

2014

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### Recommended Citation

Megan Griest *Monitoring the Law: Court Watch Programs in Maryland*, 23 *Annals Health L.* 74 (2014).  
Available at: <https://lawcommons.luc.edu/annals/vol23/iss2/7>

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## Monitoring the Law: Court Watch Programs in Maryland

*Megan Griest\**

### I. INTRODUCTION

Traditionally, domestic violence has been treated as a women's issue, not the public health problem it is. This national problem affects the health and well-being of people across all demographics of this country.<sup>1</sup> The Maryland court system is failing victims of domestic violence. In some cases, these victims do not report the crime to the police out of fear of repercussions from the abuser; in other cases, a lack of trust in the criminal justice system alienates victims. Throughout the process, victims may feel alone and unprotected. One way the state could address this issue is by more widely implementing court watch programs, which train volunteers to observe judicial behavior in court and complete a record of the case and behavior of judges, bailiffs and other court staff.<sup>2</sup> Program administrators then compile these records and typically prepare a report discussing the consistency of the judges' behavior, best practices observed, and recommendations for improvement, to disseminate to judges in that jurisdiction.<sup>3</sup> Part II discusses domestic violence as a public health concern and the need for policy change within the court system. Part III discusses how the current system is failing domestic violence victims in Maryland. Part IV reviews court watch programs as a potential solution to increase the consistency of judicial behavior and provide increased protections to victims in domestic violence cases.

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1. See Univ. of Mich., *About Domestic Violence: Understanding Abuse*, <http://hr.umich.edu/stopabuse/about/understanding.html> (last visited May 22, 2014).

2. See Laurie Duker & Judy Whiton, Court Watch Montgomery, *Protecting Victims of Domestic Violence in Montgomery County: Challenges and Opportunities with Protective and Peace Orders* 53, [http://www.courtwatchmontgomery.org/files/New\\_study\\_lapses\\_in\\_restraining\\_order\\_process\\_leave\\_domestic\\_violence\\_victims\\_unnecessarily\\_at\\_risk.pdf](http://www.courtwatchmontgomery.org/files/New_study_lapses_in_restraining_order_process_leave_domestic_violence_victims_unnecessarily_at_risk.pdf).

3. See, e.g., *id.* at 51.

## II. DOMESTIC VIOLENCE AS A PUBLIC HEALTH ISSUE

Domestic violence is the “willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior perpetrated by an intimate partner against another.”<sup>4</sup> This definition includes heterosexual and same-sex couples, as well as married couples and those who are dating and living together.<sup>5</sup> Emotional and/or psychological abuse may include threats from the abuser to take away all of the family’s assets, including custody of the children, and could also include financial threats that could leave the victim unable to care for herself or her children.<sup>6</sup>

While both men and women are victims of domestic violence, the Centers for Disease Control and Prevention estimate that eighty-five percent of domestic violence victims are women.<sup>7</sup> Violence against women has reached epidemic proportions: more than one in three women in the United States have experienced physical violence in their lifetime, and about three in ten women experience intimate partner-related physical assaults and rapes occur every year.<sup>8</sup>

Domestic violence is a widespread problem among all demographics.<sup>9</sup> Because at least eighty-five percent of victims are women, most research focuses on women as victims of domestic violence. That is not to say that men are not victims of domestic violence; however, domestic violence committed against men is largely unstudied. Statistics show that African American women experience higher rates of domestic violence than white

4. National Coal. Against Domestic Violence, *Domestic Violence Facts*, [http://www.ncadv.org/files/DomesticViolenceFactSheet\(National\).pdf](http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf) (last visited May 22, 2014).

5. *Id.*

6. LINDA E. SALTZMAN ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, NAT’L CTR. FOR INJURY PREVENTION & CONTROL, *INTIMATE PARTNER VIOLENCE SURVEILLANCE: UNIFORM DEFINITIONS AND RECOMMENDED DATA ELEMENTS* (2d printing 2002) 12-13, available at [http://www.cdc.gov/ncipc/pub-res/ipv\\_surveillance/Intimate%20Partner%20Violence.pdf](http://www.cdc.gov/ncipc/pub-res/ipv_surveillance/Intimate%20Partner%20Violence.pdf).

