

# **League of Women Voters of the Fairfax Area**

## **Court Observers Report**

**May 2005 – April 2006**

The League of Women Voters of the Fairfax Area first looked at family abuse in 1992, and our state position on domestic violence originated from the study. In May 2002 the LWVFA visited the issue again to provide an update on domestic violence. Leaguers found court watching a helpful research tool in preparing the 2002 update.

### **History/Background**

In March of 2004, the Fairfax County “Network Against Family Abuse” (NAFA) asked the league representatives if they would be interested in providing court watching for them for one year. The victim service providers from NAFA had a prepared survey but did not have the manpower to accomplish the task. They cited as their reason for creating the survey and asking the league to court watch was to assure the safety of victims and to hold batterers accountable.

The members of the league responded positively to the request from NAFA. In May of 2004 leaguers started observing weekly in the criminal court at the Fairfax County Juvenile & Domestic Relations Court (J&D). We completed the victim services surveys by the end of April 2005.

In January of 2005, league members participating in the 2004 - 2005 court watch assembled and agreed that representing the community in the courtroom was important and should continue. The court watch leaguers created a crim-

inal court case survey and a daily summary for use beginning May 2005.

The following report is compiled from the court watchers surveys from weekly attendance in J&D criminal court from the time period of May 2005 to the end of April 2006.

### **Training**

In April of 2004, a training session on court observation was held at the J&D courthouse. Two NAFA representatives who had a great deal of experience in domestic violence cases led the training session.

With that training complete, the leaguers were eager to view all aspects of the court proceedings and to learn if victims or defendants of domestic violence in court would understand the charge, be represented properly and understand the outcome. Would observers be left with the overall feeling that justice was fairly administered?

The data from the surveys was processed using an Excel spreadsheet. The results were tabulated using a Visual Basic program asking for specific data to be compiled for this report. The data was entered as presented on the survey

### **The Survey**

Altogether, there were a total of 905 cases observed and recorded by the LWVFA Court Observers from May 2005 through April 2006.

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## Specify Hearing

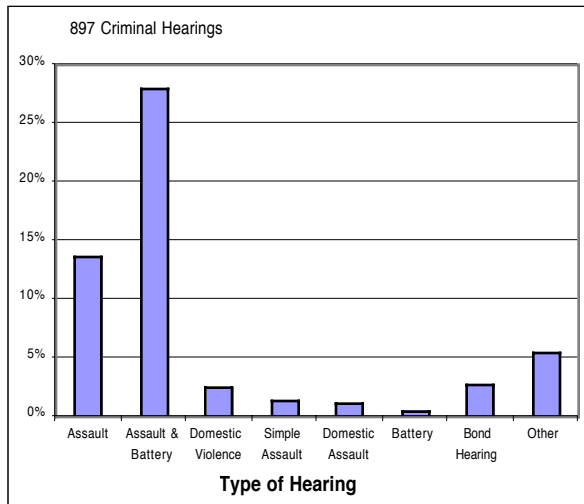


Chart 1

Of the 905 cases recorded, 897, or 99% were criminal hearings. The recorded breakdown of the 897 criminal hearings was as follows (Chart 1): Assault cases numbered 121, or 13%; assault & battery cases numbered 251, or 28%; domestic violence cases numbered 21, or 2%; simple assault cases numbered 12, or 1.3%; domestic assault cases numbered 9, or 1.0%; battery cases numbered 4, or 0.5%; bond hearings numbered 24 or 3%; and other hearing categories numbered 48 or 5%. (These include a grouping of several cases recorded with differing charges such as statutory rape, contributing to the delinquency of a minor, child neglect, disorderly conduct and failure to appear.) There were 8 civil protective orders recorded which was a scant 1.0% of the total hearings.

## Couples and Non-Couples

Of 905 cases recorded, 563 or 71% were couples cases and 143 or 16% were recorded as non-couples cases. Observers indicated three cases in each category as couple's status unknown.

## Attorneys Present in Court

Of 805 cases the Commonwealth Attorney was present at 628, or 78%. This left 177 cases, or 22% without the Commonwealth Attorney present. In those cases the police officer presents the states case, while the defendant represents himself.

Out of 795 cases recorded, 552, or 69% had a defense attorney present and 243, or 31% had no defense attorney. Of the 552 defense attorneys present 84 or 15% were recorded as court-appointed, 100 or 18% private attorneys and 115 or 21% could not tell if the attorneys were court-appointed or private.

Of the 417 defendants given the option of waiving the right to an attorney, 187, or 45% waived this right and 230, or 55% did not, or asked for the court appointed attorney.

