

EVERYONE'S ENTITLED TO MY OPINION

Remembering Sheila

By Susan Lenfestey

Sheila Wellstone first called us when WATCH was so new that all we had was a good idea and a telephone. Could we meet with her and a few others at her University Avenue office to discuss what “y’all are doin’?”

We went, of course, and that’s where we first caught an up-close glimpse of the Sheila magic. The small conference room was packed with people—Lolita Ulloa, director of the then-new Hennepin County Domestic Abuse Service Center, Ellen Pence, then director of the Duluth Domestic Abuse Intervention Project, and maybe 30 others, all of us linked by the drive to put an end to violence against women.

When this pip of a woman entered the room, there was an instant ripple of what I’d have to call a good vibe. Nervousness melted, smiles abounded. In her utterly selfless way, she thanked us for *our* good work and for taking the time to meet with her. I don’t think she said more than a few words, something about the importance of working together to combat the violence that plagues the lives of too many people, because she wanted to hear from all of us. Around the room we went, all of us describing our work and our ideas for a better future. What I remember most was how much laughter there was that day despite the grim tales of abuse, anger, and shredded lives.


And so it always was with Sheila. She was a mismatch for the subject in every way: a tiny woman taking on a giant problem, a quiet listener in a world with many shouters, and a cut-to-the-chase true voice in the dissembling world of Washington.


We felt that she was our best friend, not because she said so, but because of the open and intimate way she connected with us and made sure we were connected to others who could help us, or might need our help. We knew she had thousands of contacts all across the country, but we didn’t discover until after her death that all of them felt that she was *their* best friend! I think we’ve all informally agreed to share that honor.

Sheila took what she learned, supported it with appropriate data, and fashioned it into legislation that made and continues to make a tremendous difference in the lives of women and their families. Because of Sheila’s efforts, Paul was instrumental in the passage of every significant piece of federal legislation on domestic violence, including the Violence Against Women Act, the Domestic Violence Screening and Services Act, which improves the response of health care providers to battered women, and the Children Who Witness Domestic Violence Act, which assists children traumatized by domestic violence.

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Thumbs up/ thumbs down

 Thumbs up to the **Hennepin County Board of Commissioners** for its resolve in fighting violence against women in our community. The board recently provided funding for three positions in Community Corrections, the Sheriff’s Department, and the Domestic Abuse Service Center formerly funded through the Violence Against Women Act. These positions would have been eliminated but for the commissioners’ actions. And, it has provided \$30,000 in funding to the Hennepin County Domestic Fatality Review Board to continue its vital work.

 Thumbs up to the **Hennepin County Guardian ad Litem’s Office** for hiring two full-time American Indian guardians ad litem, Mary BlackElk and Rose Andrade, to specialize in Indian Child Welfare Act (ICWA) cases. In the past (as noted in the 2001 WATCH report on child protection cases), ICWA cases rarely had guardians assigned. Ms.

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Update on the Hennepin County Domestic Violence Court

A look back on the court one year after the release of the WATCH report

By Suzanne Elwell

In November 2001, WATCH issued the report *Judicial Demeanor and Response in the Domestic Violence Court*, which evaluated the court after its first year of operation. Positive aspects of the court were identified, as well as constructive criticisms. We look back now to see how the court has progressed since that report was issued.¹

Overall

In the past year, significant changes have been made in the domestic violence court.² Our monitoring of the court indicates that demeanor, orderliness, and consistency in case processing have all improved. The court has made positive strides and has the potential for continued improvements.

Courtroom decorum

What a difference a year makes. The proceedings in the domestic violence court are generally more organized, respectful, and decorous. Gone is the “chaos” reported in WATCH’s report last year. In its place is a calm and more orderly atmosphere that comports with the seriousness of the cases being heard.

New facility

In March 2002, the domestic violence court moved to the new Public Safety Facility across the street from the Government Center. This move was a mixed bag in terms of safety and accommodation. In comparison to the former courtroom location, now all visitors must go through metal detectors. Additionally, the area outside the

courtroom is less isolated and the Minneapolis City Attorney’s Office has separate rooms in which victims can wait. It is generally better lit and easier to hear in the new courtroom, and with separate conference rooms available for attorneys, significantly fewer distracting conversations take place.

On the other hand, the new courtroom is smaller than the former one, bringing defendants and victims into closer proximity, and there is no separate, identifiable area for victims and advocates to sit. Comfort-wise, the move was a step backward. The seating arrangements went from individual cushioned chairs to awkwardly-angled wooden benches, making waiting (and observing) significantly more uncomfortable for the defendants, victims, advocates, attorneys, and members of the public seated in the gallery.

One step toward making the court more user-friendly was the development of an informational brochure. This brochure defines terms, explains procedures, and provides resources, and it has been translated into a number of languages, including Spanish and Somali.

No contact orders³

One of the criticisms contained in WATCH’s 2001 report was that no contact orders were not clearly explained to defendants and that violations of these orders were constant. Our court monitors now observe that judges more routinely and clearly explain the terms of no contact orders. Although individual judges vary in the clarity and extent of their explanations, we are pleased to see a more concerted

effort to explain these orders. We note, however, that monitors still observe inconsistency among the judges about issuing no contact orders.

Delays

Improvements have been made in terms of case scheduling and explaining delays. The calendar now hears pretrial hearings at 8:30 a.m. (which typically involve negotiations prior to the actual hearings), and arraignments are scheduled for 9:30 a.m. Monitors still observe that the court often starts later than 9:30 a.m. and that announcements regarding delays and recesses are hit or miss. However, more judges were observed explaining the reasons for delays than in the past.