7. Ctrs. for Disease Control & Prevention, Nat’l Ctr. for Injury Prevention & Control, *Understanding Intimate Partner Violence Fact Sheet* (2006), <http://www.cdc.gov/violenceprevention/pdf/IPV-Factsheet.pdf>; see also *Domestic Violence Facts*, *supra* note 4.

8. MICHELE C. BLACK ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, NAT’L CTR. FOR INJURY PREVENTION & CONTROL, *THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 39* (2011) [hereinafter *SEXUAL VIOLENCE SURVEY*], available at [http://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf); see also *Domestic Violence Facts*, *supra* note 4.

9. See generally Am. Bar Ass’n, *Domestic Violence Statistics*, [http://www.americanbar.org/groups/domestic\\_violence/resources/statistics.html](http://www.americanbar.org/groups/domestic_violence/resources/statistics.html) (last visited May 22, 2014) (discussing the prevalence and types of domestic violence as well as statistics regarding its specific effects on multiple demographics); see also The Women’s Ctr., *Violence and Domestic Abuse – Myths and Facts*, <http://thewomenscenter.org/content.asp?contentid=537> (last visited May 22, 2014) (discussing myths regarding the demographics which are most effected by domestic violence).

women, and Native American women face domestic violence at rates more than double of other races.<sup>10</sup> Young women, low-income women and women in some minority groups suffer disproportionately higher instances of domestic violence and rape.<sup>11</sup> In addition to race and ethnicity, income is also a factor in who suffers domestic violence.<sup>12</sup> The lower the household income, the higher the rate of domestic violence in the house; women in the lowest income category experience domestic violence at more than five times the rate of domestic violence.<sup>13</sup> Domestic violence affects women in rural, suburban and urban areas; and women who are employed and unemployed.<sup>14</sup> Women in Maryland have the sixth highest prevalence of rape, physical violence and/or stalking by an intimate partner in the United States, affecting about forty-two percent of the state's female population.<sup>15</sup>

A common myth is that women who are victims of domestic violence can leave their abusers and choose not to.<sup>16</sup> Victims who receive the right legal assistance early in the process of leaving increase their chances of obtaining the protection and financial security they need to leave their abusers permanently.<sup>17</sup> Most victims of domestic violence leave, or attempt to leave their abusers.<sup>18</sup> Because many abusers use physical violence, financial control, or threats about child custody, many victims have a difficult time leaving permanently.<sup>19</sup> In fact, ninety-eight percent of abusive relationships involve financial abuse and survivors have stated in surveys that concern over the ability to provide financially for themselves and their children was one of the top reasons for staying in or returning to the relationship.<sup>20</sup> Since the risk of further violence often increases after victims leave their abusers, it can be more difficult for victims to leave if they cannot obtain effective legal relief.<sup>21</sup> If victims can overcome the financial barriers through remedies from the court, the victim can leave the abuser and maintain safety. Unfor-

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10. *Domestic Violence Statistics*, *supra* note 9.

11. *Id.*

12. RANA SAMPSON, U.S. DEP'T OF JUSTICE, OFFICE OF CMTY. ORIENTED POLICING SERVS., DOMESTIC VIOLENCE PROBLEM-ORIENTED GUIDES FOR POLICE PROBLEM-SPECIFIC GUIDES SERIES 11-12 (2007), available at [http://www.popcenter.org/problems/pdfs/domestic\\_violence.pdf](http://www.popcenter.org/problems/pdfs/domestic_violence.pdf); see also *Domestic Violence Statistics*, *supra* note 9.

13. SAMPSON, *supra* note 12, at 11.

14. *See id.*

15. Md. Coal. Against Sexual Violence, *Sexual Assault in Maryland* (Jan. 2012), [http://www.mcasa.org/\\_mcaseWeb/wp-content/uploads/2012/01/General-Maryland-Sexual-Assault-Fact-Sheet.pdf](http://www.mcasa.org/_mcaseWeb/wp-content/uploads/2012/01/General-Maryland-Sexual-Assault-Fact-Sheet.pdf).

16. *See Violence and Domestic Abuse – Myths and Facts*, *supra* note 9.

17. *Id.*

18. *Id.*

19. *Id.*

20. Colo. Bar Ass'n, *The Challenges and Effects of Leaving an Abusive Relationship*, <http://www.cobar.org/index.cfm/ID/21090> (last visited May 22, 2014).

