



*Citizen Court Monitoring*

*Report on*  
*Dutchess County Family Court*

*November 2016*

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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, 394 (Mass. 1884)

The Fund for Modern Courts wishes to acknowledge our partners in this project the American Association of University Women Poughkeepsie, Inc., NY Branch Court Watch initiative and its Stand Up to Domestic Violence Court Monitoring Initiative and the League of Women Voters. We would not have been able to do this project without their leadership, volunteers and depth of knowledge of Dutchess County, but most importantly their commitment to justice. We would also like to thank the New York State Unified Court System for its support for this project, the Dutchess County Family Court judges and staff, including Chief Clerk Peter A. Palladino and to the hardworking attorneys of Legal Services of the Hudson Valley for providing training for the monitors.

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.

**TABLE OF CONTENTS**

**EXECUTIVE SUMMARY.....5**  
**INTRODUCTION .....8**  
    **History of the Fund for Modern Courts’ Citizen Court Monitoring Program .....8**  
    **The Family Court of the State of New York .....8**  
    **Why Monitor Family Court: The Crisis in Family Court.....9**  
**OVERVIEW OF DUTCHESS COUNTY FAMILY COURT MONITORING PROJECT 10**  
**COMMENDATIONS BASED ON COURT MONITORS’ OBSERVATIONS .....12**  
**RECOMMENDATIONS BASED ON COURT MONITORS’ OBSERVATIONS.....13**  
**CONCLUSION .....19**

**Appendices**

- Appendix A: Questionnaire
- Appendix B: Description of the AAUW Poughkeepsie Branch, Court Watch Program
- Appendix C: Comments on Report: Dutchess County Family Court Judges

## EXECUTIVE SUMMARY

The Fund for Modern Courts (Modern Courts) conducted a Citizens Court Monitoring program in Dutchess County Family Court in 2014 and 2015, working with the American Association of University Women (AAUW), Poughkeepsie, Inc., NY Branch Court Watch initiative and the League of Women Voters, who have been active court watchers of the Family Court since 2011. Modern Courts provided training to monitors in order to give them further understanding of Family Court's jurisdiction, daily operations, and importance for families and communities. Monitors made their observations using questionnaires<sup>1</sup> that assessed courthouse facilities, conditions within individual courtrooms, judges' management of individual cases, and the availability of services for Limited English Proficient (LEP) persons. The AAUW Monitors continued their focus on domestic violence including the issue of firearms. Monitors also observed the process of adjudicating individual proceedings with a keen sense that each case is unique and monitors may not be able to discern whether decisions are right or wrong, but can recognize specific ways in which the courts manage cases and address the myriad of legal issues steeped in emotional complexities of families in crisis.

The American Association of University Women, and its Stand Up to Domestic Violence Court Monitoring Initiative has a well-established program operating since 2011 in Dutchess County.<sup>2</sup> The members of the AAUW have offered the court and judges the results of their observations in the past. Modern Courts supports the work of the AAUW and hopes that this report will provide the court with the benefit of these observations and recommendations made by active and concerned citizens of Dutchess County. In addition, Modern Courts recruited members of the League of Women Voters. This report is a work of a diverse group of monitors with assorted professional backgrounds. For a period of more than 10 months, the more than 20 monitors observed over 945 separate legal proceedings. Each case may have numerous legal proceedings within it. The monitored cases included such issues as abuse and neglect of children, custody and visitation, domestic violence, juvenile delinquency, guardianship, and foster care review and placement.

Monitors were favorably impressed with many aspects of Dutchess County Family Court and are aware that monitors cannot determine the propriety of a judge's decision; however the monitors identified some areas in which improvements could be made. These areas are of concern to the monitors and to Modern Courts. Based on monitors' assessments, Modern Courts makes the following recommendations.

### **1. Ensure Greater Focus on the Issue of Firearms and Domestic Violence and Public Safety**

Modern Courts recommends that Dutchess County Family Court provide continuing training of judges regarding firearms. This is a significant concern throughout New York State. In Dutchess, the monitors consistently observed that some judges did not ask about firearms, while others did and some judges required the removal of firearms, while others did not. Not

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<sup>1</sup> Attached to this Report are the Questionnaires, Appendix A

<sup>2</sup> Attached to this Report is a description of the AAUW Poughkeepsie Branch, Court Watch Program, Appendix B

asking about firearms and not removing firearms when they are present put the petitioner in significant danger.