Judges

One of the biggest concerns identified in WATCH’s 2001 report was the lack of consistent courtroom policies and practice. Since that report was issued, a structure has been set up to ensure thoughtful, consistent communication among judges assigned to the domestic violence court. These judges have been meeting regularly all year, under the direction of Judge Diana Eagon, who has also been the chair of the Family Violence Coordinating Council (FVCC) since 2001.

Another major step toward improved consistency was a recognition of the need to assign only a limited number of judges to the court during the year. One of the hallmarks of a specialized domestic violence court is having a “limited number of judges who can draw on their expertise in domestic violence and render consistent decisions in factually similar cases.”⁴ In the court’s first year (starting

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¹ In an accompanying article, research coordinator Katherine Luke discusses more specifically recent case outcomes in domestic abuse cases heard in the domestic violence court.

² This article does not examine bail setting and release practices in the domestic violence court, a major concern discussed in the 2001 report.

³ No contact orders issued in criminal proceedings bar defendants from having contact with their victims.

⁴ Julie Helling, *Specialized Criminal Domestic Violence Courts*, Battered Women’s Justice Project, 2000, p. 10.

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November 13, 2001), at least 21 different judges presided over the court, with six of those judges hearing over 70% of the cases.

In 2002, it was announced that 10 judges would be assigned to the domestic violence court. In examining the judicial assignment calendars, however, we found that again at least 21 different judges presided over cases in the domestic violence court, with eight of those judges hearing about 75% of the cases. Five others were either retired or visiting judges who presided over cases only one day, and half of the remaining judges had presided over the domestic violence court before. Understandably, vacations, illness, professional conferences and commitments, and unavoidable conflicts may necessitate scheduling other judges in the domestic court besides the core group. Even so, only the core group of judges met with regularity, which impacts the attempt toward consistency in the court.

The annual judicial assignment process has brought a new slate of judges assigned to the 2003 domestic violence court. The shifting of experienced domestic violence court judges to other courts diminishes the benefits of the specialized court. However, there will be some continuity and experience in the group—five out of the eleven judges will have had prior experience in the court. It will be interesting to see again how scheduling issues affect the actual number of judges presiding in this court in 2003.

Domestic Violence Court Steering Committee

The Domestic Violence Court Steering Committee was started in 2000 to work on issues regarding the formation of the domestic violence court. It consisted of members of the bench, prosecutors from the Minneapolis City Attorney's

Office, probation officers, public defenders, district court administrators, and community advocates.

After the court's formation in the fall of 2000, the committee continued to meet regarding coordination and structural issues related to the court.

Meetings intensified in late 2001 as the committee worked to prepare recommendations for the court's further development, many of which mirrored those put forth by WATCH in its report *Judicial Demeanor and Response in the Domestic Violence Court*. These recommendations were ultimately sent to Chief Judge Kevin Burke and reviewed by the Executive Committee of the bench. Since then, many of the recommendations have been adopted and institutionalized. For example, the domestic violence court judges meet regularly, the calendar has been expanded to include pretrial and revocation proceedings, and a limited number of judges are assigned in advance to the court. In recognition of its hard work, the Domestic Violence Court Steering Committee was honored with the district court's *Champions of Change Award* in February 2002.

Somewhat perplexing was that after receiving the *Champions of Change Award*, no further meeting of the steering committee was ever set. After months of uncertainty on its status, Judge Eagon clarified at the September FVCC meeting that the Domestic Violence Court Steering Committee could not reconvene because it did not exist anymore, it had been "disbanded."

Fortunately, the value of this type of working committee has been acknowledged again, and it was announced at the November FVCC meeting that the Domestic Violence Court Steering Committee would be reformed. It is due to start up again early this year.

Asking those who use the courts

One of the more interesting efforts undertaken by the Hennepin County District Court was to survey victims and defendants who had gone through the domestic violence court. Any meaningful evaluation of the court necessarily involves asking those who actually use the court, and so we applaud the district court's willingness and initiative in doing just that.

A victim survey was conducted by the district court's research division in early 2002. It found that, overall, those victims who could be reached had a favorable impression of the domestic violence court.⁵ Over 70% of survey respondents were satisfied with the outcomes of their cases, and 68% felt that the judges cared about their situations. Interestingly, the report found that

[V]ictims' positive perceptions of the court were seemingly unrelated to the outcomes of the cases in which they were involved. This finding corroborates national research on courts in general which suggests that individuals' levels of satisfaction with the court have less to do with the outcomes of their cases, and more to do with whether or not they feel they have been treated fairly.⁶

More recently, the district court released the results of a survey of defendants designed to determine how well they understood the orders of the court following a hearing.⁷ The results of that report showed a clear understanding in

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⁴ Hennepin County District Court Research Division, *Domestic Violence Court: Results of Victim Survey*, March 27, 2002.

⁶ Id., p. 2 (citing "Social Justice: Outcome and Procedure," by Tom R. Tyler, *International Journal of Psychology*, vol. 35, 2000, pp. 117-125).

⁷ Hennepin County District Court Research Division, *Results of Survey of Domestic Violence Court Defendants: Understanding of Court Ordered Conditions*, October 23, 2002.

EVERYONE'S ENTITLED TO MY OPINION, CONTINUED

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But everyone close to them knew that it was Sheila, working with characteristic humor and grace, who skillfully drummed up the necessary votes for passage of those bills.