21. *Id.*

tunately, financial concerns are not always discussed in domestic violence cases, leading to short-term solutions for the victim, like staying with a friend instead of finding sustainable housing elsewhere. If the quick fix approach is often used, some victims may feel there is no option for financial freedom from the abuser through a court proceeding.

Domestic violence also imposes large financial costs on society. The majority of these costs are considered to be “direct costs,” including healthcare services, social and welfare services, counseling, police and criminal justice services, legal services, transportation costs, housing used by domestic violence victims and special education services used to treat children of abused women.<sup>22</sup> The costs of intimate partner rape, physical assault and stalking exceed \$5.8 billion per year.<sup>23</sup> Healthcare costs account for more than two-thirds of the total intimate partner violence-related expenses,<sup>24</sup> which corresponds to an annual \$31 billion in medical costs directly attributed to domestic violence annually. The National Violence Against Women Survey estimates that healthcare costs associated with a single incident of domestic violence are roughly \$1000 and that women lose approximately eight million days of paid work due to being victims of domestic violence.<sup>25</sup> The United States loses nearly 5.6 million days of household productivity each year due to domestic violence.<sup>26</sup> These missed days may include time away from work to seek medical care, attend court hearings, meet with the police and seek counseling services. Another hidden cost is the increased rate of homelessness experienced by women and children who are victims of domestic violence.<sup>27</sup> Fifty-seven percent of U.S. cities cite domestic violence against women and children as the top cause of homelessness and this homelessness rate continues to increase.<sup>28</sup>

Domestic violence victims are also at an increased risk of depression, post-traumatic stress disorder, and substance abuse, which can further hinder the ability to separate from the abuser and may require additional medi-

22. See Advocates for Human Rights, *Community Costs of Domestic Violence* (July 19, 2011), [http://www.stopvaw.org/community\\_costs\\_of\\_domestic\\_violence](http://www.stopvaw.org/community_costs_of_domestic_violence).

23. Julie L. Gerberding et al., Ctrs. for Disease Control & Prevention, *Costs of Intimate Partner Violence Against Women in the United States* 1, 2 (Mar. 2003) [hereinafter *Costs of IPV*], [http://www.cdc.gov/ViolencePrevention/pub/IPV\\_cost.html](http://www.cdc.gov/ViolencePrevention/pub/IPV_cost.html).

24. *Id.*

25. Patricia Tjaden & Nancy Thoennes, U.S. Dep’t of Justice, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey* (Nov. 2000), <https://www.ncjrs.gov/pdffiles1/nij/183781.pdf>.

26. *Domestic Violence Facts*, *supra* note 4.

27. Ga. Governor’s Office for Children & Families, *Research Brief: Economic Abuse and the Hidden Cost of Domestic Violence* 1, 2 (Oct. 20, 2013), [http://children.georgia.gov/sites/children.georgia.gov/files/related\\_files/site\\_page/Economic%20Abuse\\_Research%20Brief%20\(Oct%202013\).pdf](http://children.georgia.gov/sites/children.georgia.gov/files/related_files/site_page/Economic%20Abuse_Research%20Brief%20(Oct%202013).pdf).

28. *Id.* at 2.

cal treatment.<sup>29</sup> The victims' use of medical services is not limited to the treatment of the immediate injuries caused by an episode of violence.<sup>30</sup> The health consequences of domestic violence last long after the episode has ended.<sup>31</sup> These long-term negative health consequences are increasingly being recognized as major health problem.<sup>32</sup> A growing body of literature exhibits the link between violence and abuse and increased risk of negative health outcomes, including more physical health problems, higher use of medical and mental healthcare services, and more frequent suicide attempts.<sup>33</sup>

