

HOW TO START YOUR OWN

COURT



WATCH

#SURVIVEDANDPUNISHED

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Courtwatching can be a powerful tool to gather information and evidence about how legal outcomes emerge. The project can help identify patterns, policies, practices, offices, and individuals that are contributing to harm. Courtwatch data can be an important springboard for activist efforts, forming a basis for demands for change that can be shared through public events, reports, press releases, protests, letter-writing, electoral campaigns, or teach-ins.

This document gives a basic outline for how to start your own courtwatch focusing on issues of criminalization of survivors of violence or other community issues. The second half of the document includes a compendium of resources readily available online as of late 2017, including more extensive guides for starting a courtwatch and examples of existing court monitoring projects. The projects included come from a range of political perspectives and approaches, and can be useful as models for volunteer application forms, scheduling processes, mission and philosophy statements, guides for courtroom behavior, reports and dissemination of collected information, glossaries of legal terms, and data collection forms.

A helpful starting point may be to review the Toolkit for Systems Advocacy for Victims of Battery Charged with Crimes from the National Coalition for Defense of Battered Women which came out in December 2016. It can be found at <https://www.ncdbw.org/toolkit>. This 147 page document provides extensive analysis and suggestions for addressing criminalization of survivors through broad-based advocacy. The organization also provides annotated links about issues important for criminalized survivors at <https://www.ncdbw.org/annotated-links>.



Steps to starting your own **Court Monitoring Project**

1. Consider capacity. Determine whether your organization needs to recruit volunteers if there are enough people with the scheduling flexibility to observe court sessions, usually held between 9 am and 3 pm Monday through Friday over weeks, months, or longer.

2. Clarify goals and consider potential end products. What concrete changes do you wish to make? Who are you trying to reach? What data are needed? What do you plan to do with the information?

3. Collect some initial information. Talk to survivors, programs that serve criminalized people and targeted communities, programs that serve survivors, attorneys and activists who work on criminalization and violence. Start to identify patterns, policies, and problems and ask for feedback in developing an initial courtwatch form.

4. Investigate the rules of the courtrooms where you plan to collect data. Are these sessions regularly open to the public? Some kinds of court sessions are generally closed, such as juvenile court proceedings. Can courtwatchers bring in paper and pen or electronic devices for notetaking? What documentation or IDs are needed to enter the courthouse and courtroom? Which forms of ID are accepted? Is public transit nearby? Is the building accessible for wheelchair users? Is there parking? What may be brought into the courtroom and what is prohibited? (E.g. cellphones may be prohibited). Courtwatchers should use caution if they take narcotic medications and should avoid having other substances with them. Audio recording, video recording, and photographs are usually not permitted; be sure to check on regulations for the specific courts of interest and warn volunteers that they may risk serious consequences from sheriffs or other court personnel if they violate rules against recording.

5. Establish how much data you need to draw conclusions. Consider whether you would like to develop an ongoing program to hold the courts accountable to the community or if you want to develop a more limited program to gather information over a specific time period to address a particular issue.

6. Consider what you will do with your data – will you write a report? Hold a public forum? Create a presentation for community groups? Issue a press release? Submit a memo to the court? Draft specific policy recommendations? Propose a training for attorneys, court personnel, judges? Reach out to community organizations to start an educational or social change campaign? Contact public officials? Develop trainings or create an action plan in coalition with other community groups? Who will take the lead on creation of the report or action plan? Consider creating an executive summary or one pager of main recommendations and along with a more detailed report/set of requests. Make specific requests for changes as well as broader critiques.

7. Will you need other types of information besides court observation? For example, will it help to interview people about their experiences or review recent published court outcomes?

8. Consider contacting court officials about your project. Some courthouses will have coordinators and many are accustomed to accommodating courtwatch volunteers from a range of organizations. Other courts may technically be open to the public, but may be difficult to access. Some court personnel may have not encountered public observers and could be hostile or confrontational. Try to locate other courtwatch groups who may go to the same courts and consult with them, and consider communicating with official personnel to let them know your plans. If your group prefers to fly under the radar, consider how to handle inquiries from court personnel and others, as well as how to take notes without attracting attention.

9. Consult with an attorney if possible about rights to observe and any risks volunteers may be taking. Consider that volunteers with conviction histories or arrest warrants, immigration status issues, and issues with official identifications around factors such as gender identity may face specific risks in entering criminal legal system

spaces, especially with courts that may ask for government issued photo IDs. Prepare volunteers for any risks that they may face and consider having a range of ways that volunteers can contribute to the project in case some individuals may prefer to serve functions other than court observation.

10. Recruit volunteers as needed. It might be useful to consider developing an internship or service learning opportunity for students from nearby universities. Many schools have coordinators you can contact and may help advertise your project and share your volunteer application. The resource section of this document includes examples of volunteer recruitment and application materials.