Because of these extraordinary efforts, WATCH presented Sheila with its Gold WATCH award in 1997. The award is given annually to a person working either inside or outside the justice system who demonstrates consistent leadership on behalf of women and children who are victims of sexual assault, domestic abuse, or child abuse and neglect. Other recipients have been Gunnar Bankovics, Lolita Ulloa, Bernie Martinson, Kathryn Quaintance, Jeff Edleson, Nancy Halverson, and Joan

Peterson. As a small tribute to Sheila, the Gold WATCH award will now be known as the Sheila Wellstone Gold WATCH award.

Out of the public eye, Sheila and Paul led a low-key and loving life. Even though Paul was one of a handful of U.S. senators living solely on his Senate salary, he voted against every Senate pay raise since 1991. Each year, he and Sheila quietly contributed that pay raise to organizations doing work on behalf of women and children, including a generous annual gift to WATCH.

The difficult task for those of us who live on is to put our mourning aside and harness our grief into action. The voices that were lost must now come

from us. It's not in the peppery oratory that was Paul, or in the delicious drawl that was Sheila; it's in the practice of our daily lives.

Slow down. Visit a lonely person. Turn off the tube. Learn to dance. Write a letter to the editor. Listen. Tolerate opinions, but not injustice. Defend your outrageous thoughts. Volunteer anywhere (and WATCH has openings). Think, question, participate. The slower the walk, the deeper the discovery; the deeper the discovery, the cleaner the passion.

Sheila and Paul moved like zephyrs, but their souls took the time to notice, and that made all the difference. At least in my opinion. ♦

FROM THE EXECUTIVE DIRECTOR, CONTINUED

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some areas, and in others, confusion. In particular:

- Defendants were more apt to understand their court conditions if they felt the judge addressed them directly.
- 97% of defendants who had another court appearance scheduled knew when they were supposed to return to court.
- Half of the defendants did not seem to understand the consequences of noncompliance with court conditions imposed as part of their sentence.
- 17% of defendants leaving the court who had been given a no contact order did not know that one had been imposed.

Although some of the findings are troubling, all are very useful in informing the court of needed changes in its own procedures to improve defendants'

compliance with conditions and reduce the likelihood of a return court appearance for violating those conditions.

Recommendations

In January 2002, the Domestic Violence Court Steering Committee made a series of recommendations regarding further development of the domestic violence court, many of which have already been adopted. The value of the steering committee in assisting the bench with the efficient and effective processing of cases in the domestic violence court cannot be understated. WATCH recommends that reinstitution of the steering committee be done without delay. In addition, because of the importance in assuring consistency, WATCH recommends that the judges assigned to the domestic violence court continue to meet regularly to confer on

procedures, best practices, and court related issues. Finally, WATCH recommends that the court incorporate the pertinent recommendations contained in *A Matter of Life and Death: Findings of the Hennepin County Domestic Fatality Review Pilot Project* issued in May 2002.

Conclusion

The domestic violence court is two years old and still evolving. We are pleased to see that many of the recommendations contained in the WATCH report *Judicial Demeanor and Response in the Domestic Violence Court* have been adopted and are now a regular part of the court. We hope the district court will continue to support this specialized court and commit to further improvement to make it as effective as possible. And, of course, WATCH will continue to keep watching and reporting on its progress. ♦

Changing of the WATCH guard

By Susan Lenfestey

At some point in the growth of every fledgling organization, there comes a time when the energy and vision of the founder need to be fortified with a new, steady hand. In 2000, our founding board of eight had grown to 18, our staff had grown from two to five, and our budget had more than doubled.

As the founding board chair I was nearing burnout, in part due to commuting to Chicago to help care for my elderly mother. Karin Birkeland, WATCH board member, neighbor, and friend, asked what she could do to help. "Become the board chair" I blurted out. She agreed, and if she flinched, I didn't notice.

Once again, good fortune was with WATCH. Karin, a former partner at the law firm of Faegre & Benson, a former associate counsel at the University of Minnesota Office of the General Counsel, and a seasoned member of many other nonprofit boards, assumed her duties with professional calm and

personal élan. The committees we'd long talked about forming were suddenly up and operating. Board meetings, always full of more vigorous discussion than allotted for, started to end on time with no loss of substance. Our first, full-time executive director, Suzanne Elwell, was hired (from Santa Clara County, California, no less) during Karin's tenure. In short, she brought exactly the steadying hand that was needed during this stage of enormous growth, and she did it with confidence, tons of hard work, and good humor.

So it is with regret—and deep gratitude—that we acknowledge her three years of enlightened leadership. Fortunately, she has graciously agreed to stay on the board as vice chair, along with Cindie Smart of Smart Legal Assistance, to give guidance to the incoming board chair.

And therein lies more good news.

We are delighted to announce that Shelley Carthen Watson has agreed to be the new board chair of WATCH. A board member since 1998, Shelley is an associate general counsel at the University of Minnesota Office of the General Counsel.

She brings incredible depth and experience to her leadership of WATCH. She was formerly a partner with the law firm of Robins, Kaplan, Miller & Ciresi and served as deputy commissioner of the Minnesota Department of Human Rights. She has been the executive director of the Hennepin County Bar Association and also of the Hennepin County Bar Foundation. She currently is a trustee of Macalester College and serves on the Macalester College Alumni Board. She also sits on the boards of Courage Center and Community Fitness Today. She is a former board member of Planned Parenthood and Fund for the Legal Aid Society.