The prevalence of domestic violence can have a dramatic impact on families who have children who witness or are involved in the abuse.<sup>34</sup> The Women's Law Center notes "studies show that in 50%-70% of cases in which a parent abuses another parent, the children are also physically abused."<sup>35</sup> Children who witness domestic violence in the home also suffer "emotional, cognitive, behavioral, and developmental impairments[.]"<sup>36</sup> In some cases, children who experience domestic violence in the home grow up to engage in the same behavioral patterns as their parents.<sup>37</sup> This not only perpetuates the cycle of domestic violence, but also creates many negative health and social consequences for these children as they grow.<sup>38</sup> The Academy on Violence and Abuse found that exposure to adverse childhood experiences is related to many negative health outcomes including addiction, sexually transmitted disease, obesity, broken bones, and medical conditions including diabetes and heart disease.<sup>39</sup> Episodes of domestic violence in the home can also have harmful effects on children's educational

29. See generally *Costs of IPV*, *supra* note 23.

30. Domestic Violence Crisis Ctr., *CDC Doctor: Domestic Violence is a Serious Public Health Issue* (Nov. 11, 2012 11:38 PM), <http://www.dvccct.org/dvcc-updates/medical-advocacy-news-c/3331-cdc-doctor-domestic-violence-is-a-serious-public-health-issue.html>.

31. *Id.*

32. *Id.*

33. See *SEXUAL VIOLENCE SURVEY*, *supra* note 8.

34. See generally Helga Luest, *Witness Justice, Addressing the Mental Health Impact of Violence and Trauma on Children* 1, 2 (2011), [http://www.witnessjustice.org/advocacysta/issue\\_brief.pdf](http://www.witnessjustice.org/advocacysta/issue_brief.pdf).

35. Bowker et al., *On the Relationship Between Wife Beating and Child Abuse*, in *FEMINIST PERSPECTIVES ON WIFE ABUSE*, 158, XX (Kersti Yllo and Michelle Bograd eds., 1988). See also *Violence and Domestic Abuse – Myths and Facts*, *supra* note 9.

36. See generally PETER G. JAFFE ET AL., *CHILDREN OF BATTERED WOMEN* (Sage Pub. Inc. 1990).

37. *Id.*

38. *Id.*

39. THERESA DOLEZAL ET AL., *HIDDEN COSTS IN HEALTH CARE: THE ECONOMIC IMPACT OF VIOLENCE AND ABUSE* (2009), available at [http://www.mecasa.org/joomla/images/pdfs/economics\\_of\\_violence/economic\\_impact.pdf](http://www.mecasa.org/joomla/images/pdfs/economics_of_violence/economic_impact.pdf).

outcomes.<sup>40</sup> Moreover, disruptions in education and higher school dropout rates can reduce the earning potential of these children.<sup>41</sup> These costs combine to pass the negative effects of domestic violence onto the next generation.

### III. THE FAILURE OF MARYLAND'S LEGAL SYSTEM

The Maryland criminal justice system, charged with handling the state's domestic violence cases, is failing victims of domestic violence. Under the current system, individuals are overly responsible for seeking support for themselves rather than being able to rely on protection by the state. Victims must make the decision to apply for peace orders<sup>42</sup> or protective orders<sup>43</sup> and see the process through—often with a lawyer's help, but usually on their own. Due to limited public resources, the state often refers victims to state- and local-level nonprofit agencies for assistance.<sup>44</sup>

Between the two types of orders available to victims, protective orders cover people who are current and former spouses; parents, step-parents or step-children who have lived together for at least ninety days; vulnerable adults; people who have children with their abusers; and people related to their abusers by blood, marriage, or adoption.<sup>45</sup> Peace order cover individuals who are not eligible for protective orders and are victims of abuse.<sup>46</sup>

After filing a petition at the court, a victim must appear before a judge to receive a temporary order.<sup>47</sup> A temporary protective order can be issued on the same day and issued without a full hearing in court.<sup>48</sup> If the court is closed, the district court commissioner can issue an interim order until the temporary hearing can occur.<sup>49</sup> During the temporary order hearing, the victim must satisfy to the judge that there are reasonable grounds to believe

40. WORLD HEALTH ORG., PREVENTING INTIMATE PARTNER AND SEXUAL VIOLENCE AGAINST WOMEN 16 (2010), available at [http://whqlibdoc.who.int/publications/2010/9789241564007\\_eng.pdf](http://whqlibdoc.who.int/publications/2010/9789241564007_eng.pdf).

41. Nata Duvvury et al., Int'l Ctr. for Research on Women, *Costs of Intimate Partner Violence at the Household and Community Levels* 25 (2004), <http://www.icrw.org/files/publications/Costs-of-Intimate-Partner-Violence-at-the-Household-and-Community-Levels-An-Operational-Framework-for-Developing-Countries.pdf>.