11. Create forms for data collection, considering that court may move quickly, may include a great deal of jargon that is hard to understand, and may be difficult to hear. Use check boxes when possible, but be sure to include some open ended questions so that courtwatchers can include information and observations that were not anticipated in the initial development of questions.

12. Consider how to handle handwritten forms that are challenging to read. It may be useful to ask volunteers to take notes by hand and then type information into forms before submitting it. Develop a plan for how and when forms will be submitted.

13. Consider developing some type of debriefing or support process for volunteers who are distressed or triggered by what they see in court, which could include highly traumatic and discriminatory events.

14. Hold a training for volunteers. Incorporate information on getting back and forth to court, how to handle last minute cancellations, requirements for entering court, requirements for dress and demeanor, what to expect in entering court. Some courthouses will have screening on entry that can target people of color entering the building and cause significant stress. Be aware of what volunteers may confront upon arrival. Include a mock court session if possible, going over what volunteers may expect and explaining particular specialized language or acronyms that might be used. Distribute forms and model how to fill them out. Warn courtwatchers about potential risks they could encounter at court, knowing some watching

may have criminal records or immigration status issues or be targeted for mistreatment by sheriffs, police, and other court personnel based on race or ethnicity or gender presentation. Members of the public could be arrested out of a courtroom if they violate a policy or are perceived as threatening or uncooperative; be certain volunteers are prepared and informed.

15. It may be valuable to encourage people to go in pairs or small groups, and this will help with verifying reliability of data collection. At the same time, consider the emotional impact defendants, survivors, and family members may face from having observers, especially in larger numbers. Also, consider the size of courtrooms at your target location; some courtrooms may be too small to accommodate many observers.

16. Have a coordinator available by email or phone to troubleshoot if at all possible.

17. Make data collection/submission easy. Can volunteers take pictures of completed forms and email from a cellphone? Is there a monthly meeting where everyone brings forms? Can addressed and stamped envelopes be submitted for volunteers to drop forms in the mail?

18. After a few of the initial courtwatch sessions, hold a meeting or check in to tweak the process as needed. Ask about what observers are noticing, get feedback about improving courtwatch forms, take note of emerging issues, and ask about problems individuals have encountered.

19. Review data periodically to look for unexpected patterns and make adjustments to data collection processes.

20. Learn the backstory of your court— what training do judges or attorneys have about intimate partner violence, actual policing practices, available services, race, gender, immigration, and trauma? Are there victim/witness personnel available? Are domestic violence organizations represented at the courthouse or do they have legal advocates who come to court? How do those advocates handle cross complaints? How do they determine if they will work with a particular defendant?

21. Some factors volunteers may watch for in court: comments from judges, attorneys, sheriffs, and other court personnel about gender, race, ethnicity, religion, and personal characteristics of defendants and alleged victims in cases; factors in determining whether a defendant is held in custody or able to access bond; use of electronic monitoring or GPS; child custody and visitation issues and histories of violence; caseloads of public defenders or court appointed attorneys; controlling images and stereotypes in, especially directed to African American, Native American, Latinx communities, queer communities, and trans*/gender non-conforming people; is the event in question addressed as a single moment in time or is any history elicited or presented which may show impact of trauma or prior history of victimization or intimidation?

22. How are emotions of defendant and alleged victim addressed in court? Is there an understanding of the impact of trauma on memory and demeanor? Are there (false) expectations for particular responses to trauma or danger, or lack of understanding of what might feel threatening to a person with a history of trauma? How is self-defense discussed?

23. How are histories of prior crimes and use of weapons brought into cases?

24. Is it possible to compare how intimate partner violence cases are handled with cases stranger violence cases? How are public safety risk ratings and portrayals of seriousness different between the two?

25. Orders of protection/restraining orders— how are cross complaints handled? Does the first person to file get the order? Is there a process to determine?

26. Is history of violence, injury or abuse raised in cases? Do defendants have the chance to meaningfully consult with an attorney and does the attorney ask about domestic violence? Are psychological evaluations performed and are services available for those with trauma? What kinds of proof are referred to when addressing histories of violence? Are people required to have called police, sought medical attention or been at a shelter in order for histories of violence to be considered legitimate?

28. Do judges make comments about abuse being a “two way street” or a “he said/she said” situation? How are same sex cases addressed?

29. Consider how community organizations and organizing groups may work toward changes outside the court– for example a push for diversion programs or alternatives to criminal prosecution could be spurred by evidence that the courts are sentencing people unfairly.



Considerations before **getting started**

It is important that those contemplating court monitoring be aware of current controversies in research and media around intimate partner violence. Some research journals and mainstream media outlets are providing a forum for groups focused on blaming intimate partner violence on movements toward equality for women. If searching online for research on intimate partner violence, one will find ample statistics purporting to show that domestic assault is primarily perpetrated by women against men and that all research showing the contrary is part of an anti-male conspiracy and vast cover-up. These claims are bolstered by some quite credible looking sources and these arguments are convincing to some law enforcement personnel, men’s rights activists, and legal and criminal justice workers.

