

Earning people's trust every day

by Marna Anderson, Executive Director

In the mid-1990s, I lived in rural El Salvador and worked with a nongovernmental organization. The civil war had ended. Law enforcement was no longer controlled by the military, but local police departments were non-existent in many parts of the country. The closest precinct to my community was approximately 15 kilometers away—a 45-minute drive due to poor road conditions.

In the evening, it was common for young men disillusioned with their lives and lacking in hope and livelihood to wander the community looking for alcohol and something to do. Many were armed, and community leaders did not have the fortitude to challenge them. We knew it was just a matter of time before someone would be killed by a stray bullet. My friend Rosa's five-year-old daughter, Christina, was the first victim. She was shot in the head by a bullet that ricocheted through the roof of her home while she was inside watching television.

With the help of his family, the suspect fled to Honduras. His family offered to pay off Rosa to keep her quiet. Her own family members pressured her to hunt down the suspect and kill him. But Rosa, who had worked during and after the war to help create a new society, believed that a functioning criminal justice system was a significant element in the democracy she and others envisioned. She believed that using the criminal justice system, as flawed as it was, was a better option than taking justice into her own hands.

Eventually, the defendant was charged, tried, and found guilty. But he wasn't brought back to face the charges, and he wasn't present at his own trial. His family got word to him of the verdict, and he only returned to the community when he believed apprehension was no longer a threat. Rosa frequently reports his whereabouts, but he has never been taken into custody.

The tragedy of her daughter's death and Rosa's persistence to seek legal justice serve as a reminder that our justice system is worth fighting for.

"The ordinary administration of criminal and civil justice...contributes, more than any other circumstance, to impressing upon the minds of the people affection, esteem, and reverence toward the government." Alexander Hamilton

We all know the American justice system isn't perfect. The ideals of fairness and impartiality upon which it is based are not always evident during investigations or in the courtroom. Racial disparities in the justice system are well documented. According to a Department of Justice report, 80% of defendants sentenced to death in the United States are racial minorities. And though more laws protecting women from rape are now on the books, victims seem to be on trial just as much as if not more so than defendants, particularly in cases involving celebrities or men in positions of power.

In spite of these failings, a 2001 report published by the University of

Pennsylvania found that compared with historical benchmarks, the American criminal justice system is probably more fair and effective than ever. But it still falls short of public expectations. A 1999 Gallup poll indicates that just 23% of respondents have a "great deal of trust" in the criminal justice system, the lowest rating for all institutions, including banks, the medical system, public schools, television news, newspapers, big business, and organized labor.

*"Trust in the criminal justice system is no longer automatic, but rather earned every day during each encounter between legal agents and citizens."*¹

Our society has a stronger sense of equality and expectation of fairness than we did a few decades ago. The same report by the University of Pennsylvania points out that people equate fairness in the courts to how they were treated by members of the justice system, whether they were listened to, had the opportunity to voice their concerns, and had accurate information about their case. In

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¹ Sherman, Lawrence W. *Trust and Confidence in Criminal Justice* (University of Pennsylvania; 2001) 14.

Case Summaries

DANIEL JAMES HART

Hart, 32, was charged with felony domestic assault and domestic assault by strangulation (felony) for assaulting his girlfriend. The victim told police that Hart grabbed and squeezed her throat, then lifted her in the air and slammed her to the floor. When she started to scream, he got on top of her and again put his hands around her throat and squeezed, punched her in the eye, and grabbed her throat again.

Hart pleaded guilty to the domestic assault charge, and the domestic assault by strangulation charge was dismissed. Judge Stephen Swanson sentenced him to 18 months in prison stayed for three years. Conditions of his probation included: 120 days in the workhouse with credit for 35 days served, supply a DNA sample, random drug testing, cognitive skills training, no contact with the victim, and domestic abuse counseling/treatment. Deborah Russell was the prosecutor, and David Cohoes was the defense attorney.

FREDDY NMN ORTIZ-GONZALEZ

Ortiz-Gonzalez, 46, was charged with domestic assault by strangulation (felony) and gross misdemeanor malicious punishment of a child for assaulting his son. A school nurse, reporting the abuse to police, stated that the victim, age 14, came to her office reporting difficulty breathing and soreness in his neck. He told the nurse his father became angry at how he was washing dishes, grabbed him around the neck, and squeezed so hard he could not breathe. He then grabbed him by the back of the neck and dragged him down the hallway and into his bedroom. Police observed swelling and red marks on the child's neck.

