



AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

SAN JOSE BRANCH

REPORT FROM THE

AAUW SAN JOSE

COURT WATCH PROJECT

March, 2007 through April, 2008

Submitted by:

Court Watch, a Community Action Project

American Association of University Women (AAUW) San Jose

AAUW San Jose, Inc.

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In principle and in practice, AAUW values and seeks a diverse membership. There shall be no barriers to full participation in this organization on the basis of gender, race, creed, age, sexual orientation, national origin, disability or class.

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I. INTRODUCTION

a. American Association of University Women

The American Association of University Women (AAUW), with approximately 100,000 members nationwide, advocates education and equity for women and girls. Since its founding in 1881, members have examined and taken positions on the fundamental issues of the day - educational, social, economic and political. AAUW advances equity for women and girls through advocacy, education and research. The San Jose Branch of AAUW (AAUW San Jose) is committed to the mission through its programs, community action projects and advocacy.

b. Court Watch Mission Statement

The mission of AAUW San Jose Court Watch is to familiarize ourselves with the Santa Clara County Domestic Violence Court System; to provide an impartial assessment of Santa Clara County Domestic Violence Court proceedings; to identify best practices; and to promote effective victim support services and defendant counseling and treatment services that will benefit our community.

c. Objectives and Procedure

Objectives

- a. To familiarize AAUW San Jose Court Watch committee members with the Santa Clara County Domestic Violence Court System.
- b. To provide an impartial assessment of Santa Clara County Domestic Violence Court proceedings and to identify best practices.
- c. To contribute objective information that will affect victim support services, defendant counseling and treatment services that will benefit our community.
- d. To publish and distribute a report of the findings of Court Watch observations in the summer months of 2008. See Appendix for list of recipients.

Procedure

AAUW San Jose volunteers began our observations of Court proceedings in March, 2007. Eight AAUW San Jose members attended 32 court sessions through April, 2008. We attempted to attend sessions on each day of the week. Combining all individual observations, over 320 cases were observed during this period.

The breakdown for these cases is as follows:

Reviews – 30%

Arraignments – 23%

Bench Warrants – 23%

Probation Violations – 14%

Master Trial Calendar – 7% (most were dismissed or settled).

Pleas – 2%

Pre-Trial Conferences – 1%

Note: Only 2 trials were observed.

Courtrooms of Judges Pennypacker, Bonini, Overton, Hyman, Haydon and Brogdon were all observed.

We believe the first year of Court Watch represents a credible selection of court proceedings, except for trials where a victim actually testified.

II. FINDINGS

a. Court Procedures and Organization

We found the Domestic Violence Courts efficiently run. Calendars were posted. Court sessions started on time for the most part. Court personnel, including the deputies, were knowledgeable, professional and courteous to everyone. Observers felt safe and that the environment was under control by Court staff.

Observers' comments about deputies were generally positive. They were in control of the court room and attentive to the safety of the court and to the needs of the judges. They were always very helpful and accommodating to Court Watch observers.

b. Area for Improvement

The presiding judge responded to weekly inquiries concerning scheduled trials. However, unexpected changes in the schedule often resulted in observers going to court only to find the proceeding postponed or cancelled. Locating court clerks' phone numbers on the court website allowed observers to call and check the status finally resulted in observation of trials.

This difficulty in determining the current status of a court proceeding must also happen to victims and victims' advocates, resulting in emotional and financial hardships. It is suggested that a phone-in case status system be put in place such as the phone-in system used in jury selection. At the least the court could inform victims and victims' advocates that they may call the court clerk to ascertain the status of a case.

c. Communications: Atmosphere in the Courtroom

In general, the judges spoke in moderate tones, firm and friendly, pleasant, unhurried, thorough, respectful and polite. The judges listened attentively to offenders, lawyers and victims, when present, making eye contact and speaking in a positive and encouraging way to defendants.

d. Communications: Defendants and Victims

We found that typical feedback to the defendants during reviews was represented by such comments as: "Did you learn something?" "I want you to be a good father." "Get some friends." "Tell the lady you love her." "Not all A's but I appreciate your participation".