Shelley has been an invaluable WATCH board member, serving on the governance and strategic planning committees. She is a keen yet quiet participant in all decision making, often cutting quickly to the question at hand. We are honored to have her as the new board chair of WATCH and look forward to benefiting from her wisdom and leadership. ♦

DOMESTIC VIOLENCE COURT STUDY

Highlights of the 2002 study on outcomes in domestic violence court

The 2002 domestic violence court study examines the outcomes in 124 cases charged in June 2002 and compared them to outcomes from a similar 2001 study. The full report starts on page 6. Here are some highlights.

Fewer CWOPS

While 16% of cases were continued for dismissal without a guilty plea (CWOP) and thus a conviction in the 2001 study, this fell to 11% in the 2002 study. That this practice is declining is commendable. Its use beyond the most unusual circumstances, however, is debatable. One major problem is that CWOP cases cannot be used to enhance any subsequent assault charges to gross misdemeanors or felonies since to do so requires prior convictions.

Case length declines dramatically

The average case length from arraignment to case disposition fell from 34 days in 2001 to 21 days in 2002. This dramatic decrease undoubtedly benefits both criminal justice personnel and those

involved in the case in several significant ways. Still, one must ask whether other things, such as fairness and justice, are being sacrificed at the expense of expediency.

More dismissals

While all charges were dismissed in 37% of cases in 2001, this increased to 44% in 2002. It is expected that a certain percentage of cases will be dismissed once more information has been obtained about the original incident, but a figure of 44% seems quite high.

Fewer convictions

Convictions on at least one count were obtained in 43% of cases in 2002, down slightly from 47% in 2001.

Decrease in stays of imposition

Fewer convictions—13% vs. 17%—were obtained through granting a stay of imposition with the charges eventually to be vacated and dismissed. This is a step in the right direction. Of course, the problem with any dismissal is that

subsequent assault charges cannot be enhanced without prior convictions.

Amending to disorderly conduct still commonplace

The rate at which 5th degree assault charges were amended to disorderly conduct charges remained constant in the 2001 and 2002 studies at 21%. Amending to a disorderly conduct charge may be necessary to obtain any type of conviction, but the rate is somewhat disconcerting. Further, disorderly conduct convictions cannot be used to enhance any subsequent assault charges.

Sentencing

Probation was clearly favored over incarceration—if a defendant spent any time in jail, it was awaiting the disposition of the case and not following it. Actual jail time served thus seem to relate more to the defendant's ability or inclination to meet bail than to the unique circumstances of the case. ♦

What happens in domestic violence court?

Outcomes of misdemeanor domestic violence cases in Minneapolis

By Katherine Luke

During June 2002, 131 people were arraigned on 134 misdemeanor cases in Hennepin County's domestic violence court.¹ Ten of those cases were not completed by October 15, 2002, the deadline for inclusion in this study. This study is thus based on the 124 completed cases with their corresponding 121 defendants. The results have been compared to the study WATCH conducted in 2001 (available from the WATCH office) in which 90 domestic violence cases from Minneapolis were analyzed.² The data used in both studies were gathered from the *Subject in Process System* or SIP,³ Hennepin County's database on criminal cases.

About the defendants

Of the 121 defendants, 107 (88%) were male and 14 (12%) were female. The average age of defendants was approximately 33 years. The youngest defendant was 18 years at the time of the alleged offense. The oldest was 59. As was true in the 2001 study, the average age of defendants in this population is markedly higher than that of the general population of people charged with a criminal act.⁴

Ninety-three (77%) of the defendants had been charged with at least one

criminal case, excluding minor traffic offenses, in Hennepin County prior to the start of this study in June 2002.

Seventy-two of the defendants (60%) were coded into SIP as "Black," and 40 defendants (33%) were coded as "White." Seven defendants were coded as "American Indian/Alaska native," and two were coded as "Oriental/Pacific Islander." None was coded as "White (Hispanic)," although WATCH noted numerous instances in which a "White"-coded defendant had a Hispanic last name and required a Spanish interpreter. SIP race classification is determined through direct observation by intake workers at the county jail and clerks at district court, not through self-identification by the defendants. Consequently, these data on race should be used only to discuss perceived race.

Case length

The average case length from the first appearance to disposition was 21 days. This was dramatically shorter than the average case length of 34 days found in the 2001 study. Average case length would undoubtedly have been higher if

cases had gone to trial. None of the 90 cases from the 2001 study went to trial. All were disposed of through plea negotiations or by a dismissal of all charges. Similarly, none of the 124 cases from this study went to trial, although there are 10 pending cases from June 2002 (excluded from this analysis) that could still go to trial.

Defendants were scheduled, on average, for two to three appearances in front of two or three judges. This represents a decrease from the 2001 study in which defendants were scheduled, on average, for slightly over three appearances in front of two to three judges. The minimum number of appearances defendants made was one, and the maximum eight. Similarly, the minimum number of judges before whom defendants appeared was one, and the maximum eight.

Case charging

As in the 2001 study, misdemeanor assault was by far the most common initial charge, followed by disorderly conduct, and then gross misdemeanor assault.⁵ See Table One.

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TABLE

TABLE ONE: Initial charges filed

Type of charges	Number of charges
Misdemeanor assault	101
Disorderly conduct	18
Gross misdemeanor assault	16
Misdemeanor violation of a protective order	12
Other non-domestic charges	11
Gross misdemeanor violation of a protective order	9
Other domestic charges	3
Interference with a 911 call	2
Damage to property	2
Harassment	1
Total charges filed in the 124 cases examined	172

¹All cases discussed in this report are misdemeanors unless specifically noted otherwise.

² Those cases were arraigned in the two-week period from February 26 to March 9, 2001.

³ As is true with all administrative data, information entered into SIP is subject to inconsistency in data entry practice and human error.