42. See MD. CODE ANN., CTS. & JUD. PROC. § 3-1501 (West, WestlawNext through chapters effective May 15, 2014, of the 2014 Regular Session of the General Assembly).

43. See MD. CODE ANN., FAM. LAW § 4-501.

44. See generally MD. DEP'T OF HUMAN RES., ADDRESSING DOMESTIC VIOLENCE: MARYLAND'S PLAN 2010-2011, available at <http://www.dhr.state.md.us/blog/wp-content/uploads/2012/10/DVPlan.pdf> (last visited May 22, 2014).

45. *Id.*

46. Nat'l Network to End Domestic Violence, *Peace Orders* (updated Oct. 2, 2012), [http://www.womenslaw.org/laws\\_state\\_type.php?id=530&state\\_code=MD](http://www.womenslaw.org/laws_state_type.php?id=530&state_code=MD).

47. See MD. CODE ANN., FAM. LAW § 4-505.

48. *Id.*

49. *Id.* § 4-504.1(a).

that an incident of domestic violence has occurred.<sup>50</sup> If the victim is able to do so, the judge can issue a temporary protective order that is effective for no more than seven days.<sup>51</sup> Temporary orders show the victim that the judge is taking her claim seriously, and is providing her with a tool to improve her situation. At this point, victims may leave their abuser for a period of time to stay with friends or family for their safety, and as a way to enforce the order. For a protective order that will last for a longer period of time, the victim must return to court within seven days for a final hearing.<sup>52</sup> In the time between the temporary and subsequent final order hearing, police must serve the respondent with the protective order and put him or her on notice that he or she is to attend the final hearing.<sup>53</sup> If the police are unable to locate and serve the respondent, the victim is responsible for returning to court every week to get a new temporary order issued to notify the respondent with service.<sup>54</sup> Through the Victim Information and Notification Everyday (VINE) program, petitioners may track their abusers' "custody, probation and parole, court, sex offender, or protective order status" via an automated system accessible by telephone or internet.<sup>55</sup> At the final hearing, both the victim and offender may present testimony, witnesses, and evidence such as medical records and photos that show the damage.<sup>56</sup> If a final protective order issued, it is typically effective for up to one year, but a judge may extend this time period under certain circumstances.<sup>57</sup>

It is important to note that each order is created to address the particular nature of the case before the judge. For example, an order may include prohibiting the offender from contacting the victim; requiring the offender to stay away from a residence, workplace and/or children's schools; granting temporary child custody and child support to the person eligible for relief;

50. *Id.* § 4-505.1(a)(1).

51. *Id.* § 4-505(c)(1).

52. *Id.* §§ 4-504, 4-506.

53. Nat'l Network to End Domestic Violence, *Domestic Violence Protective Orders* (updated Oct. 2, 2012), [http://www.womenslaw.org/laws\\_state\\_type.php?id=10022&state\\_code=MD&open\\_id=11430](http://www.womenslaw.org/laws_state_type.php?id=10022&state_code=MD&open_id=11430).

54. Note that this does not apply if the victim is voluntarily enrolled in the Victim Information and Notification Everyday program.

55. MD. VICTIM INFO. & NOTIFICATION EVERYDAY SERV., VICTIMS HAVE A RIGHT TO KNOW (2010), available at <http://www.goccp.maryland.gov/victim/documents/VINEBrocEng.pdf>. Once enrolled in this program, the petitioner can track any changes in the abuser's status for safety reasons as well as to see if he has been served a summons to appear in court. *Id.* (stating that a petitioner can be "notified by phone or e-mail if an offender is released, transferred, escapes, or appears in court" or notified if the offender "changes the status of a protective order"). If the offender has not yet been served, the judge may grant an extension of the temporary order until that time when the respondent is served, up to six months. FAM. LAW § 4-505(c)(2).

56. *See* § 4-506.