## **2. Begin Each Proceeding by Clearly Explaining the Issue and Relevant Background**

Modern Courts recommends that Dutchess County Family Court judges continue to begin each proceeding with a thorough, audible statement of the issue to be addressed and its relation to any relevant prior proceedings. Monitors observed instances where judges moved so quickly into proceedings that it was not clear whether parties fully understood what was transpiring. Clearly stating each case and its relevant background helps make proceedings more efficient and inclusive. Monitors also observed that some judges expressed impatience, which is not in keeping with the even temperament that judges are expected to maintain.<sup>3</sup>

## **3. Explain Orders of Protection More Clearly and Thoroughly, Provide Bi-Lingual Orders of Protection**

Modern Courts recommends that Dutchess County Family Court judges read the provisions included in orders of protection aloud to the parties, remind parties of any procedural actions that must be taken before orders are fully effective, tell petitioners what steps to take if orders are violated, ask parties if they have any questions regarding orders, and provide information on supportive services available in the community. Modern Courts also recommends that bilingual orders of protection are made available in Dutchess County following the decision by the Office of Court Administration to do so in other parts of the State.<sup>4</sup> The Monitors observed numerous instances in which judges rushed through orders of protection. Monitors found that Orders of Protection are important enough to merit in-court readings and thorough explanations. Monitors also remarked on confusion as to service of the orders. Monitors raised serious concerns when requests for orders of protection were withdrawn, as well as the compounding impact of language differences and illiteracy.

## **4. Increase Emphasis on Interpretation and Translation Services for Population with Limited English Proficiency (LEP)**

Modern Courts recommends that Dutchess County Family Court clerk's office provide Spanish language services during all operating hours and that multiple signs and other forms of communication are provided to all LEP persons of their rights to interpretation and translation services and the steps they should take to access these services. Monitors observed that Spanish language assistance was available Monday through Thursday only and not on Friday. Modern Courts recommends that Dutchess County Family Court install multiple signs near the entrances to courthouse and clerk's office informing LEP persons of their rights to interpretation services and the steps they should take to access these services. The right to an interpreter is meaningless if one is unaware of it; LEP persons should be on notice, from the moment they enter the

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<sup>3</sup> Monitors observed that they might not always be aware of the repeated appearances of litigants or their counsel, or the failure of litigants to follow directions, but even with that, it was observed that judges were not always using the tools of judicial temperament to attend to the complicated cases before them.

<sup>4</sup> In addition to OCA's efforts, [The Empire Justice Center](#) has developed a resource for domestic violence victims with limited English proficiency who need assistance with understanding Family Court: "[Seeking Protection from Domestic Violence in New York's Family Court: Information for Immigrant Victims with Limited English Proficiency.](#)" The guide is available in Arabic, Haitian Creole, Russian, Spanish, Simplified Chinese and English.

courthouse. The Dutchess County Family Court is committed and obligated to meeting their language assistance needs.

#### **5. Increase Access to Written Information on Court Procedures and Local Resources**

Modern Courts recommends that Dutchess County Family Court keep its waiting rooms regularly supplied with a well-organized array of pamphlets, brochures, and other user-friendly written materials on court procedures and community resources. While much written information was available and more so than has been noted in other court monitoring programs, monitors found information on topics pertinent to services for families but no information on family court procedures readily available unless requested from the clerk. Dutchess County Family Court has a computer with Do It Yourself (DIY) forms, which is valuable, as long as litigants understand its use and have assistance.

#### **6. Provide More “Upfront” Assistance, Particularly with Paperwork**

Modern Courts recommends that Dutchess County Family Court create staffed “help desks”. As noted above, Dutchess County Family Court has a computer with Do It Yourself (DIY) forms but there are no people outside the clerk’s office or nearby with staff or individuals at tables or other accessible space providing assistance to help people. Supportive organizations, or utilizing an in-house or remote volunteer attorney program could enhance the availability of resources. At staffed help desks, petitioners could receive assistance and referrals could be offered for legal and social services. While help desks would ideally be staffed by full-time court employees, one (more affordable) alternative would involve partnering with local advocacy groups or other community organizations willing to furnish trained volunteer staff for this effort.

