



Citizen Court Monitoring

Report on

Washington County Family Court

January 2011

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It is desirable that the trial of causes of action should take place under the public eye, not because the controversies of one citizen with another are of public concern, but because it is of the highest moment that those who administer justice should always act under the sense of public responsibility, and that every citizen should be able to satisfy himself with his own eyes as to the mode in which a public duty is performed.

Justice Oliver Wendell Holmes
Cowley v. Pulsifer
137 Mass. 392, 294 (Mass. 1884)

This court above all others impacts so much on the lives of New Yorkers, the Chief Judge, myself and the administrative board all feel it is very important to make it clear that the court is open to public scrutiny and accountable to the public.

Hon. Jonathan Lippman
Chief Judge of the State of New York
Said while in the position of Chief Administrative Judge
of the State of New York about then
Chief Judge Judith Kaye's 1998 opening the Family Court to the public

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EXECUTIVE SUMMARY

The Fund for Modern Courts conducted a Citizen Court Monitoring program in the Washington County Family Court from November 2009 to March 2010. Volunteers were recruited with the help of local organizations, the League of Women Voters, Jeff Stewart, the Executive Director of the Retired and Senior Volunteer Program of Washington and Washington Counties (RSVP) and the New York State United Teachers (NYSUT) Retiree Services for Albany, Saratoga, Rensselaer, Washington, Washington, Essex, Clinton, Franklin, St. Lawrence, Jefferson, and Lewis Counties. Modern Courts provided in-depth training to the volunteer court monitors in order to give them a thorough understanding of Family Court, its importance for families and communities, its jurisdiction, and its daily operations. The monitors used two different questionnaires, prepared by Modern Courts, to guide them through the program – one for monitoring court facilities and one for observing proceedings in court.

Ten volunteers observed the Family Court in Washington County. They monitored the court for four months from November 2009 through March 2010. The monitors observed more than 207 cases. Because each Family Court case may include more than one type of legal proceeding, the monitors observed more than 309 different proceedings within the 207 cases. The cases observed by the monitors included such issues as abuse and neglect of children, family violence, paternity, custody and visitation, support, guardianship, and foster care review and placement.

The following is a summary of the key recommendations based on observations by the court monitors.

- **Entrance to Courthouse**

Modern Courts recommends that the courthouse to be opened at least fifteen minutes prior to the time the first case is to be called on the court's calendar. Monitors experienced and observed delays in entering the courthouse. This was especially troubling in the cold weather. Monitors observed that the delay in entering the courthouse did not occur because of the amount of people waiting to get in, but because the doors to the courthouse would not open even fifteen minutes before the first case was to be called.

- **Provide Clearer Explanation on Orders of Protection**

Modern Courts recommends that when issuing an order of protection, the Judge fully explain the terms and conditions of that order along with offering information on the full range of services available to victims of domestic violence. The Family Court plays an essential role in keeping victims of domestic violence safe. In order for the order to be used to its fullest capacity, the parties must understand the terms of the order and its limitations. That order limits the interaction between two people so that one person will be protected from the harmful or risky actions of the other. Monitors observed that that when explaining the content of an order of protection, the Judge did not always give clear direction to the respondent (if present in the court room) of the terms of the order, carefully read the terms of the order of protection to the "victim" (Petitioner), clearly explain the expiration date of the order, nor did he inform the victim of domestic violence of the steps she can take if the order is violated (e.g. call the police.)

- **“Upfront” Court-Based or Volunteer Assistance**

Modern Courts recommends that court-based assistance or aid from well-trained volunteers would benefit litigants and the court. Though monitor’s commented that the Clerk’s office is helpful, more “upfront” support for litigants would lead to efficiencies in the court’s time and direct individuals to appropriate community services.

- **More Written Information on Court Procedures and Local Resources**

Modern Courts recommends that written materials be made available in the waiting areas of the courthouse. Monitors saw this as a missed opportunity. An agreement between the court and community organizations to provide updated materials and information on local resources such as family support programs, mental health services and domestic violence help would provide the public with important support information and resources.

- **Open the Court to the Public in Juvenile Delinquency Proceedings**

Modern Courts recommends that, although the judge has the discretion to exclude the public from juvenile delinquency proceedings, (Family Court Act § 341.1) the judge should not routinely exclude the public from the courtroom from juvenile delinquency or PINS proceedings unless it is established that the case involves private issues that would embarrass or harm families and children or for security reasons and makes the determination as provided in Part 205.4 of the Rules of the Family Court (22 NYCRR Part 205.4). The Family Court was opened in 1998 to the public. The public has a right to know how courts deal with children and families. It is no longer discretionary when closing the courtroom to the public is done 100% of the time.

NOTE: Washington County Family Court Judge, Hon. Stanley Pritzker, reviewed Modern Courts’ recommendations.

After reviewing your comments concerning public access in JD and PINS proceedings, I will immediately implement changes. More particularly, I will weigh public access on a case by case basis, following 22 NYCRR 205.4 to the letter. I have reviewed the FCA and the Court Rules and believe your comments. . .of the report accurately reflect what is required to close the courtroom. My overriding concern was, of course, the best interest of the children and their privacy interests. These concerns extend not only to respondents, but the young victims in certain JD cases. I also understand how important public access is to our democratic system

- **Fully Explain Background, History and Present Reasons for Court Appearance to Best Provide Parties with an Understanding of the Proceedings**

Modern Courts recommends that the Judge take more time to explain the background of the case and the reasons for the present proceeding before he moves ahead with the matter. Monitors observed that Judge Pritzker was patient and polite with litigants but often seemed rushed, began cases before all parties were in the courtroom and did not always fully explain the background of the proceedings or the reasons for the present appearance. It was sometimes unclear to the monitors what proceedings were before the court as a result of the Judge not fully

explaining to the public and the parties the history of the matter and the present action before him.

The Fund for Modern Courts is committed to supporting the implementation of the monitors' recommendations for the Washington County Family Court.

INTRODUCTION

The Fund for Modern Courts is an independent, statewide court reform organization committed to improving the judicial system for all New Yorkers. Our Citizen Court Monitoring program, along with our Citizen Jury Project, education and advocacy programs, identifies problems that affect our State's courts and offers information and recommendations about how to make the courts more effective, fair and accessible to all residents of the state. In addition, by building relationships with community members, other advocacy groups, and state and local governments, Modern Courts works with all who want to ensure an independent, diverse and highly qualified judiciary.

