% ↓	100% ↑	96% ↓
Judge E	64% ↑	62% ↓	59% ↓	100% ↑	85% ---
Judge F	83% ↓	7% ↓	53% ↑	94% ↑	100% ↑
Judge G	96% ↑	10% ↑	59% ↓	100% ↑	67% ↑
Judge H	50% ↑	56% ↑	13% ↓	98% ---	100% ---
Judge J	85% ↑	25% ↑	84% ↑	100% ---	100% ↑
Judge K	94% ↑	59% ↑	40% ↑	89% ↑	90% ↑
VISITING JUDGES	18% ↓	17% ↓	36% ↓	89% ↑	100% ↑
AVERAGE	70% ↑	38% ↑	44% ↑	95% ↑	92% ↑

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Appendix 1.

Methodology

This report is based on our second set of data, which documents aspects of the protective and peace 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 peace or protective order, as one part of her broader safety plan. We observed judges, clerks, bailiffs, interpreters, and sheriffs during each peace or protective hearing, and, to the extent possible, watched the dynamics in the waiting areas where parties often 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. The 326 hearings that were monitored at the Rockville District Court comprise 64% of all hearings monitored. The 186 hearings observed at the Silver Spring District Court (36%) comprise the rest of the sample. Monitors were in court 3 to 4 mornings a week in Rockville and twice a week in Silver Spring. Once in court, we tried to observe the entire docket. Silver Spring monitoring was only started after additional volunteers had completed training.

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 both courts 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 were only able to observe a handful of video hearings for temporary protective and peace orders in Rockville, as fed by video from the Family Justice Center, since most were not added to the existing morning docket, but handled in other courtrooms or in the afternoon.

Appendix 2.

Mission Statement of the District Courts of Maryland

“It is the mission of the District Court of Maryland to provide equal and exact justice for all who are involved in litigation before the Court.

It is the sworn obligation of the judges of the Court to ensure that every case tried herein is adjudicated expeditiously, courteously, and according to law, and with the fullest protection for the rights of all who are involved, for the most extraordinary aspect of the judiciary in a free society is that even while exercising the vast authority entrusted to them, judges remain the servants, and not the masters, of those on whom they sit in judgment.

It is the function of the non-judicial employees of the District Court to facilitate the hearing and processing of all cases within the Court’s jurisdiction, and to deal fairly, courteously, and patiently with all with whom they come into contact, without regard to age, race, sex, religion, national origin, disability, or political or social standing.

It was to ensure the fulfillment of these ideas that this Court was founded, and its commitment to them must always remain unwavering and unyielding.”

Judges for the District Courts of Maryland

Judges are appointed by the Governor with Senate consent to 10-year terms. There are 11 judges in the county District Courts. Two seats are currently vacant due to resignations.

[Eugene Wolfe](#), *District Administrative Judge (chosen by Chief Judge, District Court of Maryland, with approval of Chief Judge, Court of Appeals)*, 2021

[J. Michael Conroy, Jr.](#), *Associate Judge*, 2016

[Audrey A. Creighton](#), *Associate Judge*, 2020

[Gary G. Everngam](#), *Associate Judge*, 2021

[Barry A. Hamilton](#), *Associate Judge*, 2016

[Stephen P. Johnson](#), *Associate Judge*, 2018

[Patricia L. Mitchell](#), *Associate Judge*, 2016

[James B. Sarsfield](#), *Associate Judge*, 2016

[William G. Simmons](#), *Associate Judge*, 2016

Appendix 3.

Figure 1. Flowchart of the Protective Order Process

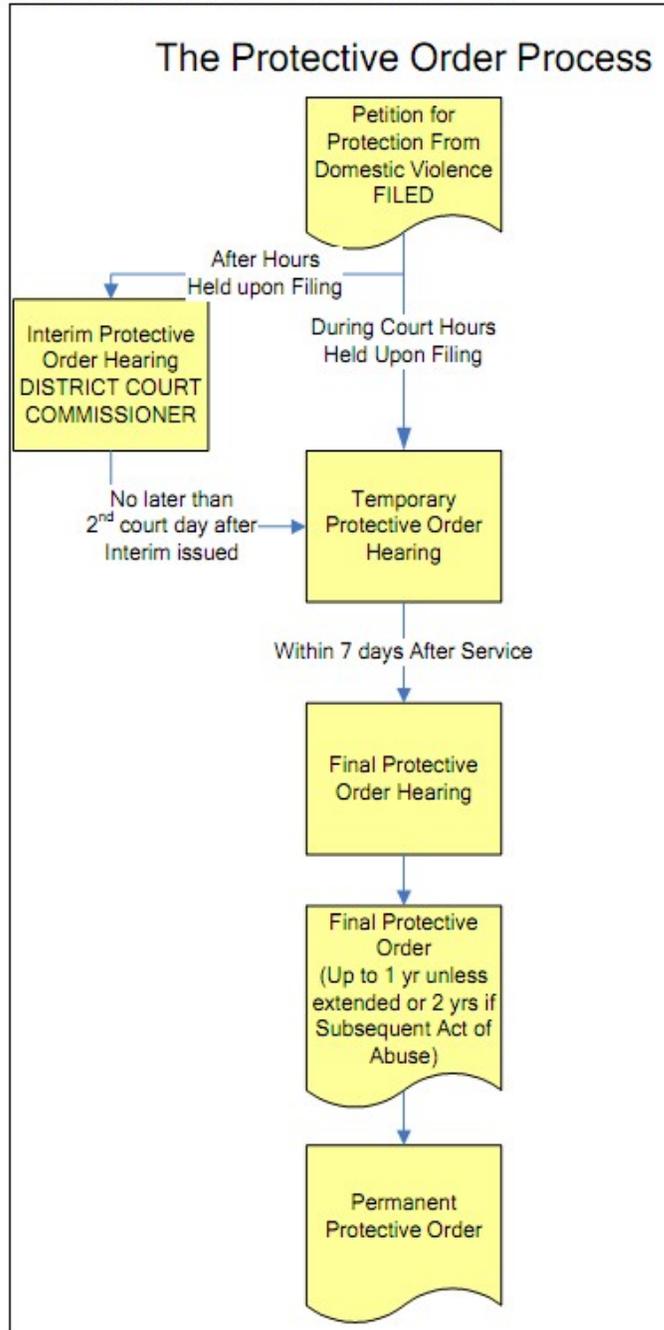


Figure 4. Flowchart of the Peace Order Process (Adult Respondents)