57. *Id.* § 4-506(b)(1)(iii).



requiring the abuser to give up all firearms to the police for the length of the order; and requiring the abuser to pay filing fees or court costs.<sup>58</sup> If an offender violates the terms of the order, he or she may be subject to criminal penalties in the form of fines and/or imprisonment.<sup>59</sup>

Presently, a general lack of consistent and satisfactory education and training of the individuals working within the legal system minimizes their ability to ensure a victim's safety throughout the legal process. While other states statutorily mandate or encourage mandatory domestic violence training for judges, Maryland does not.<sup>60</sup>

Although domestic violence training is not mandated for Maryland judges and other courtroom staff, law enforcement is mandated to give a victim in a domestic violence situation written notice of available victim services, including the telephone number of a local domestic violence program that receives funding from the Governor's Office of Crime Control and Prevention.<sup>61</sup> Additionally, each of Maryland's twenty-two State Police barracks has a specially trained domestic violence investigation coordinator on site.<sup>62</sup> These coordinators review each incident reported at the barracks that involves or may relate to domestic violence, conduct follow up interviews with the victim, assist in obtaining a protective or peace order, and may also help the victim create a plan to prevent further abuse in the future.<sup>63</sup> Each State Trooper has also received entry level domestic violence training that is focused on helping the victim and its family during the initial act of violence.<sup>64</sup>

Coordination between law enforcement and other agencies can be improved by fully implementing Maryland Network Against Domestic Violence's Lethality Assessment Program (LAP), a model that has already been successful in reducing domestic violence and homicides in thirty-two

58. *Id.* §§ 4-505(a)(2), 4-506(d).

59. *Id.* § 4-508.

60. See Nat'l Council of Juv. & Fam. Ct. Judges, *Mandatory Domestic Violence Training for Judges* (last updated Dec. 20, 2013), <http://www.ncjfcj.org/sites/default/files/chart-mandatory-dv-training-for-judges.pdf> (indicating that many states require domestic violence training for judges or have statutory language that on some level provides domestic violence education for judges; Maryland is absent from this list, indicating that they have no such requirement or statutory language).

61. MD. CODE ANN., FAM. LAW § 4-503(a)(1). For a listing of domestic violence services providers in Maryland, see Md. Courts, *Domestic Violence Legal Service Providers in Md.* (May 29, 2013), <http://www.courts.state.md.us/legalhelp/pdfs/dvlegalserviceproviders.pdf>.

62. Press Release, Dep't of Md. State Police, Domestic Violence Coordinators Assigned at State Police Barracks (Jan. 23, 2013), <https://www.mdsp.org/News/PressReleases/tabid/359/ctl/Detail/mid/1088/xmid/21001/xmfid/4/Default.aspx>.

63. *Id.*

64. *Id.*

states.<sup>65</sup> The LAP may be used by anyone involved in working with a domestic violence case, including social workers, law enforcement, and healthcare providers.<sup>66</sup> The LAP begins once a first responder<sup>67</sup> is able to assess the situation.<sup>68</sup> If there is any doubt as to the lethality the current situation, the responding officer will ask the victim eleven evidence-based questions.<sup>69</sup> These questions can reliably predict the victim's risk of death.<sup>70</sup> This objective tool is one way to make sure everyone who handles the particular case of domestic violence has the same information, and the same assessment of danger. As more jurisdictions adopt and implement the LAP, there will likely be more consistent and effective treatment of domestic violence cases. Ideally, conducting the LAP will become as commonplace and necessary as taking a victim's statement.

The processes currently in place in Maryland, including the LAP, the VINE program, and law enforcement procedures, are providing resources to the victims of domestic violence; however, the court system is not providing consistent protections to victims of domestic violence. Use of the LAP can provide a mechanism for law enforcement when the incident of domestic violence occurs. Once the victim seeks and is granted a temporary protective order, he or she can enroll in the VINE program to get information on the status of the abuser. Once the case gets to court, the victim may not feel as supported. Judicial behavior, including the way judges address the petitioners and respondents, varied from courtroom to courtroom. In some cases, judges looked at text messages on the petitioner's phone to support his or her claim; other judges would not accept text messages as evidence.<sup>71</sup>

Victims are poorly served when court officials fail to follow recognized

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65. Va. Dep't of Criminal Justice Servs., *Review of Lethality Assessment Programs (LAP)* 3 (Oct. 2013), [http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD2802013/\\$file/RD280.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD2802013/$file/RD280.pdf). The thirty-two states are: Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, Michigan, Minnesota, Missouri, Mississippi, New Mexico, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, and Washington. Md. Network Against Domestic Violence, *LAP Recognition*, <http://mnadv.org/lethality/lap-nationally/> (last visited May 22, 2014).