Modern Courts wishes to acknowledge the outreach work of the League of Women Voters, Jeff Stewart, the Executive Director of the Retired and Senior Volunteer Program of Washington and Washington Counties (RSVP) and the New York State United Teachers (NYSUT) Retiree Services for Albany, Saratoga, Rensselaer, Washington, Washington, Essex, Clinton, Franklin, St. Lawrence, Jefferson, and Lewis Counties. Each organization provided the program with our volunteer monitors. Modern Courts also wishes to acknowledge the outstanding work of our monitors: Doris Andrejkovics, Philip Cote, Bev Kerr, Jeri Kellerman, Linda Kirker, Barbara McCarthy, Harold McKinney, Barbara Parks, Diane Thomas, and Barbara Weinschek.

The comments and findings contained in this report are not to be construed as an endorsement, either implied or express, of any candidate for any office. Any such use is unauthorized by the Fund for Modern Courts.

History of Modern Courts Citizen Court Monitoring

Modern Courts' began court monitoring in 1975. Citizen Court Monitoring is a statewide program that recruits non-lawyer, local volunteers to observe court proceedings in their communities. The monitors' findings and recommendations are published by Modern Courts and released to the public, court administrators, judges, court personnel, government officials, lawmakers, bar associations, civic groups, and the media.

Monitors are local volunteers who look at the courts from an average citizen's viewpoint, thereby providing a common-sense perspective on how courts serve the public. During the monitoring project, these volunteers observe proceedings in a particular court for a period of several months, and complete forms designed to help them to evaluate critical aspects of the court's performance, ranging from the judges' management of the court and proceedings to the physical conditions under which the court operates.

Over the past thirty-five years, Modern Courts' court monitoring program has been influential in publicizing problems that exist in the courts; urging those responsible for the courts to make improvements, particularly in facilities and court operations; and educating the public about the daily functions and operation of the courts in order to create a constituency of citizens who understand the problems facing the court system and who support efforts to assist the courts to function more efficiently and effectively.

Overall, citizen court monitoring has improved communication between the public and the judiciary, heightened the court system's sensitivity to public needs, and helped to ensure that those needs are met.

This report details the findings of our citizen court monitors regarding the Washington County Family Court.

The Family Court Of New York State

The Family Court of the State of New York was created in 1962 as a specialized court to hear cases involving children and families. Family Court judges handle a range of legal issues, including child abuse and neglect (child protection), adoption, child custody and visitation, domestic violence, guardianship, juvenile delinquency, paternity, persons in need of supervision (PINS), and child support. Family Court judges do not have jurisdiction to hear matrimonial cases or family-related criminal matters, even if a case pertains to a family already before a judge in another context (e.g., domestic violence). There are no jury trials in the Family Court. The Family Court may be a confusing place for people unfamiliar with the court process and the legal issues their problems present.

Family courts are located in each county of the state; in New York City, the family courts are part of a citywide Family Court. While Family Court judges may issue orders of protection, additional orders which may be conflicting or inconsistent involving the same family may issue from the Supreme Court or a Criminal Court that is handling another aspect of the matter. Family Court judges within New York City are appointed for ten-year terms by the Mayor, while Family Court judges outside New York City are elected to office for ten-year terms by the voters of the county in which the judgeship is located.

Judges preside over most Family Court hearings (trials). Support Magistrates hear child or spousal support and paternity cases. In certain larger counties, Court Attorney Referees hear custody, visitation, and foster-care cases and Judicial Hearing Officers (JHOs) hear some adoption and voluntary-placement foster-care cases.

Since 1998, the Family Court has been open to the public and the people, also known as “the parties,” directly involved in a particular case. The judge or support magistrate presiding over each case has the discretion to exclude the public from the courtroom under limited circumstances, if the case involves private issues that would embarrass or harm families and children or for security reasons.

Why Monitor Family Court: The Crisis in Family Court

The Family Court makes decisions on matters relating to children and families, often in crisis. As reported in Modern Courts’ Family Court Task Force Report,¹ Family Court is facing its own ongoing crisis and emergency. It is under resourced and burdened with the highest number of cases in the New York Court System. In 2009, it was reported that Family Court

¹ “A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform,” February 2009, http://www.moderncourts.org/documents/a_call_to_action.pdf

appearances are growing at an annualized rate of 26% and now exceed 2.5 million.² While changing those courts to meet the needs of children and families is a most difficult task, it is a challenge that has to be met, especially in light of the unprecedented negative economic conditions that will most certainly further flood the already inadequate resources of Family Court.³

The array of problems in the Family Court is well-documented. The problems include huge dockets; the failure of the state to create Family Court judgeships commensurate with dockets⁴; unmanageable court calendars⁵; frequent adjournments causing disruption in court proceedings and the effectiveness of judges' orders; final decision-making sometimes undermined by the inaction of non-legal components of Family Court matters⁶; the lack of standards for informing all parties, in advance of each court appearance, what proceeding is scheduled to take place resulting in parties often not being properly prepared for court appearances; the lack of legal representation for too many individuals which causes ineffective advocacy and a lack of understanding the consequence of court actions; and the paucity, in many courts throughout the state, of information about how the system works or the provision of support for the parties when they first enter the courtroom resulting in more work for overburdened judges and court personnel.

Legislation providing more judges for Family Court, proposed by Senator John Sampson, Chair of the New York State Senate Judiciary Committee was passed in the Senate in June 2010. But it has not been passed in the Assembly, and therefore has not reached the Governor's desk for signature.

One longstanding proposal, supported by the Fund for Modern Courts, is to restructure the court system as a whole to simplify access and reduce costs. This would enable New York's Unified Court System to provide greater resources for Family Court. This simplification proposal has not had the necessary support of elected officials to make it a reality.

Modern Courts believes one way to help make the public and their representatives aware of the crisis facing Family Court and to shed light on the many problems facing families in Family Court is by observing and monitoring the daily operations in Family Court. Court monitoring also provides community members with an opportunity to view an often neglected aspect of our government - the court system. As this report demonstrates, often monitors who have not been involved in the nuts and bolts of courtroom activities can identify and comment on issues that are unsettling, but commonplace to those who practice in Family Court every day. Monitoring the courts, especially at this time, can provide a perspective on what is important to reform within a particular county.

The need for reform, as reported in the many studies on Family Court by the wide variety of statewide and local government and non-government organizations, is reinforced in the

² <http://www.nysenate.gov/files/pdfs/Family%20Court%20Report.pdf>

³ "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform," February 2009, http://www.moderncourts.org/documents/a_call_to_action.pdf

⁴ New York City has not received a single new Family Court judgeship in 20 years, and Family Court in some suburban and upstate counties are equally overburdened, ; also as a result of the unrealistically large caseload in Family Court. coupled with the lack of sufficient judges

⁵ "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform," February 2009, http://www.moderncourts.org/documents/a_call_to_action.pdf

⁶ *Ibid.*

findings from the Family Court Monitors in Washington County. Even the most effective judge and court personnel cannot overcome the present crisis facing the Family Court.