⁴ According to the National Crime Index Offenses, in 2000, 55.1% of all arrestees nationwide were under 25 years of age. Members of this group comprised 44.4% of all violent crime arrestees and 59.2% of all property crime arrestees in the United States (www.fbi.gov/ucr/cius_00/00crime4.pdf).

DOMESTIC VIOLENCE COURT STUDY, CONTINUED

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Ninety-five cases (77%) involved only one charge against the defendant; 19 cases (15%) involved two charges; thirteen cases (11%) involved three or more charges, with the highest number being 15.

Case disposition

Dismissals

All charges were dismissed outright in 54 cases (44%), not including cases that were continued for dismissal. This is an increase from the 2001 study in which all charges were dismissed outright in 37% of cases. *See Table Two.*

Convictions

A conviction on at least one charge was obtained in 53 cases (43%), with sixteen (13%) of these obtained through a stay of imposition with charges to be vacated and dismissed if conditions of probation are upheld for a specified period, usually one year.⁶ This is a decrease from the 2001 study in which 47% of cases resulted in a conviction on at least one charge, with 17% obtained through a stay of imposition. Notably, both the 2001 and 2002 studies showed increased conviction rates from 1998, when only 27% of misdemeanor domestic assault cases resulted in a conviction in Minneapolis.⁷

CWOP⁸

Fourteen cases (11%) were continued for dismissal without a guilty plea

⁵ A gross misdemeanor is a more serious offense than a misdemeanor, carrying more severe consequences. The maximum punishment for a misdemeanor is 90 days in jail and/or a \$750 fine. The maximum punishment for a gross misdemeanor is 365 days in jail and/or a \$3,000 fine.

⁶ See Minn. Stat. § 609.135, subd. 1.

⁷ Hennepin County Family Violence Coordinating Council, *System Responses to Domestic Abuse: Criminal Misdemeanor Cases in Division I of the Fourth District Court*, November 13, 2000, p. 4.

⁸ See Minn. Stat. § 609.132.

TABLES

TABLE TWO: Disposition of cases

Type of outcome	Cases with this outcome	
	Number	%
All charges against defendant dismissed	54	44%
Defendant convicted of at least one charge	37	30%
Defendant convicted of at least one charge with a stay of imposition (<i>finding of guilt to be vacated, case to be dismissed, and no sentence imposed</i>)	16	13%
Case continued for dismissal without a guilty plea (CWOP) ..	14	11%
Case outcome unknown	3	2%
Total number of cases	124	100%

TABLE THREE: Charges remaining at time of disposition¹⁰

Type of Charge	Number of charges
Disorderly conduct	29
Misdemeanor assault	26
Misdemeanor violation of a protective order	10
Gross misdemeanor assault	5
Other non-domestic charges	4
Gross misdemeanor violation of a protective order	1
Total charges in the 70 cases not dismissed	75

(CWOP) being entered on the record. This is a decrease from the 2001 study in which 16% of all cases were CWOP. With CWOP, a defendant is never actually convicted of a crime and the case will eventually be dismissed if the defendant agrees to abide by certain conditions, such as no contact with the victim, no use of alcohol or other drugs, remain law abiding, and follow the recommendations of probation for a given time, usually one year. If the defendant violates the conditions, the prosecutor may proceed with prosecution and seek a conviction.

Final charges

As in the 2001 study, misdemeanor assault was by far the most common initial charge, while disorderly conduct was the most common charge at conviction. At the time of charging, there were over five times as many

misdemeanor assault charges as disorderly conduct charges. By the time of disposition, however, more disorderly conduct charges than misdemeanor assault charges remained. A charge of misdemeanor assault was amended to a charge of disorderly conduct in 25 cases (21%),⁹ a rate that remained constant from 2001. *See Table Three.*

Sentencing

The vast majority of convicted defendants were sentenced to 90 days in jail, although in almost all cases, nearly the entire term was stayed and the defendant was given credit for any jail time served prior to conviction. For

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⁹ Such an amendment was also made in one case that was ultimately dismissed.

¹⁰ This table excludes cases in which all charges were dismissed

DOMESTIC VIOLENCE COURT STUDY, CONTINUED

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example, a typical sentence was: 90 days in jail with 88 days stayed for one year and credit for two days. Most defendants thus receive a probationary sentence with conditions to follow and jail time "hanging over their heads" to prompt them to comply with those conditions. Only three defendants (6%) were required to serve time in a correctional facility following their conviction. In 2001, this figure was 20%.

Disposition summary

As compared to 2001, more cases were dismissed, fewer convictions were achieved, and fewer defendants served any time in jail after their conviction. Misdemeanor assault charges were amended to disorderly conduct charges at the same rate, fewer convictions were achieved through granting a stay of imposition, and fewer cases were continued without a guilty plea (CWOP). See *Table Four*.

Discussion

A number of issues and questions emerge when comparing data from this study to the one completed last year. These issues can be broadly divided into the two categories of processing and disposition.

Processing

The most striking finding from this study is that cases are taking far less time to process than they have in the past. Cases in this study were completed in an average of 21 days, while cases in the 2001 study took an average of 34 days. In 1998, cases involving misdemeanor assault charges took an average of 49 days to resolve, and cases involving misdemeanor violation of a protective order took an average of 72 days.¹¹ These results indicate a trend in decreasing case processing time.

