

Arizona Court Watch Collaborative Volunteer Training Outline

By Lindsay Simmons, AzCADV

Arizona Coalition Against Domestic Violence, Halle Center for Family Justice at the ASU School of Law, Avon Program for Women and Justice at the O'Connor House, and the Phoenix School of Law

I. Introduction

A. Court Watch Goals

1. Increase victim safety and hold perpetrators accountable;
2. Educate students and community members;
3. Point out best practices by judges and courts; and
4. Identify gaps in service and provide feedback to courts.

B. Az Court Watch Collaborative Mission

1. To create and administer a court observation program as a cooperative effort between the Arizona Coalition Against Domestic Violence, Diane Halle Center for Family Justice at Arizona State University, the Avon Program for Women and Justice at the O'Connor House, and the Phoenix School of Law-Family Law Student Association. The program is designed to facilitate observation of court proceedings to ensure justice for all and facilitate systems change in Arizona;
2. To provide an experiential learning opportunity for law students and other volunteers who will observe actual court proceedings;
3. To work with a Steering Committee to assist the court in identifying systemic concerns that affect access to justice for all litigants and implementing systemic changes to address concerns; and
4. To create a bank of empirical data of domestic violence cases.

C. Overall process

1. Present idea to stakeholders (letters, CIDVC, informal meetings) - April-June 2011
2. Train volunteers – Summer and Fall 2011
3. Court Watch, and turn in forms to sunny.larson@asu.edu
4. Analyze results
5. Provide feedback to the Courts

II. COURT SYSTEM IN ARIZONA

A. Three tiers: Limited Jurisdiction, General Jurisdiction, Appellate plus Az Supreme Court

B. Limited Jurisdiction: Municipal and Justice Courts

1. Municipal Courts: 154 Judges statewide, 75 Judges and 23 Courts in Maricopa County
 - a. Misdemeanor criminal traffic cases (driving under the influence of alcohol, hit-and-run and reckless driving where no serious injuries occur)

- b. Civil traffic cases and violations of city ordinances and codes
 - c. **Issue orders of protection and injunctions prohibiting harassment**
 - d. Can also issue search warrants
 - e. Judges appointed by city or town council, differing qualifications
2. Justice of the Peace Courts: 87 Judges in 87 Precincts statewide, 25 in Maricopa County
- a. **Domestic violence and harassment cases**
 - b. Traffic cases and certain civil and criminal cases, including:
 - 1) petty offenses and misdemeanors;
 - 2) **assault and battery** — less serious offenses not committed on a public officer while performing his or her duties;
 - 3) breaches of peace and committing a willful injury to property;
 - 4) misdemeanors and criminal offenses punishable by fines not more than \$2,500, or imprisonment in county jail, not more than six months, or both fine and imprisonment; and,
 - 5) felonies for the purpose of issuing warrants and conducting preliminary hearings.
 - c. Can issue search warrants
 - d. Civil jurisdiction is limited to cases involving claims less than \$10,000
 - e. JP Courts have an elected Constable, charged with serving legal paperwork, including Protective Orders and have criminal jurisdiction over misdemeanor crimes and petty offenses committed in their city or town
3. General Jurisdiction: Superior Courts
- a. 174 Judges, Presiding Judge in each county - 95 Judges in Maricopa County
 - b. Jurisdiction over cases not in another court and:
 - 1) equity cases that involve title to or possession of real property or the legality of any tax, assessment, toll or municipal ordinance;
 - 2) other cases in which the value of property in question is \$1,000 or more, exclusive of interest and costs;
 - 3) **criminal cases amounting to a felony, and misdemeanor cases not otherwise provided for by law;**
 - 4) forcible entry and detainer actions (evictions of renters);
 - 5) proceedings in insolvency (but, bankruptcy is handled in federal court);
 - 6) actions to prevent or stop nuisances;
 - 7) matters of probate (wills, estates);
 - 8) **dissolution or annulment of marriages (divorces);**
 - 9) naturalization and the issuance of appropriate documents for these events; and,
 - 10) special cases and proceedings not otherwise provided for, and such other jurisdiction as may be provided by law.
 - d. Acts as appellate court for Limited Jurisdiction Courts
4. Appellate: Review trials and decisions on appeal
- a. 22 Judges, 2 Divisions
 - b. Jurisdiction over all matters appropriately appealed

III. COURT STAFF AND MAJOR STAKEHOLDERS

- A. Judge/Magistrate: judge oversees the trial and decides legal questions that arise
- B. Clerk of the Court: records selected activities for official case file records and is responsible for all case exhibits
- C. Bailiff: maintains order in the court and supervises the jury, if there is one
- D. Constable: serves protective orders from JP Courts
- E. Court Reporter (Superior Court): records all proceedings
- F. Attorneys: protect the rights of their client, offer evidence and arguments to help the judge and the jury make a fair decision
- G. Plaintiff: person who initiates the legal action
- H. Defendant: person against whom the legal action is directed
- I. Witnesses
- J. Jury: decides outcome of cases

IV. WHAT TO EXPECT

A. Protective Order Hearing

1. Victim/Plaintiff goes to Orders Office at Court
2. Discuss situation with Court staff, determine appropriate type of protective order
3. Take paperwork to Courtroom, give to Clerk
4. Judge calls Victim/Plaintiff to bench
5. Judge reads petition and reviews application
6. Judge asks Victim/Plaintiff about DV
7. Plaintiff signs affidavit
8. Protective Order Issued
9. Victim/Plaintiff takes paperwork back to Orders Office to discuss service
10. Court staff reviews safety planning again
11. Victim/Plaintiff can request security escort out of building