OVERVIEW OF WASHINGTON COUNTY FAMILY COURT MONITORING PROJECT

Washington County is situated in the eastern portion of New York State. It borders the west side of Vermont between the Adirondack and Green Mountains. Its population according to the 2009 census is 62,753. The county seat is Fort Edward. Washington County has one Family Court Judge, the Honorable Stanley L. Pritzker. Judge Pritzker was elected in 2005 for a ten year term. He is also an Acting Supreme Court Justice and Surrogate Court Judge. The Family Court is located in Fort Edward.

The Fund for Modern Courts began its Court Monitoring Program in Washington County in the fall of 2009 and concluded it in March 2010. Volunteers were recruited with the cooperation of the League of Women Voters, Retired and Senior Volunteer Program of Washington and Washington Counties (RSVP), and the New York State United Teachers (NYSUT) Retiree Services for Albany, Saratoga, Rensselaer, Washington, Washington, Essex, Clinton, Franklin, St. Lawrence, Jefferson, and Lewis Counties.

The monitors were community members with a keen dedication to children, families and the court system, and included former teachers, police officers, and foster care volunteers. Each monitor understood the demanding schedule of the program, the difficulty of observing the painful issues of Family Court and the importance of watching what goes on inside the court. The monitors attended an initial orientation session, an all-day training conference, follow-up meetings in person and by conference call, and a final meeting that provided a forum to generate recommendations and highlight particular issues and concerns about the Washington County Family Court.

On November 6, 2009, the orientation for this project was held at the Crandall Public Library in Glens Falls, NY. Members of the League of Women Voters, Retired and Senior Volunteer Program, (RSVP) and the New York State United Teachers (NYSUT) attended, for a total of 30 people. The orientation provided volunteers with an overview of the project.

Subsequently in-depth training for the program was conducted on November 18, 2009 at Crandall Library for 22 volunteers. Denise Kronstadt, Deputy Executive Director and Director of Advocacy for Modern Courts lead the training session. Training provided the monitors with a thorough understanding of the Family Court, and a step-by-step review of the questionnaires used to monitor the facilities, the courtroom and proceedings. Monitors also received the Modern Courts' Guide to the New York State Family Court handbooks as well as general instructions on court procedure.

The training also included a presentation by Joanna Davis, Staff Attorney at the Legal Aid Society of Northeastern New York. Ms. Davis shared her experience in Family Court and explained what monitors could expect to observe while monitoring the Washington County Family Court. She discussed the types of cases and the people who are in the court room including the role of attorneys, advocates, the County Attorneys, lawyers for children, Probation and other key government officials and agencies. She also gave an overview on domestic violence proceedings. The monitors began their visits immediately following the training and

contact with the monitors was maintained by regular phone calls and in person meetings with the Director of Court Monitoring, Constance Lynch. Modern Courts also held an additional mid-program meeting with monitors to review issues and concerns.

The monitors used two different questionnaires to guide them through the program – one for court facilities and one for the proceedings they would observe. Each form asks specific questions and provides the monitors with space to make their own observations.

The General Monitoring Form sought information on courtroom facilities, safety and security, maintenance, access to information, the availability of assistance for litigants, and, accessibility. The Case Monitoring Form sought information on individual cases including the type of proceedings, who appeared in court, how the judge managed the cases, whether the judge carefully explained the history and facts of the case, if litigants were allowed to ask questions, whether the judge fully explained the proceedings in an understandable manner, whether the judge offered clear instruction on orders, whether the case was adjourned or resolved, whether children in juvenile delinquency proceedings were clearly explained their rights, whether Court personnel were helpful and courteous, and provided many more questions on domestic violence, children, the role of attorneys and security.

Ten volunteers observed the Family Court in Washington County. They monitored the court for four months from November 2009 through March 2010. The monitors observed more than 207 cases. Because each Family Court case may include more than one type of legal proceeding, the monitors observed more than 309 different proceedings within the 207 cases. The cases observed by the monitors included such issues as abuse and neglect of children, family violence, paternity, custody and visitation, support, guardianship, and foster care review and placement.

The monitors also observed petitioners and respondents in court, family members attending proceedings, parents being brought to court from jail or prison in shackles, attorneys for both sides, lawyers for children, county attorneys and the attorneys and representatives for the Department of Social Services (Child Protective Services), probation officers, and foster care providers. Advocates for victims of domestic violence may have been in the court but the monitors did not note their appearance because they did not present cases before the judge.

MONITORS' COMMENTS AND OBSERVATIONS

The serious and complex nature of Family Court cases is reflected in the following comments:

- *4-year old is going to jail to visit father.*
- *County Attorney brought up at the end of the proceedings another issue pertinent to the case – involving the death of another child.*
- *No lawyers. Mother has depression. Mother pays child support. Mother gets SSI. 4 year old daughter. Advocate recommends maternal grandfather. Judge: set 2 days a week visit/ phone call- ordered another home study to ensure problems corrected; and, mother get more treatment for psychiatric problems.*

- *Grandmother petitioning for permanent custody of child that she has been raising. Her son, currently incarcerated, is the father. Grandmother does not have foster care status because county is denying it as she is involved in a 20-year divorce case that has not been settled.*
- *One parent is in jail, one parent is in Georgia two children are in New York a third is in New York with the mother. One father was seeking custody of one daughter. This was very confusing case - not totally clear why all parties were present. With the state of Georgia involved, the ball was bounced back to their court-the mother was advised to file in GA.*
- *Phone conversation. Mother ill in hospital. Juvenile had a chance to speak. Judge advised juvenile to stay in the system until he was age 21 so he could get the help needed. The juvenile would turn 18 in February and was advised not to bolt at that time, to come and seek help. Mother will not be able to care for child as she is in stage 4 Cancer.*
- *The father, petitioner, was asking for an order of protection for 15 year old son against the mother's boyfriend due to a verbal threat that had been made by the boyfriend (who lives with the mother). The son lives with the father. The judge set up a meeting for both parents with mediator.*
- *The foster caregiver is unable to get any assistance although she is doing a great job with the child. This was a sad case. The judge did as much as he could to help the foster parent.*
- *Child brought into courtroom after prisoner father was removed.*

Monitors most serious concerns about the Washington County Family Court are reflected in the following comments:

- *In Washington County I am asked to leave courtroom for all JD cases.*
- *Respondent asked for explanation of rights.*
- *Judge begins addressing case prior to all being seated. While judge is very respectful of all parties, he speaks very rapidly and often his instructions are "by note" i.e.-no smoking cigarettes in front of children, in confined place, no alcohol consumed in front of children.*
- *Frustration on part of parent. Case seems to continue indefinitely.*

Monitors observations of Judge Pritzker are reflected in the following comments:

- *Today judge entered the courtroom just as or after the parties entered. As he is walking to the bench he is informing where they are appearing states his name - and jumps into case. I feel as if everything is rushed.*
- *Having little background on this case, I was quite confused.*
- *Judge was very clear about order of supervision that mother could not leave child unsupervised even for 2 minutes to put laundry in because child cannot be left alone with other children.*
- *Judge Pritzker continues to be putting forth efforts to work out visitation/contact between children and parents.*
- *Because this is not a first time appearance, I don't really have the background to know about the case. The judge proceeds as if everyone is on the same page. Judge is very respectful of people involved, but proceeds too quickly.*
- *Case went fairly well. Judge was very patient with the father who got very emotional.*
- *Judge begins addressing case prior to all being seated. I'm confused from the beginning!*
- *I had no idea what went on. Something to do with custody. I didn't know.*
- *Difficulty understanding previous determinations as judge doesn't tell previous history. I find not knowing previous decisions can be a detriment in monitoring the court system.*
- *Judge spent considerable amount of time discussing money issue of cost of psychological exam. Suggested to petitioner and respondent they should talk about a settlement to resolve issues with input from their lawyers and law guardian.*

RECOMMENDATIONS:

As a result of the observations made by the monitors, the Fund for Modern Courts makes the following recommendations regarding the Family Court in Washington County:

COURTHOUSE:

Entrance to Courthouse:

Modern Courts recommends that the courthouse to be opened at least fifteen minutes prior to the time the first case is to be called on the court's calendar. Monitors experienced and observed delays in entering the courthouse. This was especially troubling in the cold weather. Monitors observed that the delay in entering the courthouse did not occur because of the amount of people waiting to get in, but because the doors to the courthouse would not open even fifteen minutes before the first case was to be called. Not only were people left in the cold, but the ability to settle down prior to a case being called was difficult, if not impossible.

JUVENILE DELINQUENCY PROCEEDINGS:

Modern Courts recommends that, although the judge has the discretion to exclude the public from juvenile delinquency proceedings (Family Court Act § 341.1), the judge should not routinely exclude the public from the courtroom from juvenile delinquency (or PINS proceedings) unless it is established that either the case involves private issues that would embarrass or harm families and children or for security reasons, and subsequently the judge makes the determination as provided in Part 205.4 of the Rules of the Family Court (22 NYCRR Part 205.4). The Family Court was opened in 1998 to the public. The public has a right to know how courts deal with children and families. It is no longer discretionary when closing the courtroom to the public is done 100% of the time.¹⁰

Monitors did not observe juvenile delinquency proceedings and PINS proceedings in Washington County Family Court monitoring program. During those proceedings the judge closed the courtroom. Prior to closing the court room the monitors did not observe an explanation or order by the judge nor a motion by the children's attorney seeking a closed proceeding. It was done without an order. As a result, the monitors were unable to observe how the judge conducted juvenile delinquency hearings. The monitors could not answer the questions contained on the monitoring form as to (1) whether the children were clearly explained their rights and (2) whether the children were given an opportunity to speak. The monitors noted that the judge and the law guardian had an exchange before one of the juvenile delinquency matters that basically went, "you know how I feel about that judge."

ORDERS OF PROTECTION:

Modern Courts recommends that when issuing an order of protection, the judge fully explain the terms and conditions of that order along with offering information on the full range of services available to victims of domestic violence. The Family Court plays an essential role in keeping victims of domestic violence safe. In order for the order to be used to its fullest capacity, the parties must understand the terms of the order and its limitations. That order limits the interaction between two people so that one person will be protected from the harmful or risky actions of the other. Monitors observed that that when explaining the content of an order of protection, the judge did not always give clear direction to the respondent (if present in the court room) of the terms of the order, carefully read the terms of the order of protection to the "victim"

¹⁰ NOTE: Washington County Family Court Judge, Hon. Stanley Pritzker, reviewed Modern Courts' recommendations. *After reviewing your comments concerning public access in JD and PINS proceedings, I will immediately implement changes. More particularly, I will weigh public access on a case by case basis, following 22 NYCRR 205.4 to the letter. I have reviewed the FCA and the Court Rules and believe your comments. . .of the report accurately reflect what is required to close the courtroom. My overriding concern was, of course, the best interest of the children and their privacy interests. These concerns extend not only to respondents, but the young victims in certain JD cases. I also understand how important public access is to our democratic system*

(Petitioner), clearly explain the expiration date of the order, clearly explain the need to serve the order of protection on the respondent (by the Sheriff's office), nor did he inform the victim of domestic violence of the steps she can take if the order is violated (e.g., call the police.)

COURT-BASED OR VOLUNTEER ASSISTANCE PROGRAM

The monitors recommend and Modern Courts agrees that the court and the litigants would benefit from a program allowing the court system or well-trained volunteers to assist litigants in filling out petitions, answering questions about the court process and offering information on community and governmental support services. This type of help does not exist in the court. Although it was noted that the clerk's office was helpful to litigants, clerks cannot offer legal advice and do not give supportive information. One monitor observed that the clerk's office offered information on mediation services. The monitors believed the more "upfront" support for litigants, the better the opportunities to utilize the court's time more efficiently and direct people to appropriate community-based services.

INFORMATION PROVIDED

The monitors recommend and Modern Courts agrees that in addition to providing volunteer assistance at the clerk's office, more pamphlets, brochures and other written materials in the waiting area that are pertinent to the needs of people who come to court should be provided. Monitors saw this as a missed opportunity. There should be an agreement between the court and community organizations to provide updated materials including information on local resources, such as family support programs, domestic violence help, mental health services, substance abuse counseling and parenting education materials.

In the April 2009 report – *A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform*– the Fund for Modern Courts' Task Force on Family Court expressed its concern about the obstacles to access to justice for families in Family Court and called for the development of an array of additional resources to permit unrepresented litigants to fully protect their rights and obtain substantial justice in the daunting legal and procedural system of Family Court.

In that report, Modern Courts made specific recommendations which are consistent with the observations and recommendations of the monitors in Washington County. Those recommendations included:

- Establishing and supporting in every county "help centers" that are staffed by knowledgeable and informed individuals and equipped with relevant print and electronic resources.
- Making widely available instruction guides on how to prepare court submissions.