TABLE

TABLE FOUR: Disposition comparison

Type of outcome	Percentage of cases each year	
	2001	2002
All charges against defendant were dismissed	37%	44%
Defendant convicted of at least one charge.	47%	43%
Defendant convicted with stay of imposition.	17%	13%
5 th degree assault amended to disorderly conduct	21%	21%
Cases continued for dismissal without a guilty plea (CWOP) ..	16%	11%

Both the number of appearances and the number of judges seen were lower in this study than in the 2001 study, representing additional indicators of increased speed in case processing.

The implications of quicker case processing are more difficult to ascertain. Certainly, it is in the best interest of victims, defendants, concerned persons, criminal justice personnel, and taxpayers for criminal cases to be processed through the system as efficiently and effectively as possible. Victims and defendants alike can benefit from the sense of closure that results when a case is completed. Defendants can start working on probation requirements earlier. With fewer court appearances, parties need not take off as much time from work or school, nor make extraordinary arrangements for child/family care. Evidence remains "fresh" when cases are resolved swiftly rather than being drawn out over months.

However, the decrease in average case length of nearly two weeks (13 days) raises the question of what, if anything, is being sacrificed in the interest of efficiency. Are cases being dismissed

that could actually result in convictions with additional time devoted to them? Are defendants receiving appropriate and adequate time with counsel? Are quality pre-sentence investigations being dispensed with in the rush to dispose of cases? These questions, and many others, must be addressed to determine whether quicker case processing serves the interests of justice, or of victims.¹²

Disposition

Five issues related to dispositional practices emerge as deserving further attention.

Dismissals

While all charges were dismissed in 37% of cases in 2001, this increased to 44% in 2002. It is expected that a small percentage of cases will be dismissed once more information has been obtained about the original incident, especially since the vast majority of cases (74% in 2001) in Minneapolis are tab charged by the police and not by formal complaint from the Minneapolis City Attorney's Office,¹³ but a figure

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¹¹ Hennepin County Family Violence Coordinating Council (FVCC), *System Responses to Domestic Abuse: Criminal Misdemeanor Cases in Division I of the Fourth District Court*, November 13, 2000, p. 4. The FVCC study specifically examined assault and violation of a protective order case lengths, while the WATCH study examined case lengths for all case types.

¹² Many of these concerns were also raised by the Battered Women's Justice Project in their safety and accountability audit, *Case Processing of Misdemeanor Domestic Violence Cases: Arraignment to Sentencing*, March 2002.

¹³ Hennepin County District Court Research Division, *Fourth Judicial District Preliminary Evaluation of Domestic Violence Court*, October 29, 2001, p. 2.

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of 44% is still quite high. According to the *National Bulletin on Domestic Violence Prevention*, a suitable standard for dismissal rates in domestic violence cases is about 15%.¹⁴

Stay of imposition

The continued—though declining—practice of obtaining convictions through granting a stay of imposition with charges to be vacated and dismissed if specific conditions are upheld for a period of time is problematic because once the case is dismissed, any subsequent crimes of domestic violence cannot be enhanced.¹⁵ Research and experience indicate that crimes of domestic violence tend to increase in frequency and severity over the course of a relationship, and that abusers often perpetrate domestic violence over the course of many relationships. Allowing defendants the opportunity to erase prior convictions from their record takes away a tool that could be helpful in prosecuting repetitive and/or more severe cases of domestic violence. Another concern this practice raises is that most of the defendants who were granted a stay of imposition were only required to maintain conditions of probation for one year, even though the statute allows for the stay of imposition to remain in effect for two years.¹⁶

Sentencing

A main consideration appeared to be that defendants be released (if they were not already out-of-custody) and placed on probation at the time of sentencing. If defendants spent any time in jail, it was awaiting the

disposition of the case and not following it. Actual jail time served thus seemed to relate more to the defendant's ability or inclination to bail out rather than to the unique circumstances of the case. This obviously leads to a disparate impact on defendants who do not have the resources to bail out of jail. While this issue is not specific to domestic violence court, it is a reality that deserves further study.

Additionally, questions can be raised about the message sent to defendants, victims, and the public regarding the seriousness of domestic violence offenses when post-conviction jail time is almost never imposed, even in cases involving alarming violence.

Amending assault charges

The rate at which misdemeanor assault charges were amended to disorderly conduct charges remained constant from 2001 to 2002 at 21%. The concern with amending charges in this way is that a record of assault convictions is necessary to enhance subsequent misdemeanor assault charges to gross misdemeanors or felonies. Enhancement is not possible from disorderly conduct charges. In addition, it is not obvious that disorderly conduct is a crime of violence. When compared to an assault conviction, a disorderly conduct conviction does not have the same meaning to law enforcement in other jurisdictions, or potential landlords, employers, or even dating partners.

CWOP

While the reduction of cases continued without a guilty plea (CWOP) and a conviction from 16% in the spring of 2001 to 11% in the summer of 2002 is a clear area of improvement, the use of this procedure in domestic violence cases at all is troubling. If the defendant violates the conditions within a given

time, usually one year, the prosecutor may proceed with prosecution. However, as time goes by, it becomes increasingly difficult for the prosecution to pull together the evidence necessary for a conviction. The practice of CWOP also has relevance not only for the case at hand, but also for future cases, as enhancing crimes of domestic violence from misdemeanors to gross misdemeanors or felonies is dependent on prior convictions.

Conclusion

The results of this study demonstrate the importance of continued attention to the domestic violence court and the need for more focused research to address some of the issues raised, particularly in relation to dispositional practices. Further discussion on these issues will follow in future issues of this newsletter. ♦

Looking ahead . . .

The results of both the 2001 and 2002 domestic violence court studies show that virtually all convicted defendants received probationary sentences instead of incarceration.