Of 407 cases recorded, 50, or 12% had a victim advocate present in the court, 308, or 76% did not, and the court watchers could not ascertain if a victims advocate was present in 49 or 12% of the recorded cases.

## Background Information

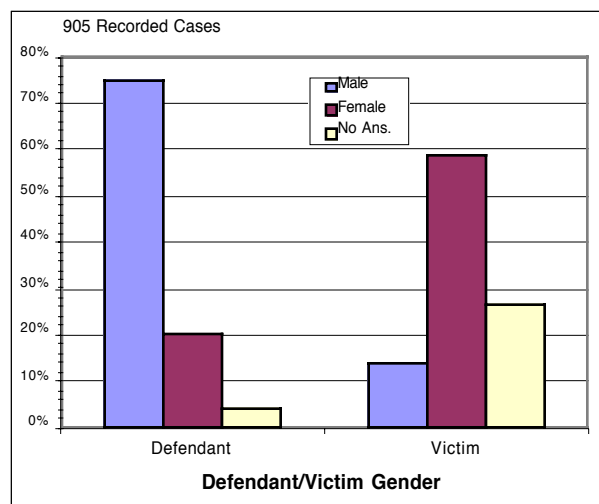


Chart 2

The overwhelming majority of the defendants – 75% or 679 were male, while women constituted 21% or 187 of the accused (Chart 2). In 4% or 39 cases, the observers failed to note the gender of the defendant. (If the case is not tried, it is sometimes difficult to tell which person is the defendant and which the victim.) Women were victims in 535 or 59% of cases; men were victimized 128 times (14%) (Chart 2). However, these numbers are approximations, since the recorders did not indicate the gender of the victims (241) 26% of the time.

The defendants were present in court 85% (773) of the time (Chart 3). Thirty-one (3%) defendants failed to appear. Of these cases: 12 were continued due to “all parties not present”; 8 were nolle prosequi’ed; bench warrants were

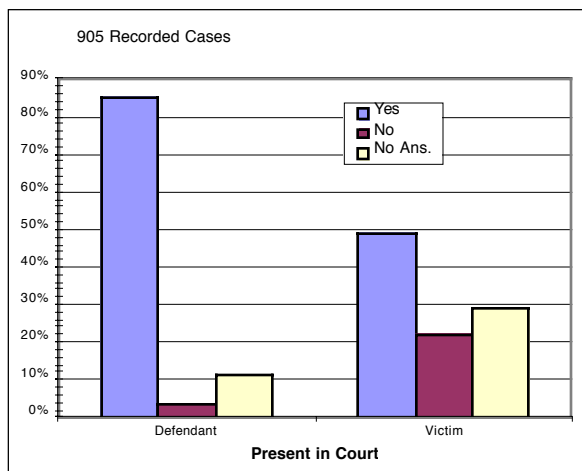


Chart 3

issued in four cases and the remaining seven cases had a variety of dispositions. There was no notation about the presence in court of the defendant in 101 (11%) cases.

Victims failed to appear in court in twenty two per cent of the cases; victims were present in court in 444 or 49% of the cases (Chart 3).

Observers noted that in about a quarter of the cases, either, or sometimes, both the defendant (181) or victim (70) did not understand English. In another 57 or six percent of the

cases the observers were uncertain about the parties ability to understand English. Nearly a third of the cases reported by observers (285) required the services of an interpreter. Some 80 percent of the time, Spanish interpreters were needed. Proceedings were conducted in sixteen other languages, including Vietnamese, Korean, Thai, Russian, Bengalese, Farsi and others. One case involved a deaf person.

### Minor Children

Observers noted minor children that seemed related to the couple present in court 59 times, or in 6.5% of the cases.

### Other Hearing Information

Of the 905 cases observed by the Court Watch Program, a total of 518 persons who were neither the victims nor the defendants were present for the hearings. Of these 518 individuals, 378, or 73% were police officers, 78, or 15% were witnesses, and 62, or 12% were categorized as “other.”

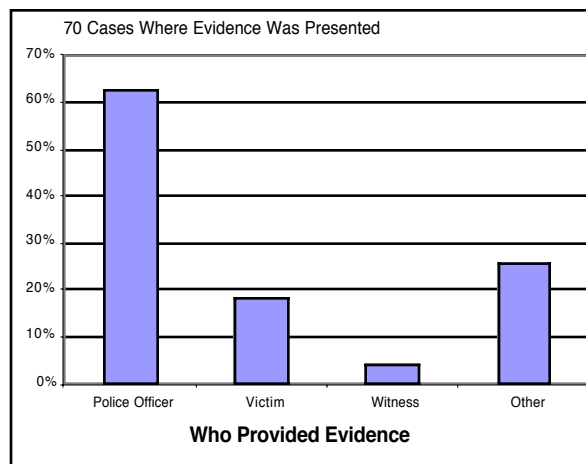


Chart 4

At the 905 cases observed, there were a total of 70, or 8% presentations of photos or other evidence at the hearings (Chart 4). Police officers presented 44, or 63% of the evidence. The victims presented 13, or 18% of the evidence, the

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witnesses presented 3, or 4% of the evidence, and 18, or 26% were presented by “others.”