- Expanding and improving upon the technological capability of the courts, including providing computer terminals in courthouses, so that litigants can prepare petitions.
- Providing better web access so that forms and templates can be completed online and electronically filed.
- Extending Family Justice Centers for domestic violence survivors throughout the state.
- Devoting resources to recruiting, supporting and collaborating with a dedicated *pro bono* counsel panel.

COURTROOM MANAGEMENT:

Modern Courts recommends that the judge take more time to explain the background of the case and the reasons for the present proceeding before he moves ahead with the matter. Monitors observed that Judge Pritzker was patient and polite with litigants but often seemed rushed, began cases before all parties were in the courtroom and did not always fully explain the background of the proceedings or the reasons for the present appearance. It was sometimes unclear to the monitors what proceedings were before the court as a result of the judge not fully explaining to the public and the parties the history of the matter and the present action before him.

Having an informed public is a way to maintain confidence in the court. Modern Courts further recommends that providing a brief history of the proceedings and a clear explanation of specific issues before the court, not only assists the public in its important role as observer but ensures that all the parties understand what is before them and what their responsibilities will be. Most of the parties are without counsel and most are in crisis situations. Taking a few moments to go over the history of the proceedings and the reasons for that day's appearance provides context to the day's proceedings and clarity for the parties.

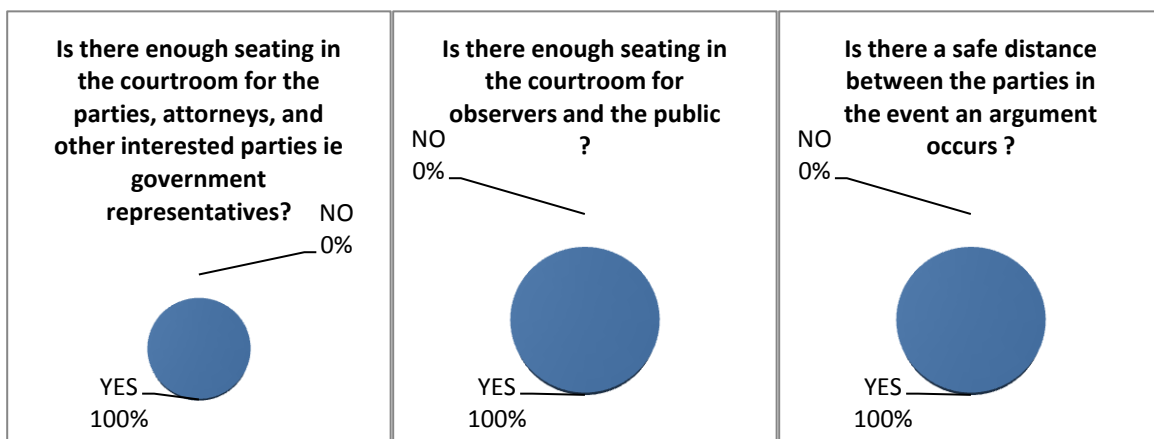
CHARTS AND SPECIFIC OBSERVATIONS

As noted above, the Monitors raised particular concerns and made certain specific recommendations based upon their observations. The charts and summaries below document those observations made by the monitors on the Family Court Monitoring Form and Case Monitoring Form.

Family Court General Monitoring Form

Inside the Courtroom: Space, Facilities and Safety

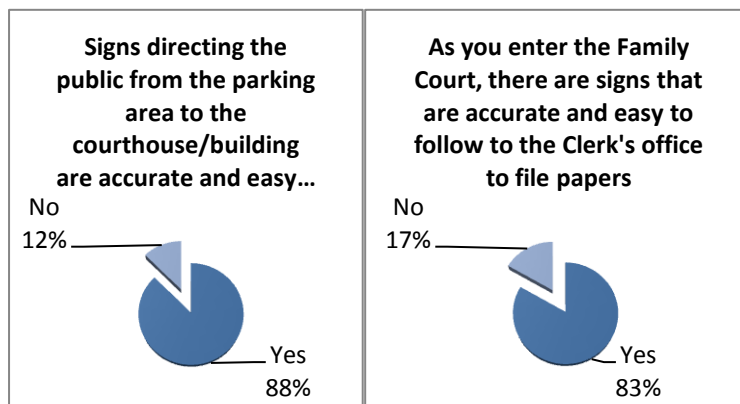
One hundred percent (100%) of the monitors observed the Washington County Family Courthouse as well maintained, safe and with sufficient room for litigants, counsel and the public. The monitors also remarked that the Court personnel were helpful and courteous.



Access to the Courthouse Building, Courtroom and Clerk's Office

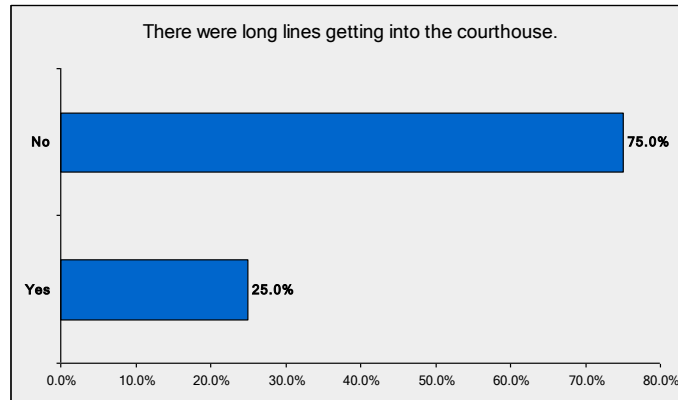
Signage

Although a majority of monitors remarked that the signage to the courthouse was sufficient, some improvements (as noted in the graphs below) would make the signage more accurate and easy to follow.



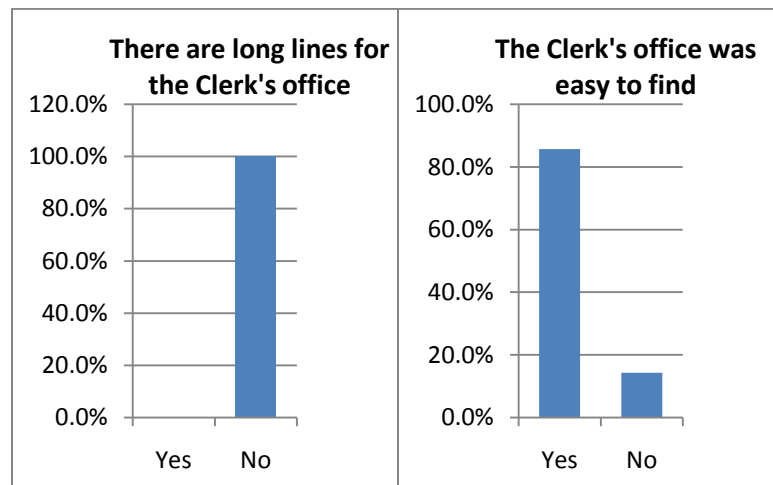
- **Waiting to Enter the Courthouse and Pass Through Security**

As stated in the recommendations above, the monitors observed unwarranted delays in allowing people to enter the court room, especially on cold days.