66. *Id.*

67. The first responder is typically a law enforcement officer who initiates the LAP upon arrival to a domestic violence call; however, other first responders like hospital staff or practitioners may be the first to come in contact with a victim of domestic violence in the course of their work. In this case, the first responder will initiate the LAP.

68. *Id.*

69. *See id.* These questions are known as the Lethality for First Responders. *Id.*

70. *Id.*

71. This statement is based on observations completed by the author, by students at the University of Maryland Francis King Carey School of Law, and Court Watch reports from Baltimore City, Maryland and Montgomery County, Maryland.

best practices during peace and protective order hearings.<sup>72</sup> When there is inconsistency from court to court and even within judges at the same court, victims are left wondering how effective their order will be, and if it is enough to keep them safe. Judges should advise abusers of their responsibilities under the order—such as the surrendering of firearms for the duration of the order—and allow both parties to ask questions about the process.<sup>73</sup> Judges should be conscious of their demeanor by being good-natured, supportive and informative toward all parties because this increases the likelihood that a victim will return to court and cooperate with authorities in future cases.<sup>74</sup> Using these approaches can help the victims feel secure in their choice to pursue a protective order, and feel safe during the process. Court watch programs are a way to monitor judicial behavior and report on its consistency in these cases.

#### IV. USING COURT WATCH PROGRAMS TO IMPROVE THE COURT PROCESS FOR VICTIMS

The problems that victims of domestic violence face in Maryland can be ameliorated by increasing oversight and consistency of the judicial system through wider use of court watch programs. Court watch programs create a more transparent system in domestic violence court cases and collect data through court monitoring to ensure the judicial process is fair to victims and prioritizes their safety.<sup>75</sup> Often relying on federal funds, after completing systematic observations of the court proceedings, monitoring organizations provide objective data to the court and general public that can be used to implement reform.<sup>76</sup> Court watch programs are often sanctioned and federally funded through a grant process,<sup>77</sup> serving to ensure their availability

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72. Laurie Duker & Judith Wilson, Court Watch Montgomery, *Just "A Piece of Paper?" Domestic Violence Peace and Protective Orders in Montgomery County District Courts Second Monitoring Report* 59 (2012) [hereinafter *Second Monitoring Report*], [http://courtwatchmontgomery.org/files/courtwatchmontgomery\\_report\\_2.pdf](http://courtwatchmontgomery.org/files/courtwatchmontgomery_report_2.pdf).

73. *See id.* at 25-26, 36.

74. *Id.* at 11, 28.

75. *See* D.C. Survivors & Advocates For Empowerment, *2012 Report: DC Domestic Violence Court Watch Project* 3 (2012), <http://courtwatchdc.files.wordpress.com/2013/08/2012courtwatchreport.pdf> (describing the mission of the District of Columbia Domestic Violence Watch Project).

76. *See Second Monitoring Report, supra* note 72 (describing how the data in the report is collected and compiled). The report identifies best practices and exemplary actions by judges and court personnel and patterns within the system that may be helping or hurting the victim, creates a dialogue between the court and the public regarding the way the court handles domestic violence and propose solutions to improve and make consistent court responses to these cases. *See id.*

77. *See* Santa Fe Coordinated Cmty. Response Council, *Santa Fe Domestic Violence Court Watch Final Report* 1 (Aug. 2011), <http://webcache.googleusercontent.com/search?q=cache:http://santafe-ccrc.org/uploads/Final%2520Report%2520with%2520Case%2520>

and reduce their reliance on the states they are observing.