### Discrimination

Of the 573 responses to the question on noticing discrimination during the hearings, 6, or 1.0% said they did, and 567, or 99% noticed none.

### Outcome of Court Proceedings

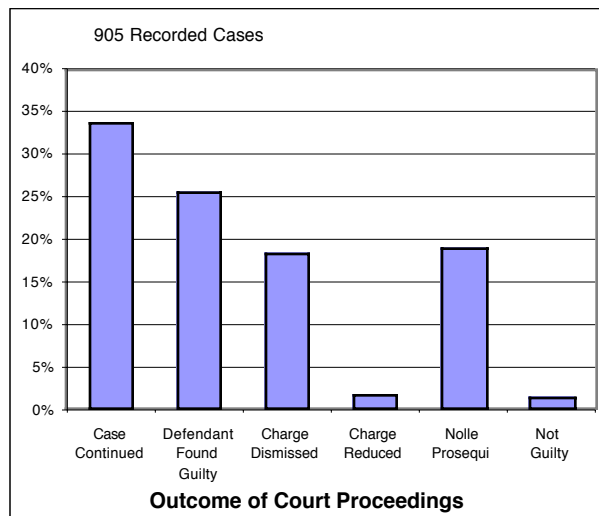


Chart 5

League survey volunteers could indicate all outcomes that applied to the 905 cases observed. The outcomes that seem most likely to be exclusive, or not duplicated by another outcome category, include:

- 80 continued for absence of a party to the case
- 166 charges dismissed
- 171 nolle prosequi
- 12 found not guilty

These 429 cases represent 47% of the cases surveyed (Chart 5).

Charges were dismissed in 166 or 18% of the cases, while prosecutors moved not to prosecute (nolle prosequi) in 171 cases or 19% of

cases. Arriving at that outcome for 37% of cases still involved the time and effort of prosecutors, police, victims, defendants, lawyers and court infrastructure.

When the surveys indicate 159 cases continued for charges to be dismissed in one or two years and 231 cases of defendants found guilty, the League volunteers documented a wide range of options that the judges invoked (Chart 6). A jail sentence was ordered 89 times or 23% of the cases, and the surveys noted when some or all of that sentence was suspended. The defendants were ordered to active or inactive probation (175 defendants); to rehabilitative programs for anger management (190 defendants) or alcohol/drug use (36 defendants); and to psychiatric evaluation (11 defendants). In addition, the comments recorded by League volunteers indicated that monetary incentives for future good behavior were ordered less frequently.

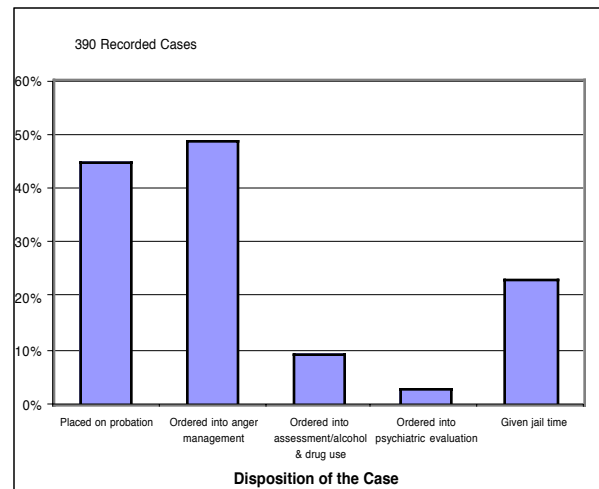


Chart 6

### Court Summary

The Court Summary consists of subjective observations. In all of the observations noted, the judges were seen as maintaining control of the courtroom, exhibiting overall respect, dignity and professionalism, making efforts to be sure both parties understood the process, effec-

tively managed their workload, and effectively handled unusual circumstances.

There were a total of 18 instances in which the observers felt the rating factors for the judges were “not applicable.”

The subjective observations of the Commonwealth Attorneys noted the following: In using efficient management, of 66 responses, 63, or 96% indicated yes, while 3, or 4% indicated no. In presenting sound legal and factual arguments to the judge, of 63 responses, 62, or 98% responded yes, and 1, or 2% responded no. In eliciting appropriate and effective testimony from witnesses, of 49 responses, 47, or 96% responded yes, and 2, or 4% responded no. In effectively cross-examining witnesses, of 48 responses, 46, or 96% responded yes and 2 or 4% responded no.