- **Clerk's Office**

The Clerks' office was accessible.

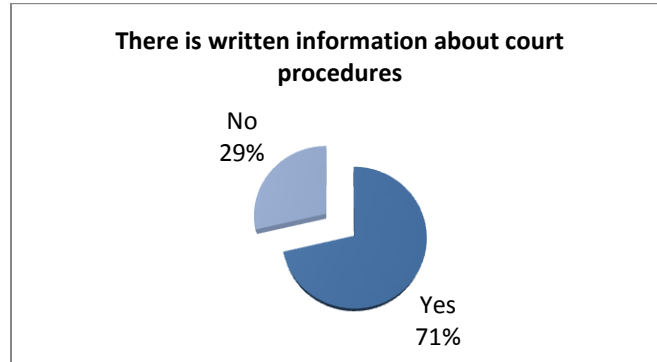


- **Waiting Area to Courtroom/Space/Maintenance/Security/Privacy:**

One hundred percent (100%) of the monitors observed that there was enough seating in the waiting areas, separate rooms are available to private attorney/client conferencing, court officers are present in the waiting area and the facility is clean and well maintained. Monitors observed that Washington County does not have a separate childcare room. There is an area in the waiting area with toys.

- **Information Provided**

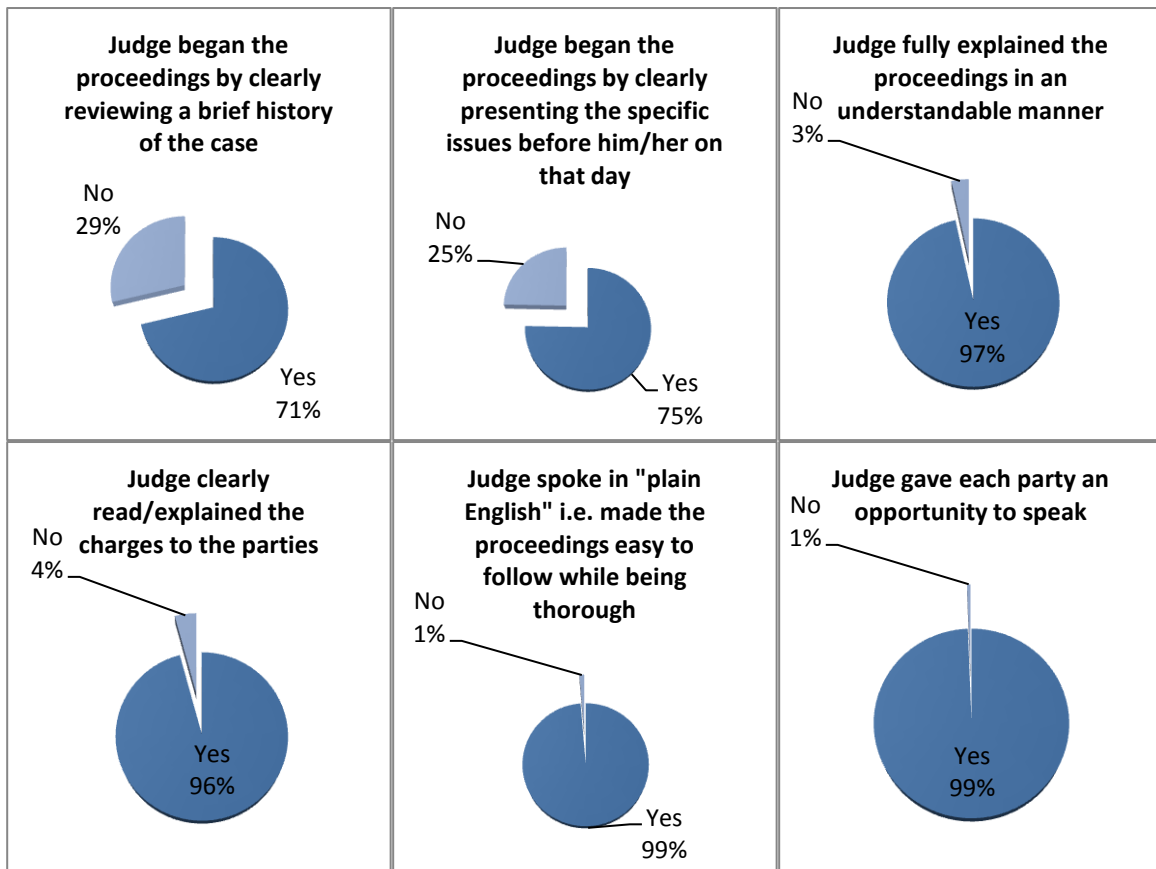
Although the chart below demonstrates that materials are available, it was the quality and usefulness of the materials that was lacking.