B. Criminal Case

1. Arrest
2. Initial Appearance
3. Preliminary Hearing
4. Arraignment
5. Trial
 - a. Opening Statements
 - b. Witnesses/Evidence
 - c. Cross-examination
 - d. Rest
 - e. Judge Rules or Defense Presents Opening Statement
 - f. Witnesses/Evidence
 - g. Cross-examination

- h. Closing Arguments
- i. Instructions for Jury, if applicable
- j. Jury deliberations, if applicable
- k. Verdict
- l. Sentencing
- m. Appeal

- C. Civil Case, including Dissolution of Marriage
 1. Plaintiff files complaint with Clerk of the Court
 2. Copy of complaint delivered to Defendant
 3. Defendant has 20 days to respond to statements in file
 4. Discovery (parties exchange information)
 5. Trial with Judge or Jury
 6. Decision/Verdict
 7. Appeal

V. EXPECTATIONS OF VOLUNTEERS

- A. Dress in business casual clothing
- B. Be mindful that you're representing all four collaborative organizations!
- C. Make no comment about your observations, just note them on the form
- D. A bailiff might ask who you are to find out if you're a witness, a juror, or other party to the case. Please tell him/her you're a part of the Arizona Court Watch Collaborative and you're there to observe.
- E. Turn OFF your cell phone**
- F. Do NOT discuss the case in or around the Courthouse
- G. Be mindful of confidentiality
- H. Don't argue with Court staff; if asked to leave, do so quietly and make a note on the form regarding who asked that you do so and why
- I. No recording or photographing the proceedings is permitted
- J. Complete the monitoring form and return it as directed in a timely fashion
- K. Volunteer Application and Agreement

VI. PROTECTIVE ORDERS

- A. Orders of Protection (OP)
 1. Must meet relationship test to petition for an OP: married or formerly married, living together or formerly living together, have a child in common, one party is pregnant by the other, the parties are related by blood or court order, the victim is a stepchild of the Defendant, or the parties are in or have been in a romantic or sexual relationship
 2. No fee for filing or service of OP
 3. Granted OP will be served by city's law enforcement agency or Sheriff (Municipal Court) or the Constable or Sheriff (Justice of the Peace Court)

4. **THE COURT SHALL ISSUE AN OP IF IT FINDS THAT THE DEFENDANT HAS COMMITTED AN ACT OF DV IN THE PAST YEAR (OR LONGER) OR MAY COMMIT AN ACT OF DV**
 5. OP is good for one year after service and can be served up to one year after it's issued
 6. OP can enjoin Defendant from committing DV, give Plaintiff exclusive use of the home, restrain Defendant from contacting Plaintiff and going near home, school, work, etc.
 7. If Court finds the Defendant is a credible physical threat, it may prevent Defendant from possessing or buying a firearm for the duration of the order; Defendant is responsible for transferring any firearms to law enforcement
 8. If the order was issued after a hearing during which the Defendant was present, the Court can require him/her to complete a DV offender treatment program
 9. Court can grant Plaintiff exclusive care and custody of any pets
 10. Court CANNOT grant mutual orders of protection
 11. Defendant is entitled to a hearing if the order was granted *ex parte*
 12. Order is not valid until served on the Defendant, after which violations are criminal acts (interference with judicial proceedings) and subject to arrest
 13. Victim/Plaintiff will petition for an OP with the Superior Court if there is a current or pending case before them
 14. Law enforcement across the state and country should enforce and uphold a valid order of protection (Full Faith and Credit)
- B. Injunction Against Harassment (IAH)
1. Can file in any court, good for one year
 2. Plaintiff can request his/her address protected if unknown to the defendant
 3. No fee for filing, may be a fee for service
 4. Court can issue IAH without hearing from the defendant (*ex parte*) if it finds evidence of harassment in the past year, good cause that the Plaintiff would be harmed if the IAH isn't issued immediately
 5. Court can schedule a hearing within 10 days instead of issuing IAH immediately
 6. Defendant can request a hearing, which will be scheduled within 10 days
 7. Enjoin Defendant from harassing or contacting Plaintiff, appearing at Plaintiff's home, work, school, or other location
 8. Court can grant other relief and can NOT grant mutual injunctions
 9. Violations are a crime, Defendant is subject to arrest
 10. "Harassment" means a series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose
- C. Injunction Against Workplace Harassment (IAWH)
1. Filed by employer or designated staff member to enjoin harassment at work
 2. Outlines specific instances of harassment at the workplace
 3. Court reviews petition and can issue IAWH without a hearing (*ex parte*) if reasonable

evidence is shown or good cause shown that not granting the injunction would cause harm

4. Can restrain Defendant from going to place of business or contacting employer; can grant other relief
5. If *ex parte* injunction is granted, Defendant can request a hearing to be scheduled within 10 days of request
6. Violations are a crime, Defendant is subject to arrest
7. "Employer" means an individual, partnership, association or corporation or a person or group of persons who act, directly or indirectly, on behalf of or in the interest of an employer and with the consent of the employer. Employer includes this state, a political subdivision of this state and any school district or other special district
8. "Harassment" means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed

VII. MONITORING FORM

- A. Can be used at all courts for all types of cases
- B. Not all lines will be applicable to all cases, please use "N/A" if necessary
- C. Use blue or black ink and write as legibly as possible
- D. Complete as much information as you can
- E. Demographic information, including Judge's name and case number
- F. Efficiency and demeanor of Court staff
- G. When finished, return the form as instructed

VIII. GETTING TO THE COURTS

- A. Locations
- B. Times
- C. Docket/Calendar

IX. SUBMITTING YOUR OBSERVATIONS

- A. Double check your form is as complete as possible
- B. Deliver or mail as instructed – for now to sunny.larson@asu.edu

X. Q & A

AZ. CODE OF JUDICIAL CONDUCT, RULE 2.2. Impartiality and Fairness: "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."