Ortiz-Gonzalez pleaded guilty to malicious punishment of a child, and the domestic assault by strangulation charge was dismissed. Judge Daniel Moreno stayed imposition of his sentence and placed him on supervised probation for two years with the following conditions: three days in the workhouse with credit for three days served, psychological evaluation/treatment, and continued mental health therapy. Juanita Freeman was the prosecutor, and Michelle Monteiro was the defense attorney.

EUGENE SYLVESTER REDDAY

Redday, 28, was charged with two counts of first degree criminal sexual conduct for sexually assaulting his eight-year-old nephew. After the victim's mother reported the abuse to Minneapolis police, the boy was interviewed at CornerHouse Interagency Child Abuse Evaluation and Training Center, where he described the assaults and said that Redday threatened to hit him if he told anyone.

Redday was convicted by a jury of both counts of first degree criminal sexual conduct. At the sentencing hearing the prosecutor spoke on behalf of the victim's mother, who asked for an appropriate sentence so that Redday would not be

able to do this again to another child. Judge Mark Wernick sentenced him to concurrent sentences of 320 months in prison for count one and 234 months in prison for count two with credit for 299 days served. The sentences included the following conditions: supply a DNA sample and pay restitution as determined for counseling. The prosecutor was Juanita Freeman, and Kevin Des Lauriers was the defense attorney.

CHRISTOPHER LEE TATE

Tate, 33, was charged with two counts of first degree criminal sexual conduct and two counts of second degree criminal sexual conduct for sexually abusing his son's friend last year. The victim, age 15, reported she was spending the night at her friend's house when Tate sexually assaulted her.

Tate is a level II sex offender with two prior sexual assault convictions. He was convicted in 2007 of fourth degree criminal sexual conduct for sexually assaulting a stranger in a Minneapolis alley. As part of his sentence Tate was ordered to attend a sex offender program, which he did not complete. WATCH was unable to find information regarding the other sexual assault conviction.

A jury convicted Tate on all four counts in the 2010 case. At his sentencing hearing, the prosecutor read the victim's impact statement in which she spoke about her mistrust of men and her loss of confidence. Judge Daniel Moreno sentenced Tate to life in prison, an upward departure from the sentencing guidelines, with credit for 374 days. He will be eligible for parole after serving 234 months. Krista Bettinger was the prosecutor, and Juanita Kyle was the defense attorney.

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Volunteer Notes

- ✓ When scheduling next appearance dates in felony arraignments, I frequently hear public defenders say, 'Put it down for that date, and we'll change it later.'
- ✓ At the sentencing for a case involving felony burglary and misdemeanor domestic assault charges, the judge noted that he had seen the defendant for previous domestic assaults. He warned him not to 'do it again,' or he would find himself spending a lot of time in prison. The felony charge was dismissed, and the defendant was sentenced to 90 days in the workhouse for the misdemeanor, which he had already served. The sentence was deemed satisfied, the no contact order was canceled and the case was closed.
- ✓ During the sentencing for a possession of child pornography case, the judge stated that she, the defendant's parents, the probation officer, and both attorneys recognized that the defendant had been victimized in the past. She expressed her sympathy for him in this regard, but noted that her job was to hold the defendant responsible for his actions, which was why they were in court today.
- ✓ The deputies brought up the wrong defendant from the jail and had to go back to find the right defendant. They brought up the same man again and had to take him away again. Finally, they brought up the right defendant, but the interpreter wasn't available, so his sentencing had to be rescheduled.
- ✓ While waiting for a hearing to start, I saw both attorneys go into the judge's chambers and then leave the courtroom. The defendant was brought in a few minutes later, and the judge asked her to come to the stand. She asked if she knew why she was there, and the defendant responded no. The judge explained that she was reinstating the defendant's conditional release, but failed to go over the specific conditions before concluding the hearing. I wondered whether it was appropriate for a judge to call a defendant to the stand with no attorneys present.
- ✓ During a hearing for a failure to register as a sex offender case, the judge did a good job of explaining the requirements for registration. Then he asked the defendant, 'Do you understand you have to register all the time? Do you understand that if you do not, I will have to place you where we can find you: in jail or prison?'
- ✓ During the sentencing for a third degree criminal sexual conduct case, the defense attributed the incident to the defendant's drinking problem and stated that it would not have happened if the defendant had received help for his addiction. Instead of debunking this assessment, the judge agreed with it, noting that he, too, saw the assault as a direct result of the defendant's substance abuse.
- ✓ An incident involving a defendant firing a gun at his mother was referred to as a 'family matter' by the public defender in felony arraignments, who argued that the defendant posed no risk to the general public.
- ✓ In order for protection court today, both the petitioner and respondent had attorneys who wanted to speak privately with their clients. The respondent and his attorney went into the hallway, and the judge went into her chambers so the petitioner could speak privately with her attorney in the safety of the courtroom with the deputy present.