There were a total of 39 instances in which the observers felt the rating factors for the Commonwealth Attorney were “not applicable.”

Of the 70 observers responding to the query of whether there was an overall feeling that justice was being served, all 70 responded “yes.” Additional comments were written and submitted by 55 of the 70 observers, or 77%.

### Comments from the Court Observers

League volunteer observers report that their Court watch experiences are positive and personally valuable. They also report a sense of confidence in the functioning of the court and its administration of justice. With increased familiarity, they also point out aspects to explore for improvement in what they find is a very important and diverse family court environment.

Comments focused heavily, and favorably, on judges. They describe professionalism and competence, wisdom and sound judgment, concentration and patience, sincerity and com-

passion, fairness and impartiality. *Judy Anderson* saw “judges take the time and concern to give careful explanations so that all parties can begin to understand the emotionally charged outcomes of their actions.” *Therese Martin* observed that “judges seem very cognizant of the economic problems that victims would face if the defendant were to be jailed for any length of time.” *Pat Brady* noted that most judges are “quite engaged.... Some have shown great intensity...others seemed more interested in getting through their cases.” *Inta Sraders* was impressed with their “ability to ferret out the crux of the matter and come to a decision.”

The focus on the judge, essential in a court of this type, is dependent on the functioning and interaction of numerous other roles. *Sheila Richardson* observed that not only judges, but also “attorneys, police officers and other staff were very respectful of all those involved but were still able to maintain order. They set a good example.” Increased confidence in the judicial system for *Janey George* came from witnessing professionalism, sincerity and patience of staff as well as judges. “I have not seen one incident of disrespect by anyone.”

*Shirley Olson*’s comments reflected the impressions of numerous Leaguers concerning their own involvement in the process: “I really feel that the judges are very aware of our presence in the courtroom.... I think it has a positive affect.” Volunteer’s comfort with this sense of presence came with a learning curve to comprehend events that ranged from fast moving confusion to tedium and to become aware of the roles of everyone involved.

*Margo Sterling* now has very positive feelings about the court, the program, and her participation. But she reported that “Even though I had attended the original orientation meeting two years ago when we first started our program, I found myself during my first three or four court observations floundering in the court-

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room. Eventually I became familiar with the court routine, the wonderful people in the intake offices, the judges, the lawyers, the commonwealth attorneys, the court secretaries, and the bailiffs.”

This summary of volunteers’ impressions was taken from short commentaries submitted. However, the most vital link between the court and League activity is the form that has been developed for volunteers to record court sessions. It both guides the volunteer observer and conveys her observations. As such, it is part of the learning curve. *Karole McKalip* suggests additional review of the form: “The form generally gives a picture of the judicial hearing; however, I see some gaps and aspects of the form that cause me some confusion, particularly on the outcomes of the hearing.”

Experience produced a unanimous chorus of positive impressions of the court. But increased understanding led to greater awareness of possible problems. It also sharpened observation skills that cause volunteers to become more articulate, critical, and, hopefully, relevant. Very large numbers of cases requiring language translation and difficulties and stresses involved such as availability of translators and the effect on the behavior of participants who were dependant on translation was remarked on by a number. Fairfax County has remarkable sophistication and range in dealing with the many languages spoken by defendants and victims, and according to *Carolyn Evans* a “Spanish-speaking judge was able to address defendants/victims directly, which promoted a cooperative

response.” But she added that language difficulties, even with translators and fluency in English, consumed a large portion of each defendant's hearing time.

Conditions in the courtroom, clarity of disposition and outcome of cases, including orders for anger management, its professionalism, availability and adherence were also raised as issues to explore.

*Judy Leader*, while praising the court and judges, expressed several concerns. She sensed that the Commonwealth Attorneys often do not have adequate time to prepare for their cases. Others had commented that better briefing of defendants and victims by attorneys is needed. Also, *Judy* observed, “Although I could discern the presence of a victim advocate in only a very few cases, I understand that they often do accompany victims to court. However, on a number of occasions, I noted that the victim, usually a female, apparently changed her testimony, so that the prosecution could not make a case against the defendant. Whether that victim was intimidated and would have pressed charges if she had had a victim advocate is unknowable.” This discomfort was reflected in the comment of *Vanessa Johnson*: “I feel that domestic violence laws could be improved upon so as to provide more incentive for abused parties to feel safe in attempting to prosecute their abusers.”

*Gloria Maher* was surprised by the range of cases and income and educational levels.” Each new case seemed to bring a different twist to the definition of family violence.