Interpreters were available most of the time. Spanish interpreters were the most frequently needed. We also observed Vietnamese, Farsi, Somali, Cantonese, and Tagalog interpretation services.

e. Areas for Improvement

While many comments were appropriately encouraging, we did not hear much reference to the victims and when we did, we sometimes interpreted the comments as trivializing the victim as an individual.

In general, we observed that the judges were very accommodating to defendants when it came to waiving fees and fines as well as changing court dates, program attendance and weekend jail to accommodate their requests.

In the one instance where a victim testified in a trial, it was observed that the victim seemed in need of support but there was no advocate there to provide it. Of course the prosecutor is advocating for the victim's legal rights; however, the prosecutor's main objective is to prosecute the defendant, not to provide counseling or support to the victim.

It is a consensus among the observers that the Court was perhaps a little too accommodating. There were many instances where the defendant could not even name the "Program" they were participating in and yet the Court accepted the defendant as being compliant.

Observers found that Court proceedings were primarily focused on the defendants' participation in a 52 week "batterer's program" for domestic violence offenders and sometimes a 16 week program for "parenting without violence". As required by statute, there is almost complete reliance on these programs to rehabilitate offenders in lieu of incarceration for the offense.

Interpreters typically stood very close to the defendant and we could not be sure that the defendants understood the proceedings. Use of this type of interpreting was particularly disruptive when the Court showed the video explaining defendants' rights. There was a

variety of communication going on at the same time thereby making it difficult for everyone to concentrate.

f. Role of Victims

Rarely could we find violations of no contact orders in the court room. We never saw probation officers and seldom did we see victims or victims' advocates. In fact, it was also rare to hear a judge make reference to the victims. When a victim was in Court, it was usually to stand by the defendant and request a less restrictive no contact order.

g. Area for Improvement

We did note that there were times that people who were in the courtroom looked like they were confused about the proceedings. We did not know if they were victims, but being confused about what was going on is a feeling we shared early on.

Comments regarding victims appearing in courtroom proceedings are set forth in this section II Findings above in "3. Communications: Defendants and Victims. Area for Improvement."

III. RECOMMENDATIONS

1. We recommend that in lieu of a live interpreter, the court provide non-English speakers with earphones and a tape of the information being provided in the video. Alternatively, captions in Spanish (because it is most commonly used) should be added to the video. Additionally, printed material in English and the most common non-English languages should be given to all defendants. There is a lot of information for a person to process and we believe the Court Room process is not adequate for insuring that individuals understand their rights.
2. We recommend that before a no contact order is lifted or changed to be less restrictive, that the victim have a private conversation with the judge, a victim's advocate or the probation officer, and that the judge take that person's comments into consideration.
3. We recommend that an informational hand-out (multi-language) be made available to all victims attending any session in the Domestic Violence court rooms. If identification of a victim is problematic then the information can be made available to all. That information should include:
 - A brief explanation of what is going on in that court room at that time.
 - A brief explanation of victim's rights and how their voice can be heard during the proceedings, and
 - A list of victim advocacy resources.

We defer to the Court as to how this information is best distributed, e.g. by the deputies when admitting people into the courtroom or otherwise.

4. We encourage and support victims' advocates and the Domestic Violence justice system to continue to educate and raise community awareness about the problems of domestic violence in our community.

IV. BACKGROUND OF STUDY

AAUW San Jose was approached by Nancy Fomenko of the Victims Survivor Advocacy Committee of the Domestic Violence Council of Santa Clara County in January 2006. AAUW San Jose was asked to serve Santa Clara County as an objective observer by creating a Domestic Violence Court Watch. It is believed that no other program existed with this mission in California; therefore extensive research was required. On September 6, 2006, the AAUW San Jose Board of Directors approved the creation of a Community Action Project, AAUW San Jose Court Watch.