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particular, it notes an increased trust in the justice system when victim rights are upheld.

Other research² shows that when citizens trust the justice system, they are more likely to comply with the law. And trust has to do with the perception of fairness and interactions with members of the justice system. More than anything else, WATCH volunteer monitors gather data on courtroom conduct and practices. We know how important it is to the public's perception of the justice system.

I recently spoke with a judge regarding his words at the sentencing of a defendant. Our monitor felt that he demeaned the victim by saying that the crime she suffered wasn't as bad

as others he'd seen and that she had made poor decisions the night she was assaulted. The judge listened to WATCH's concerns, said he appreciated the conversation, and would review the court transcript to see how he could choose his words more carefully in the future.

Providing such feedback from court monitors can make a difference in how people are treated and in turn, plays an important role in increasing the public's trust in the system. Despite its shortcomings, our justice system is making progress. But we should all continue to prod it toward its highest ideals. If my friend Rosa can stand for justice in a country with no functioning legal system, we can do no less than challenge our system to do its best for all its citizens.

² American Judges Association, *Procedural Fairness: A Key Ingredient In Public Satisfaction*; 2007; 14.

WATCH

E-mail: watch@watchmn.org

Web: www.watchmn.org

Executive Director: Marna Anderson

Staff:

Sarah Coulter, Court Monitoring Coordinator
Kate Hovde, Suburban Court Monitoring Coordinator

Anna Light, Volunteer Coordinator &
National Outreach Assistant

Donna McNamara, Development &
Communications Director

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UN REPORT URGES JUSTICE SYSTEM REFORM AND MONITORING TO INCREASE WOMEN'S ACCESS AND PARTICIPATION

UN Women was launched in February as an umbrella agency of the United Nations, consolidating several agencies into one to address global women's issues. Its first report, ***Progress of the World's Women in Pursuit of Justice***, released July 6, points to the ongoing problems facing women worldwide seeking justice through the courts. It cites complicated legal processes, long delays, and mounting financial and social costs as key reasons many women abandon their attempts to achieve justice through the legal system. In some countries, long delays and high costs of litigation co-exist with extremely low conviction rates for crimes against women. These factors create hurdles many women are unable to overcome, preventing them from pursuing legal options in the first place or forcing them to "drop out" of the justice system if they have sought redress.

Citing statistics on laws relating to violence against women, the report notes where progress has been made: *Domestic violence is now outlawed in 125 countries* and where barriers remain: *Globally, 603 million women live in countries where domestic violence is not considered a crime*. The report makes a series of recommendations that the authors say will encourage progress toward important United Nations goals, such as those laid out in the 1979 Convention on all Forms of

Discrimination Against Women (CEDAW) and the 2000 UN Millennium Development Goals. To ensure justice becomes a reality for all women, UN Women calls on governments to:

- *Repeal laws that discriminate against women*, and ensure that legislation protects women from violence and inequality in the home and the workplace.
- *Support innovative justice services*, including one-stop shops, legal aid, and specialized courts, to ensure women can access the justice to which they are entitled.
- *Put women on the frontline of justice delivery*. A greater number of women police officers is correlated with a higher percentage of women reporting sexual violence.
- *Invest in justice systems that can respond to women's needs*. Only 5 percent of global spending for justice system reform specifically targets women and girls.

The report also recommends systematic tracking of judicial decision making, citing the importance of monitoring "to provide accountability to women seeking justice and to enable civil society and governments to monitor the performance of the courts on women's rights."