Violence perpetrated by women is a very real and significant problem, and men’s victimization, including sexual assault, by both male and female partners has often been ignored. See for example <https://www.scientificamerican.com/article/sexual-victimization-by-women-is-more-common-than-previously-known/>. In addition, issues such as same-sex partner violence perpetrated by women have not been adequately addressed by some antiviolence activists.

. At the same time, the claim that women as a group are much more violent than men and cause more injury and death to male partners than men cause to women, along with claims that all research on intimate partner violence over the past forty years is dramatically distorted by anti-male bias lacks credible evidence. Courtwatchers may wish to be on the alert for claims by judges, attorneys, expert witnesses, law enforcement, and others that men rarely perpetrate domestic violence and that most attacks are perpetrated or provoked by women, and that claims of violence by men are simply evidence of social biases against men. Be cautious about information from groups like SAVE (Stop Abusive and Violent Environments) which often paints partner violence an issue of equal participation by both partners, and cites research in a misleading way to make the claim that up to 90% of sexual assault claims to police are false (<http://www.saveservices.org/wp-content/uploads/Nine-Facts-About-Sexual-Violence-and-Rape1.pdf>). They also have a “Regret is not Rape” campaign. Consider looking to NCADV and National Coalition for the Defense of Battered Women <https://www.ncdbw.org/> for statistics that come from peer-reviewed research sources and looking to local community organizations for their experiences and knowledge.



Resources

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Note: Sources are organized with the most detailed and potentially relevant organizations listed first.

Guides to starting a court monitoring project

Legal Momentum, New York

Website: <http://www.legalmomentum.org/legal-resources-kits/guide-court-watching-domestic-violence-and-sexual-assault-cases>

Includes: "Legal Resource Kit: A Guide to Courtwatching in Domestic Violence and Sexual Assault Cases." This is a 37 page step-by-step guide for creating a productive courtwatch program, including stages of program development, sample forms, and (old) contact information for existing programs.

National Organization for Women, Washington DC

Website: <http://now.org/leaderdoc/organizing-a-court-watch-party/>

Includes: Instructions on how to set up courtwatch and provide visible presence and support during a case. Examples are of abortion rights organizing. Very detailed information on how to prepare for a trial and what to do during a trial, dealing with court personnel, necessary expertise and preparation in developing courtwatch, accessing court files, filing complaints against judges, glossary of terms.

The Advocates for Human Rights, Minnesota

Website: http://www.stopvaw.org/court_monitoring_programs

Includes: Brief and general guidance on how to set up a courtwatch program
Guide for starting courtwatch:

<http://hrlibrary.umn.edu/svaw/domestic/link/monitoring.htm>

PowerPoint on the basics of court monitoring (By a group that advocates for harsher penalties for people with repeated assault convictions) <https://www.slide-share.net/dawndoc/introduction-to-court-monitoring>

Definitions, links, and resources for starting courtwatch (relies on existing programs from a variety of political perspectives) <http://www.jimwes.com/ph/id9.html>

Battered Women's Justice Project

Two page resource guide for starting a court monitoring project: www.ncdsv.org/NCPOFFC_Building-Your-Own-Court-Watch-Program_3-1-2017.pdf

General Website: <http://www.bwjp.org/our-work/projects/protection-orders.html>

Includes: Extensive resources about courts, IPV, trainings, and work to improve criminal justice system practices. Provides links for many organizations across the US working on these issues.

Relevant information on intimate partner violence or criminalization of survivors

National Coalition for the Defense of Battered Women

<https://www.ncdbw.org/annotated-links>

Examples of courtwatch projects including sample manuals, volunteer applications, guidelines, data collection forms, and reports

Saint Martha's Hall and SLEVAWN, (St. Louis End Violence Against Women Network), Missouri

Court Watch Type: Domestic Violence

Websites: *<http://saintmarthas.org/about-us/>*

<https://slevawn.org/court-watch-project/>

Includes: Volunteer job descriptions, volunteer recruitment/training ad flyer, goals, courtroom protocol data collection form (with questions about judges' explanations, how parties were called and presence of bailiffs), case observation form (with questions about litigant support, judicial manner and courtroom safety, explanation for terms and questions on all forms and instructions on how to fill them out, example of online courtwatch shift sign ups with *www.signup.com*, copies of narrative and data reports of courtwatch findings.

King County Sexual Assault Resource Center, Washington

Court Watch Type: Sexual Violence

<http://www.kcsarc.org/courtwatch>

Includes: Describe of courtwatch volunteer competencies, scheduling document, and duty description, statement of beliefs and workplace philosophy relating to courtwatch project, volunteer application, examples of data collected as case summaries, examples of reports.

This publication can be downloaded at ***www.survivedandpunished.org***.