Regular courtroom observations conducted by various court watch groups in Montgomery County, Baltimore County, and Baltimore City have revealed that an ineffective process for serving abusers with restraining orders after the temporary hearing is causing victims to turn down protections to which they are entitled. Best practices exist to improve victim safety. There are several best practices that have been observed by different court watch programs that could be instituted as a result of the court watch program.<sup>78</sup> The best practices to focus on for this alternative include:

- Staggered Exit: A staggered exit strategy is one in which the abuser's exit is delayed so that the victim is able to obtain his or her order and leave the courthouse safely;<sup>79</sup>
- Treating parties with courtesy and respect: This courtesy and respect should be shown from all members of the court, including judges, bailiffs, and clerks;
- Warn respondent of criminal charges if order is violated: This simple statement can encourage respondents to follow the letter of the order or face the consequences; and
- Remind respondent to surrender firearms: When a respondent surrenders firearms, the chance of a firearm being used against the petitioner decreases.<sup>80</sup>

When Court Watch groups have suggested these best practices judges and other members of the judicial system have been receptive to making changes and creating a uniform and consistent way of handling domestic violence cases on the docket.<sup>81</sup> Judges can implement these recommendations with relatively no cost to the court system, as it is a matter of changing courtroom procedure and behavior.<sup>82</sup> These procedural and behavioral

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Studies.pdf (explaining that the Santa Fe Domestic Violence Court Watch program was federally funded with a U.S. Department of Justice, Office of Violence Against Women grant through a New Mexico Crime Victims Reparation Commission state sub-grant).

78. These best practices have been compiled from various sources, including the author's observations in Baltimore County District Court.

79. See *Second Monitoring Report*, *supra* note 72, at 8.

80. See generally Jacquelyn C. Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study*, 93 AM. J. OF PUB. HEALTH, 1089 (2003).

81. See generally *Second Monitoring Report*, *supra* note 72. Montgomery Court Watch has recommended best practices to courts in Montgomery County that have been successfully implemented. These best practices have been developed based on court room observations conducted by Montgomery Court Watch.

82. Laurie Duker, *Making Court Process Safer for Women*, BALT. SUN, Nov. 1, 2012, Editorial, at 21A.

changes would also provide more equity to petitioners and respondents involved in these cases. With renewed confidence and comfort toward the legal process of obtaining a protective order and the treatment they receive in the courtroom, more victims of domestic violence will likely come forward, taking steps to improve their individual situation and the overall picture of domestic violence in the United States today.<sup>83</sup>

These best practices recommended to the courts through court watch programs complement the current programs used in Maryland well, as they supplement the services available to the victim and create a fair and respectful courtroom environment. There are virtually no barriers to implementation, since the practices can be implemented at no cost, and only require a change in procedure and behavior in the court to work. However, changing judicial behavior can sometimes be an uphill battle. Ideally, judges and others who work within the court system will see the value in implementing these changes and will do so without much argument. For others, it may be necessary to have the Chief Judge strongly recommend that these practices be followed.

Implementing more court watch programs across the country would take some time, but may not take a lot of money. Using volunteers, either from the community, support groups, or local colleges, universities and professional schools, could provide the monitors for courtroom observations at little to no cost.<sup>84</sup> Once positive change is created within the courts because of court watch programs, other jurisdictions can follow the existing models and implement them on their own.

While the previously-mentioned programs within the Maryland court system are in place, they work independently and often compound the burden on the victim. Court watch programs tie all of the available resources and programs together to help victims. The programs encourage judges to ensure that victims know of and how to make best use of the resources available to them. When courts are monitored through court watch programs, judicial behavior tends to be more consistent, which helps victims feel empowered and protected against retribution from their abusers. This facilitates victims to better trust the judicial system. Implementing more court watch programs both in Maryland and across the country would create more consistency in handling domestic violence cases. If the volunteer method is used to staff the court watch programs, they can be easily implemented in existing court proceedings and programs.

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83. *Id.*

84. For example, students at the University of Maryland, Baltimore were court watch monitors for credit in one of their classes at either the Francis King Carey School of Law or the University of Maryland School of Social Work. Students signed up for a specific number of hours per week to observe, and that time was taken into consideration when calculating their clinical hours.

V. CONCLUSION

Court watch programs are one way to monitor judicial behavior to ensure that victims are treated fairly in court, and that the courts are able to hold the abusers accountable while protecting victims. Domestic violence is a major public health problem in the United States, affecting society at every level. Implementing court watch programs in jurisdictions across the country would reduce the effects of domestic violence on individuals and families and would contribute towards improving the overall problem. While the implementation of court watch programs will not end domestic violence, it will go a long way toward enhancing victim services and help those who are experiencing it.