V. PROCESS

1. Research

Core members of the Court Watch committee of AAUW San Jose spent a great deal of time researching similar programs in other States, specifically Minnesota, Maryland, Colorado, Florida and Texas. The extensive assistance of Nancy Fomenko, the Honorable Judge Philip Pennypacker, his staff and Supervising Deputy District Attorney Dan Nishigaya is acknowledged and appreciated.

A glossary of legal and court system vocabulary and terms was researched and developed.

2. Education and Training of Court Observers

- AAUW San Jose volunteers were trained to monitor felony or misdemeanor domestic violence cases as they moved through the criminal justice system. Monitoring forms were developed (see Appendix). Volunteers tracked arraignments, pre-trial hearings, sentencings, and probation revocation hearings.
- Informational meetings with Santa Clara County Domestic Violence Court Judges; District Attorney(s); Public Defender's Office; domestic violence advocacy groups were essential to the training of the court observers.
- Observers attended "Current Issues in Domestic Violence Prosecution" by Supervising Deputy District Attorney, Daniel T. Nishigaya.
- Observers attended Santa Clara Superior Court's "Court-Academy and Liaison Program" to gain an understanding of the Judiciary/Court and shared that information with all Court Watch members.

3. Educational Program to AAUW San Jose Members and Community

The Court Watch committee presented an informational program to members of AAUW San Jose which included the following panel members:

Perla Flores, Program Director, Solutions to Violence Department, Community Solutions

David Duran, Program Director, Support Network for Battered Women

Alice Saelee, Community Educator, Domestic Violence Program, Asian Americans for Community Involvement

Sandra D. Daniels, MA, MAVEN Advocate/Volunteer Coordinator, Next Door Solutions to Domestic Violence

Nancy Fomenko, Victims Advocacy Committee, Domestic Violence Council of Santa Clara County.

Sonya Pelia, Maitri

VI. CONCLUSION

In conclusion, we would like to thank Ms. Nancy Fomenko, Judge Philip Pennypacker and Deputy D.A. Dan Nishigaya in particular for giving AAUW San Jose this opportunity to start a Court Watch program in Santa Clara County.

The judges in all of the court rooms welcomed our presence. In many instances the judges took time from their full schedules to talk to us in their chambers and to answer our many questions. For that we are most grateful.

It is often said that “it is in giving that we receive.” We can say that our collective experience was much greater than the content of this report.

AAUW seeks “equity for women and girls”. We found over the past 18 months that our community still has a long way to go before the victims of domestic violence are treated with as much consideration for their safety and for their rights as are their batterers.

We welcome and appreciate this opportunity to be agents for societal change.

VII. APPENDIX

Community Letter (sample)
Domestic Violence Court Monitoring Form
Domestic Violence Court Calendar
Report Recipients

AAUW advances equity for women and girls through advocacy, education, and research. In principle and in practice, AAUW values and supports diversity. There shall be no barriers to full participation in the organization on the basis of gender, race, creed age, sexual orientation, national origin, disability, or class.

AAUW San Jose

October 31, 2007

Dear _____,

I am pleased to announce that on September 6, 2006 the San Jose Branch of the American Association of University Women (AAUW) established a Domestic Violence Court Watch. We are expecting to publish our first report in the summer of 2008 and want to give you some advance information about our program.

Our Court Watch objectives are:

1. To familiarize ourselves with the Santa Clara County Domestic Violence Court System.
2. To provide an impartial assessment of Santa Clara County Domestic Violence Court proceedings and to identify best practices.
3. To promote effective victim support services and defendant counseling and treatment services that will benefit our community.

AAUW was first approached by Nancy Fomenko of the Victims Survivor Advocacy Committee of the Domestic Violence Council of Santa Clara County in January, 2006 to ask AAUW to serve the County as an objective observer by creating a Domestic Violence Court Watch. To our knowledge, no such program exists in California and there was much research required. On September 6th, 2006 the AAUW Board approved a motion to create a Community Action Program named AAUW Court Watch.