Family Court Case Monitoring Form

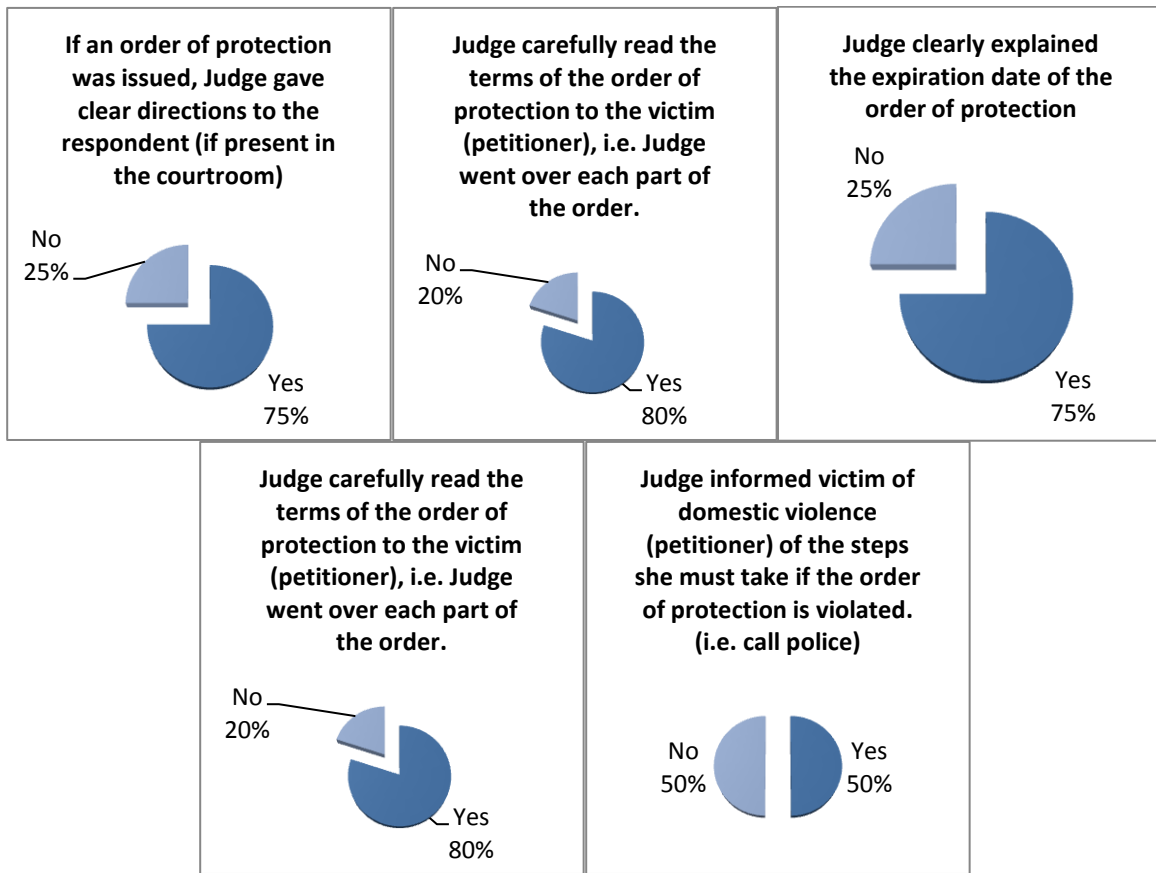
Overall Courtroom Management/Professionalism

The monitors observed that Judge Pritzker was patient with parties who came before him and in the area of visitation worked hard to ensure agreements were made between the parties. Monitors also observed that 100% of the time he asked parties whether they had any questions and 97% of the time, explained the proceedings in an understandable manner. Even though the monitors noted that the judge explained the proceedings before him, e.g., the orders made on that day, the monitors' overall observations both in comments on the survey form and in response to the specific questions, however, noted a general lack of clarity as to what was going on before the court.



Orders of Protection

As reported above, it was not always clear to the monitors what proceedings were before the court. On those occasions when the monitors were able to report on orders of protection, 20 – 50% of the time, the Judge did not fully and clearly explain the various essential elements of the order of protection.



Children

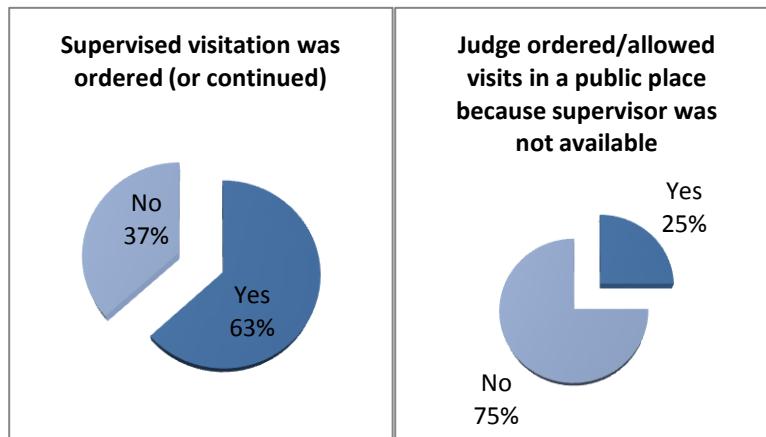
Children as Respondents: Juvenile Delinquency/PINS: Monitors did not observe juvenile delinquency proceedings and PINS proceedings in Washington County. During those proceedings, the judge closed the courtroom. Prior to the closing of the court room, the monitors did not observe an explanation or order by the judge nor a motion by the children’s attorney seeking a closed proceeding. It was done without an order. The monitors were unable to observe how the judge conducted juvenile delinquency hearings. The monitors could not answer the questions contained on the monitoring form as to (1) whether the children were clearly explained their rights and (2) whether the children were given an opportunity to speak.

Those monitors who had observed another Family Court noted how important it was to be able to watch the juvenile delinquency proceeding so that they could gather information on how the court deals with children in trouble.

Children Not in Courtroom: Abuse and Neglect/Termination of Parental Rights: The monitors observed the court as it handled the difficult issues of abuse and neglect and termination of parental rights. Children were not in the courtroom for these proceedings.

Custody and Visitation: The monitors remarked on supervised visitation orders. The inclusion of this question in the monitoring form resulted from recent concerns regarding the lack of supportive family members and/or agencies to help provide supervised visitation in appropriate settings. In 79 of the proceedings where the issue was observed, 50 (or 63%) supervised visitation was ordered.

There were 17 cases in which the monitors noted that the judge allowed visitation to take place in a public place when no supervisors were available.



Adjournments

Adjournments are a persistent problem in Family Court throughout New York State. Where monitors answered the question regarding adjournments, monitors remarked that in 97% of those cases they observed, the matter was adjourned.

Conclusion

The monitors in Washington County, many of whom formerly worked with children and families, remarked that monitoring gave them a deeper appreciation of the complexity of the court system and the troubling problems families face. Although the monitors were well informed community members before they began monitoring, none had viewed the courts

through the prism of a structured program designed to provide them and the public with a view of the daily workings of Family Court.

As former Chief Judge Kaye said in 1998 when she opened up the Family Court, "It is vital that the public have a good understanding of the court and confidence in the court process."

Modern Courts believes that the monitors offered important recommendations based upon their observations, were able to better understand the court they observed, and it is our hope that they and the readers of this report will advocate for needed improvements.