To be successful as a tool in reducing future violence, well thought out conditions of probation, careful monitoring by probation officers, and appropriate judicial response when defendants fail to comply with probationary conditions are critical.

In an upcoming edition of the newsletter, WATCH will report on what happened with domestic violence court cases from the 2001 study where defendants reoffended or otherwise failed to comply with probation.

¹⁴ "From Andy Klein: Criminal justice domestic response standards: Part II" in *National Bulletin on Domestic Violence Prevention*, May 2002, Vol. 8, No. 5, p.1.

¹⁵ See Minn. Stat. § 609.224, subd. 2.

¹⁶ Id. § 609.135, subd. 2(b)-(d).

WATCHful eyes on the courts

Excerpts from monitoring notes from the domestic violence court

! The judge told one defendant, “No contact orders are for me the holy grail in keeping victims safe.”

! According to the prosecutor, the victim had boot prints on her back as a result of the assault; according to the public defender, the victim wanted contact to be allowed. The judge ordered that there be no contact with the victim.

! The bailiff was very attentive—he noticed the defendant’s interactions with the victim and followed the parties out to the hallway when they left the courtroom. The victim was crying.

! Proceedings didn’t start until 10:15! NOT GOOD!

! During this case, the deputy was sleeping. He briefly looked up to scan the courtroom, but then went back to sleep.

! The judge did an excellent job of educating the defendant about how he

created fear by his behaviors even if he didn’t punch the victim. The judge also did an excellent job of explaining that part of his sentence will probably be attendance at a domestic violence program. He told the defendant if he didn’t take responsibility for his behavior, he wouldn’t complete the program and would be back in court for a probation violation.

! Too much was going on in the courtroom; I couldn’t hear the judge—he was very soft spoken. In contrast, the bailiffs were very loud, as was the gallery.

! The judge said that the victim is not cooperative with police, so she seems not to need protection.

! It would have been helpful if announcements were made explaining delays or explaining what was occurring.

! There were two interpreters in court. During a lengthy recess, the interpreters spent much time socializing with those who were present for the cases.

! Audible and great judge! I thought his explanation of no contact orders (i.e., the victim can’t override the judge’s no contact order) was great.

! Children were running in and out of the courtroom—very noisy. One mother had three children (3, 2, and under 1). The baby was climbing up and down off the seat and the others were running back and forth between their mother and father, who were seated on different sides of the courtroom. When the children started crying, the bailiff finally asked the mother and children to leave the courtroom. The defense attorney approached the mother and said she would let her know when the case was called.

! The court clerk had the most mellifluous voice—she could be a professional voiceover actress.

! The clerk indicated that the in-custody defendant had been scheduled to appear, but bailiffs had not been assigned to bring him to court. The lawyers, witnesses, and observers were quite frustrated. The judge left the courtroom, and the defendant and bailiffs arrived ten minutes later. ♦

ODDS AND ENDS

Of quotes and coats

WATCH Gala included both inspiring speakers and misplaced garments

The annual WATCH gala held at the home of Sylvia and Sam Kaplan in November was a smashing success in terms of attendance, revenue, and enthusiastic spirit. Guests listened to moving speeches by WATCH founder Susan Lenfestey, Hennepin County Attorney Amy Klobuchar, writer and rape survivor Linda Henry, and Orono Police Chief Stephany Good, who said, “WATCH is in the courtroom, reminding us in the criminal justice system that the criminal should have all the blame, all the shame, and all the responsibility for the assault. WATCH is all about accountability, and it needs our continued support.” WATCH gratefully thanks all of its supporters for their commitment, encouragement, and contributions.

Unfortunately, at the end of the night, the math just didn’t add up when it came to the guest coats. One of our guests found that her coat could not be located. And when the last bit of party residue had been removed, we had an extra brown wool coat on our hands, but not the one that came with the now-coatless guest! So, for all of you who attended the gala, take a quick look in your closet to see that the coat in there is truly yours. If you notice an unfamiliar brown coat, please give us a call so we can return it to its owner. Thank you! ♦

WATCH wants you!


*Volunteer trainings coming up
in January and June 2003*


WATCH is looking for enthusiastic and concerned volunteers to help achieve its mission. Volunteers are needed to assist with court monitoring, administrative assistance, and research assistance. All volunteers are required to go through a two-night volunteer training. The January training is on January 28th and 30th, and the Spring training is tentatively scheduled for June 2nd and 4th.


Anyone interested in volunteering should contact Libby Wyrum at (612) 341-2747. ♦


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BlackElk and Ms. Andrade have already put in long hours (and weekends!) traveling to American Indian foster homes throughout the state to meet one-on-one with the children involved in these cases. After gathering information from a variety of sources, they (like all guardians) offer the court an independent assessment of what they believe to be in the children's best interests. Their addition to the guardian's office demonstrates its commitment to these children, who experience the highest rate of out-of-home placement in the state of any ethnic group.

 **Thumbs up to the Hennepin County Attorney's Office** for its new policy of assigning *two* advocates—one for the victim and another for the children—to the felony-level domestic violence cases it charges. The children's advocate visits the children in the home and works with them on their level to address their specific needs, including developing appropriate safety plans and coordinating the efforts of any other service providers. Often, the children's advocate is the first person the children have talked with who understands what they are experiencing. The children's advocate also works with the abused parent to relay the children's concerns and to educate her on how the children are impacted by the violence. The office is setting a national example on how to thoughtfully and humanely respond to the *multiple* victims in these difficult and tragic cases.