Our core members have been spending a great deal of time setting up the program. We are most appreciative for the help we are getting from Nancy Fomenko, the Honorable Judge Philip Pennypacker, his staff and Supervising Deputy District Attorney Daniel Nishigaya .

The purpose of this letter is to give you a brief introduction to ourselves and our nascent Court Watch, to invite your input and to advise you and your organization to look forward to our first AAUW Domestic Violence Court Watch Findings and Recommendations in the summer of 2008.

If you have any questions, please feel free to contact the Chair of AAUW Court Watch, Geri Madden at madden500@sbcglobal.net or Jen-fang Lee our SJSU intern for this program at jenfanglee@yahoo.com.

Sincerely,

Jean Reed

Co-President - AAUW, San Jose Branch



Santa Clara County Superior Court

Domestic Violence Court Monitoring Form

Thank you for your assistance in monitoring the proceedings at domestic violence court. When referring to specific cases ***please include the line number and/or defendant name*** so that we can follow up on individual cases.

What time did you arrive at court? _____ What time did appearances begin? _____

Were there any announcements prior to the start of court? Yes No If yes, what was stated?

If the judge took a recess, was that recess explained to the gallery? Yes No

COURTROOM STAFF:

Please provide information on the following personnel, noting such things as: arrival time, demeanor, interaction with other staff, efficiency, interaction with victims/defendants, etc. You do not need to limit yourself to these questions.

NOTE: Please do not ask court personnel their names. Please note names only if you overhear or see name badges. Use back if needed.

Judge: *Did the judge appear prepared? Was he/ she on time? Was there a reason given if not? How was his/ her demeanor with defendants?*

Name:

Clerk: *Did the clerk call the calendar in an efficient manner? Were participants able to hear her?*

Was the calendar posted?

Prosecuting Attorneys: *Did the attorneys arrive on time? Were they prepared?*

Names:

Defense attorneys:

Did the attorneys arrive on time? Were they prepared?

Names:

Victim advocates: *Were advocates present and checking in with victims when they arrived?*

Names:

Sheriff's deputies: *Were deputies in control of the courtroom? Was anyone asked to leave? If so, was it handled respectfully?*

Names:

Probation officers: *Were probation officers on time and prepared? Were they able to provide information when asked? Were their interactions appropriate?*

Names:

APPEARANCE INFORMATION

Do you feel No Contact Orders were adequately described? Yes No If no, please explain.

If there were any sentencings, did the judge speak in a manner and tone that expressed the seriousness of the offense? Yes No If no, please explain.

Were there any interpreters in court today? Yes No If yes, what language(s) was/were spoken?

Were there any issues or problems related to the interpretation that you would like to comment on?

(we understand that you may not speak the language in question)

Courtroom Decorum

Were you able to adequately hear the proceedings? Yes No Sometimes Please explain if needed.

Were there any disruptions in court today? Yes No If yes, explain how they were handled.

Were you aware of any violations of the No Contact Order in court or in the hallway? Yes No
If yes, please explain what happened and how it was handled.

Did you feel the participants understood the process? Yes No
If no, explain.

