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# Justice a work in progress for battering victims

VIEWPOINT

By LINDA BAECHLE

In our ongoing effort to protect women and their children, and with the full cooperation of the local judiciary, the YWCA has kept a close eye on the St. Joseph County court system over the past six years. The goal of the YWCA's CourtWatch program is to make the justice system more effective and responsive in handling cases of violence against women and children, and to create a more informed and involved public.

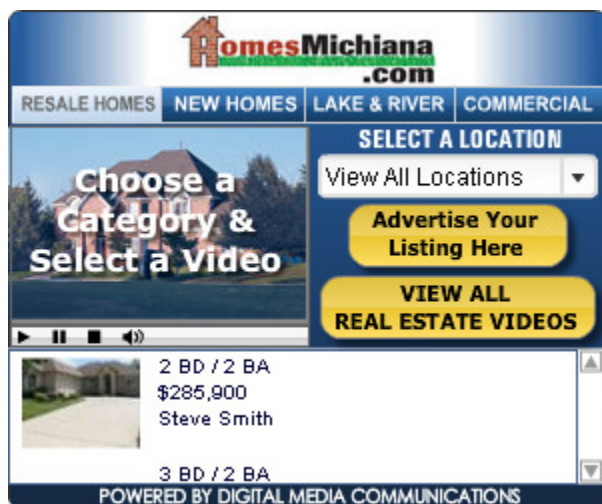
Later today, the YWCA will announce an exciting new expansion of our CourtWatch program made possible by a special appropriation from the U.S. Department of Justice sponsored by U.S. Rep. Joe Donnelly, D-Granger. The expansion will allow us to build on the successes of the program over the past years and to have a much broader view of the functioning of our criminal justice system as it relates to victims and the handling of their cases.

The grant will also provide some much needed sound amplification for the court rooms we are monitoring. Frequently now, victims cannot hear the testimony in their own case and child witnesses sometimes cannot be heard by juries.

The expanded CourtWatch will encompass the same civil order of protection and misdemeanor domestic violence cases that the YWCA has historically monitored, but will be expanded to also include felony domestic violence, sexual assault and child abuse cases. In addition, we will be taking a special interest in Department of Child Services cases

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in which children are being removed by the courts because the mother is a victim of domestic violence who does not leave an abusive relationship.

We were pleased to note in this year's report that our past discussions with the judges have resulted in a number of victim-friendly practices. This year, some victims received really helpful information from the Small Claims Court when they applied for a civil order of protection.

We would like to especially acknowledge Magistrate Brian Steinke. He took time during his busy court schedule to explain to victims who wanted to drop their protective orders that

the protective order was doing what it was supposed to do — keeping victims safe. In one monitored case, when he went on to explain the cycle of violence to the victim, she listened and then did not dismiss the order. He also advised victims to be sure to call the police if there was a violation of the protective order, and that they still needed to be aware and cautious.

Of the 180 civil protective order cases that we monitored, 76 percent (or 136) were granted and 87 had the requirements explained by the magistrate judges. This is a marked improvement over the early years of CourtWatch, but we are still hoping for 100 percent.

Another major concern for us is the presence of weapons. The federal Brady Act prohibits firearm possession by abusers who are subject to an order of protection. While some judges immediately require removal of firearms, others are simply taking the word of the abuser that he or she has no guns. For example, in one case we monitored the victim said the defendant had a .22 caliber rifle and other guns. The defendant denied that he had those weapons and the judge simply explained to the defendant that if he had weapons it would be a violation of the Brady Act.

Most domestic violence homicides occur at or near the time a victim is leaving the abuser and often the filing of an order of protection is the first step to breaking away. That's why we believe a judge should take the extra step of reminding a defendant that he or she is under oath and questioning him specifically about what weapons he or she possesses to help ensure all firearms are relinquished.

In another case we monitored, the defendant said he did not have any "illegal" weapons. Again, we believe at this point that the magistrate or judge should have reminded the defendant he was under oath, questioned what weapons the defendant possessed and determined for himself whether or not they were illegal.

We cannot overemphasize the importance of removing guns, particularly in light of the fact that two-thirds of domestic violence homicides are committed with guns. Of the cases we monitored 16 weapons were alleged to be involved, but in only six of the cases were the weapons ordered removed.

In the protective order hearings, we also continue to be concerned about the very serious types of violent incidents in which police reports are filed but there are no corresponding criminal charges. Whether or not charges are filed is a decision made solely at the discretion of the county prosecutor's office. Each case involving intimate partner violence or stalking is referred to the Family Violence/Special Victim's Unit for investigation and potential charging. When a case is criminally charged the victim receives a restraining order as a part of the criminal case. If the victim is in civil court seeking a protective order, that means no criminal charges were filed in the incident.

Some examples of cases in which charges were not filed include the case of a man who was on probation for domestic violence and, although there were several new incidents involving physical violence and weapons, there is no evidence that new criminal charges were filed or that his probation was revoked.

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In another case, the victim had been strangled and bones were broken in her face. The perpetrator told the victim he would chop her up and put her in cement. Again, no criminal charges are pending.

Another case reported several incidents of physical violence including choking. No criminal charges are pending.

Another concern in this year's monitoring is that, more than ever before, in misdemeanor court we are seeing many, many criminal cases continued! Of the 154 cases we monitored, 70 percent were granted a continuance at the request of either the prosecutor or the defense attorney. Contrast this with 4 percent of the 120 cases we monitored in 2007 being continued. The logical interpretation of these statistics seems to be that there is a backlog in the courts with continued cases clogging the already overburdened court calendars, which may discourage victims from pursuing their cases.

What happened when the cases were not continued? Of the 154 cases, only 8 percent resulted in a guilty verdict, and that is because of guilty pleas. Twenty-one percent of the cases were dismissed. Only one defendant served any jail time after pleading guilty.

It is important that every citizen in our community know what is happening in our courts, and that we speak out when the process is not reflective of our community's values. The YWCA wants to remind domestic violence and sexual assault victims that help is always available. Our 24-hour crisis line number is (866) YES-YWCA. We will continue to monitor the courts system and be a voice for victims.

**Linda Baechle is executive director of the YWCA of St. Joseph County.**

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