 **Thumbs up to Hennepin County Chief Judge Kevin Burke** for receiving the 2002 Distinguished Service Award from the National Center for State Courts (NCSC). In selecting Chief Judge Burke, the NCSC cited his dedication to improving the administration of justice, highlighting his role in improving and expanding Minnesota's public defender system, providing strong leadership to members of the bench throughout the state, and working to help free people of chemical dependency.


 **Thumbs up to former Hennepin County Judge Franklin Knoll** for championing the rights of disabled citizens in our justice system. An attorney petitioned the court to have Judge Knoll's law clerk (a former WATCH volunteer) excluded from the courtroom during a personal injury trial because he claimed that his own client's disability was comparatively less serious than the law clerk's and that the jury would be less inclined to view his client's disability as a hindrance to gainful employment. Judge Knoll denied the motion. The attorney later made a motion for a new trial, arguing that the jury could not have considered the evidence without comparing his client to the law clerk. Judge Knoll again denied the motion. Judge Knoll then sought a reprimand against the attorney from the Lawyers Professional Responsibility Board, which determined that he did violate the Minnesota Rules of Professional Conduct and issued a private reprimand.

 **Thumbs up to Hennepin County Judges Daniel Mabley and Marilyn Justman Kaman** as they begin six-month appointments as international judges in the United Nations supervised courts of Kosova—the first Americans to be selected. They are serving with a handful of judges from around the world (and two others from Minnesota!) on three judge trial panels deciding cases of ethnic disputes, war crimes, organized crime, and public corruption.

 **Thumbs down to Harvard University** for adopting a new rule earlier this year requiring students who report sexual assaults on campus to produce "sufficient independent corroboration" before officials will even launch an investigation. Deeming such cases "irresolvable" since they typically pit one student's word against another, the administration felt it was the "responsible" thing to do. The university must have already been following the rule *de facto*: in all of 2000, disciplinary action was taken against only *one* perpetrator of sexual

violence (after his second offense!) despite a health services survey that revealed at least 180 female students who had suffered an actual or attempted rape. Harvard may rank #2 in the country in terms of academics, but now it ranks dead last in terms of chillingly regressive sexual assault policies.

 **Thumbs down to the Minneapolis Police Department** for the homicide of Christopher Burns, who was being restrained by police in a controversial choke hold at the time of his death. Officers had been called to the scene by children in the home during a heated argument between Burns and his fiancée. WATCH and others in the anti-violence against women community are concerned that this tragedy may discourage victims and witnesses of domestic violence from calling the police to intervene in such situations. To quote Kristine Lizdas of the Battered Women's Justice Project, "In order for victims of domestic violence to be safe, they must feel able to appeal to police. If the risk of calling the police outweighs the risk faced at home, we aren't giving victims many real choices."

 And finally, how can we resist pointing our thumb at **former Senate majority leader Trent Lott**, who was on a roll at Senator Strom Thurmond's 100th birthday bash. In addition to the outrageous racist remarks that eventually led to his fall from power, he also managed to throw in a few sexist remarks to boot. A Thurmond aide set the tone for the other speakers by observing that the retiring senator had touched many and even "squeezed" some in the audience and that he "never missed" the opening of a Hooters franchise. Another former Senate majority leader (and Viagra poster boy), Bob Dole, then jokingly offered to introduce the centenarian to 21-year-old Britney Spears. This past year, Dole starred in a Pepsi commercial in which he tells a Spears-watching dog, "Down, boy." Lott followed that up by suggesting it should be, "Down, Strom!" WATCH says, "Down, . . . 'thumbs down' that is, to the Lott of you." ♦

WATCH

608 Second Ave South #1001
Minneapolis, MN 55402
(612) 341-2747
E-MAIL: watch@watchmn.org
WEB: www.watchmn.org

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INSIDE WATCH

Fatality Review Report *Have you gotten yours?*

Complete copies of the 74-page report issued by the Hennepin County Fatality Review Pilot Project, *A Matter of Life and Death*, can be forwarded electronically or sent by mail. Requests for copies should be sent to jacqhauser@aol.com or you may call (952) 920-4725. Electronic copies of the report can also be obtained by contacting the WATCH office at (612) 341-2747 or watch@watchmn.org.

Due to technical difficulties beyond our control, some of the names of people who requested copies of the report were lost. If you requested a copy of the report and have not yet received it, please contact Jacquelyn Hauser at jacqhauser@aol.com or (952) 920-4725. ♦

50 Strategies to Prevent Violent Domestic Crime *WATCH featured in national publication*

WATCH is among 50 innovative programs featured in *50 Strategies to Prevent Violent Domestic Crime*, a guide produced by the National Crime Prevention Council (the "Take a Bite Out of Crime" folks). This publication was designed to inspire practitioners to seek out new and alternative methods to aid underserved victims of violent domestic crime, including teens in dating relationships, elderly victims of late-life abuse, child witnesses to violence, battered immigrants, male victims, and survivors in the gay and lesbian community.

50 Strategies to Prevent Violent Domestic Crime takes readers behind the scenes of some of the best programs in 36 states with a discussion of how to successfully apply the strategy in any setting. The guide provides both tips from the field and lessons learned to equip readers with innovative ideas and strategies they can take back to their own communities. WATCH is profiled along with other promising programs such as Peaceful Posse, a group that mentors youth who witness violence, and the University of Minnesota-based Model for Dental Professionals, a training program for dental professionals to screen their patients for domestic violence and intervene when necessary.

If you are interested in obtaining a copy of this publication, please contact the WATCH office at (612) 341-2747 for a purchase order form. ♦