Court Watch Report Recipients

Domestic Violence Prevention Coordinator

Eve M. Castellanos

City of San Jose, Office of the City Manager

200 E. Santa Clara, 17th Floor

San Jose, CA 95113

Domestic Violence Intervention Collaborative

Nancy Fomenko, Associate Director

P. O. Box 612317

San Jose, CA 95161

DOMESTIC VIOLENCE CONSORTIUM OF SANTA CLARA COUNTY

CYNTHIA HUNTER

234 E GISH RD, SUITE 200

SAN JOSE, CA 95112

Domestic Violence Council

Captain Alana Forrest, Chair

70 W. Hedding Street, 11th Floor

San Jose, CA 95110

Court Watch Report Recipients

Office of Women's Policy

County of Santa Clara

Esther Peralez-Dieckmann, Director

70 W. Hedding Street

11th Floor, East Wing

San Jose, CA 95110

Commission on the Status of Women

County of Santa Clara

Susan Doty, Chair

70 W. Hedding Street

San Jose, CA 95110

Next Door: Solutions to Domestic Violence

Kathleen Krenek, Executive Director

Virginia Ballantyne, Legal Program Coordinator

Patricia Bennett, Advocacy Manager

234 E. Gish Road, Suite 200

San Jose, CA 95112

Office of the District Attorney

Dolores Carr, District Attorney

County of Santa Clara

70 W. Hedding Street

San Jose, CA 95110

Court Watch Report Recipients

Office of the District Attorney

Dan Nishigaya, Supervising Attorney

Family Violence Unit

County of Santa Clara

70 W. Hedding Street, West Wing

San Jose, CA 95110

Office of the District Attorney

Rolanda Pierre Dixon, Assistant District Attorney

70 W. Hedding Street, West Wing

San Jose, CA 95110

The Honorable Catherine A. Gallagher

Presiding Judge, Superior Court

Hall of Justice, Dept 44

191 N. First Street

San Jose, Ca 95113

The Honorable Philip Pennypacker

Supervising Judge, Domestic Violence Court

Hall of Justice, Dept 44

191 N. First Street

San Jose, CA 95113

Court Watch Report Recipients

The Honorable Carol Overton

Domestic Violence Court

Hall of Justice, Dept. 46

191 N. First Street

San Jose, CA 95113

The Honorable Eugene Hyman

Domestic Violence Court

Hall of Justice, Dept 43

191 N. First Street

San Jose, CA 95113

The Honorable Griffin Bonini

Domestic Violence Court

Hall of Justice, Dept 45

191 N. First Street

San Jose, CA 95113

The Honorable Erica R. Yew

Juvenile Dependency Court

115 Terraine Street

San Jose, CA 95110

Court Watch Report Recipients

Board of Supervisors, County of Santa Clara

The Honorable Don Gage, District 1

The Honorable Blanca Alvarado, District 2

The Honorable Pete McHugh, District 3

The Honorable Ken Yeager, District 4

The Honorable Liz Kniss, District 5

Santa Clara County Government Center

70 W. Hedding St., East Wing

San Jose, CA 95110

The Honorable Elaine Alquist

California State Senate, District 13

2100 Paseo de San Antonio, #209

San Jose, CA 95113

The Honorable Ira Ruskin

California State Assembly, District 21

5050 El Camino Real, Suite 117

Los Altos, CA 94022

Court Watch Report Recipients

The Honorable Sally Lieber

California State Assembly, District 22

274 Castro Street, #202

Mountain View, CA 94041

The Honorable Joe Coto

California State Assembly, District 23

100 Paseo de San Antonio, #319

San Jose, CA 95113

The Honorable Jim Beall

California State Assembly, District 24

100 Paseo de San Antonio, #300

San Jose, CA 95113

AAUW San Jose – Court Watch Resources

COLORADO

Court Watch, Project Safeguard

815 E. 22nd Ave.

Denver, CO 80205

303-863-7416

www.projectsafeguard.org

FLORIDA

Sarasota Court Watch

P.O. Box 3073

Sarasota, FL 34230-3073

941-361-6283

Maryland

Cecil County Health Department

401 Bow Street

Elkton, MD 21921

410-996-5113

AAUW San Jose – Court Watch Resources

Minnesota

WATCH

Northstar East, Suite

608 2nd Avenue S

Minneapolis, MN 55402

612-341-2747

465www.watchmn.org

Texas

P.E.A.C.E. Initiative Court Monitoring Program

1443 S. St. Mary's St

San Antonio, TX 78210

210-533-2729