Appendix:
Monitoring Forms



Family Court General Monitoring Form			
Monitor's Name:		Court Observed:	
Date Observed:			
Access to the Courthouse Building, Courtroom and Clerk's Office			
			Notes
SIGNS			
1. Signs directing the public from the parking area to the courthouse/building are accurate and easy to follow		Yes	No
2. As you enter the Family Court, there are signs that are accurate and easy to follow		Yes	No
a. To the Clerk's Office (to file papers)		Yes	No
b. To the courtroom/waiting area		Yes	No
3. Signs are multi-lingual/in Braille		Yes	No
LINES			
4. There are long lines getting into the courthouse		Yes	No
5. There are long lines getting through security		Yes	No
CLERK'S OFFICE (place for public to fill out/file petitions)			
6. The Clerk's office was easy to find		Yes	No
7. There are long lines for the clerk's office		Yes	No
8. There was help available to assist people in filling out petitions		Yes	No

Waiting Area to Courtroom				Notes
SPACE				
9. There is enough seating in the waiting area	Yes	No		
10. There a separate area especially for children	Yes	No		
11. There is a separate room with childcare	Yes	No		
MAINTENANCE				
12. The waiting area is clean/well-maintained	Yes	No		
13. The waiting area is quiet and orderly	Yes	No		
INFORMATION PROVIDED				
14. There is written information/brochures for the public	Yes	No		
15. The written information/brochures are multi-lingual	Yes	No		
16. There is written information about court procedures	Yes	No		
SAFETY AND SECURITY				
17. Court Officers are present in the waiting area at all times	Yes	No		
18. Safety precautions were offered to victims of domestic violence	Yes	No		
ATTORNEY/CLIENT				
19. Separate space/room is available for <u>private</u> client-attorney conferencing	Yes	No		
General Conditions				
20. Restrooms are clean/well maintained	Yes	No		
21. Water fountains work properly	Yes	No		
22. Access for disabled persons is available	Yes	No		
Inside the Courtroom: Space/Facilities/Safety				
23. There is enough seating in the courtroom	Yes	No		
a. For the parties, attorneys, and other interested parties (government representatives)	Yes	No		
b. For observers and the public	Yes	No		
24. The court room provides sufficient space for the clerks, court officers, and judge	Yes	No		
25. The courtroom is clean/well maintained	Yes	No		



THE FUND FOR MODERN COURTS CASE MONITORING FORM

Please indicate which proceedings were included in the case observed (there is often more than one type of proceedings)

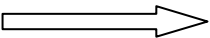
- Termination of Parental Rights
- Juvenile Delinquency
- Support
- Foster Care Review
- Neglect and Abuse
- Family Offense
- Persons in Need of Supervision
- Custody and Visitation
- Other _____

Please indicate (as best as possible) who appeared before the court on the proceedings

- Petitioner
- Respondent(s) Children Family members
- Attorney for Petitioner Attorney for Respondent(s)
- Law Guardian(s) (Lawyer for Children)
- Advocate for Domestic Violence Victim
- Government Officials
 - County Attorney Attorney for Department of Social Services
 - Department of Social Services Child Protective Services
 - Probation Foster care
- Other _____

Overall Courtroom Management/Professionalism	Notes	
	Yes	No
1. Judge waited for the parties and their attorneys to be seated before he/she began the case.	Yes	No
2. Judge had each party and their attorney(s), if any, provide their names and relationship to the case.	Yes	No
3. Judge began the proceedings by clearly reviewing a brief history of the case.	Yes	No
4. Judge began the proceedings by clearly presenting the specific issues before him/her on that day.	Yes	No
5. Judge fully explained the proceedings in an understandable manner.	Yes	No
6. Judge clearly read/expained the charges to the parties.	Yes	No
7. Judge spoke in "plain English" i.e. made the proceedings easy to follow while being thorough.	Yes	No
8. Judge informed parties of their right to an attorney and how to obtain assistance (limited cases).	Yes	No
9. Judge gave each party an opportunity to speak.	Yes	No
10. Judge asked each party if they had any questions.	Yes	No
11. Judge answered the questions presented by parties and/or attorney.	Yes	No

Overall Courtroom Management/Professionalism (continued)			
12. Judge went over the settlement or order carefully with the parties.	Yes	No	
13. Case was adjourned.	Yes	No	
14. Court personnel were helpful and courteous.	Yes	No	
15. Court officer was present in the courtroom.	Yes	No	
Children: Juvenile Delinquency/PINS			
16. Children were represented by an attorney.	Yes	No	
17. Children were clearly explained their rights by the judge.	Yes	No	
18. Children were given an opportunity to ask questions.	Yes	No	
Children: Custody/Visitation/Abuse and Neglect			
19. Children were in the courtroom.	Yes	No	
20. Supervised visitation was ordered (or continued).	Yes	No	
21. Judge ordered/allowed visits in a public place because supervisor was not available.	Yes	No	
22. Judge asked children questions in open court	Yes	No	
Domestic Violence (Family Offenses)			
Please Note: "Petitioner" is the victim of domestic violence – "Respondent" is the alleged batterer. Sometimes <u>only</u> the victim is in the court – this is usually the case when the matter is on for the first time on an <i>ex parte</i> order of protection. A domestic violence matter (O) can also be part of other proceedings.			
23. Judge seemed to treat the parties equally.	Yes	No	
24. Judge tried to persuade/convince parties to settle the domestic violence case.	Yes	No	
25. If an order of protection was issued, judge gave clear directions to the respondent (if present in the court room).	Yes	No	
26. Judge carefully read the terms of the order of protection to the victim (petitioner), i.e. judge went over each part of the order.	Yes	No	
27. Judge clearly explained the expiration date of the order of protection.	Yes	No	
28. Judge clearly explained the need to serve an order of protection on the person subject to the order (respondent). (New <i>ex parte</i> order)	Yes	No	
29. Judge informed victim of domestic violence (petitioner) of the steps she must take if the order of protection is violated. (i.e. call police)	Yes	No	
30. Judge issued Orders of Protection to both parties.	Yes	No	
31. Judge took the issue of domestic violence seriously into account when determining all the proceedings before him/her.	Yes	No	
32. Judge informed victim about resources for assistance with domestic violence.	Yes	No	



PLEASE FILL IN:
Name of Monitor
Date Observed

Court
Form No.

Domestic Violence (Family Offenses)		Discussed	Ordered
Please check box that applies, if any			
33. Mediation.			
34. Family or Marital Counseling.			
35. Substance Abuse Treatment			
36. Mental Health Treatment.			
37. Counseling or treatment of the victim.			
ATTORNEYS AND LAW GUARDIANS (LAWYER FOR CHILDREN)		Comment	
38. Please comment on any particular issues/concerns/questions you may have had with the representation of any party in the case. Please indicate, as best as possible, without listing any names, which representative you are discussing:			
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GOVERNMENT ATTORNEYS AND REPRESENTATIVES		Comment	
39. Please comment on any particular issues/concerns/questions you may have had with government worker or representative (attorney). Please indicate, as best as possible, without listing any names, which agency you are discussing:			
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GENERAL COMMENTS		Comment	
40. Please Comment on any aspect of the case, court room activity, case management, this is an open space for your comments:			
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Please continue with your comments on the next page:			



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