#### **7. Improve Courtroom Scheduling and Decorum in Courtrooms**

Family Court is one of the most overburdened courts within New York’s Unified Court System. Dockets are long, cases are complex, and parties frequently unrepresented. Under these circumstances, effective courtroom management can be difficult, but these same circumstances make it vital. In Dutchess County Family Court, the monitors found that scheduling and the absence of counsel lead to frequent adjournments. At times, music from a radio and noise from a copy machine during proceedings contribute to a lack of decorum.

## **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 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. 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.

### **History of the Fund for Modern Courts' Citizen Court Monitoring Program**

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 common sense perspectives 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 evaluate critical aspects of the court's performance, ranging from judges' management of courtroom proceedings to the physical conditions of the courthouses.

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. 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 Dutchess County Family Court.

### **The Family Court of the State of New York**

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, 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 in cases pertaining to families already before them in another context (e.g., domestic violence). There are no jury trials in Family Court. Family Court's



unique procedures and the specific issues it addresses can make it a confusing place for even legally knowledgeable individuals.

Family courts are located in each county of the state; in New York City the family courts are part of a citywide Family Court. 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 each 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. 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 specific security reasons relevant to an individual case or proceeding.

### **Why Monitor Family Court: The Crisis in Family Court**

Parties often appear in Family Court during times of personal and familial crisis. As Modern Courts' Family Court Task Force has reported, Family Court is facing its own ongoing crisis.<sup>5</sup> It is under-resourced and burdened with the highest number of cases in the New York Court System. The New York State Senate Committee on the Judiciary reported that Family Court appearances are growing at an annualized rate of twenty-six percent.<sup>6</sup> While addressing the needs of these children and families is a difficult task, it is a challenge that must be met. The demographic trends that have led to the crisis in Family Court are not likely to abate any time soon, especially in light of recessionary economic conditions and budget cuts that are further straining Family Court's already inadequate resources.<sup>7</sup>

The array of problems in Family Court is well documented. The problems include huge dockets; unmanageable court calendars<sup>8</sup>; frequent adjournments that disrupt court proceedings and lessen the effectiveness of judges' orders; final decisions undermined by parties and actions not under Family Court jurisdiction<sup>9</sup>; the lack of standards for informing all parties, in advance of each court appearance, what proceeding is scheduled to take place, which often results in parties not being properly prepared for court appearances; parties' lack of legal representation and consequent misunderstanding of court actions; the paucity of publicly available information about how the system works; and the absence of adequate initial support for parties seeking court

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<sup>5</sup> The Fund for Modern Courts. "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](http://www.moderncourts.org/documents/a_call_to_action.pdf).

<sup>6</sup> New York State Senate Committee on the Judiciary. "Kids and Families Still Can't Wait: The Urgent Case for New Family Court Judgeships," October 2009, <http://www.nysenate.gov/files/pdfs/Family%20Court%20Report.pdf>.

<sup>7</sup> "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform."

<sup>8</sup> "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform."

<sup>9</sup> *Id.*

intervention, which often results in misfiled petitions and ineffective deployment of judicial and community resources.

*The men and women who serve in Family Court, both on the bench and behind the scenes doing back office work or serving as security or intake workers, are dedicated to the work of the Court. By and large, they see themselves as public servants, trying to do the right thing for children and their community. It requires patience and a sense of mission to work in what is sometimes a pressure cooker. There is always more work than time, more people to serve than hours in the court day. When emotions run high for clients of the Court, the anger and hurt, venom and fear are shared, sometimes explosively, with those closest at hand; that is, the judge and Court staff, as well as other clients of the Court. It is not glamorous work. Family Court judges are not in it for prestige or success. They aspire to positively affect the quality of life in their communities.<sup>10</sup>*

Modern Courts believes one way to shed light on the crisis in Family Court is by observing and monitoring its daily operations. Court monitoring also provides community members with an opportunity to better understand the court system, an aspect of our government seldom subject to close public scrutiny. Frequently, monitors not previously familiar with the nuts and bolts of courtroom activities can identify and comment on unsettling issues that are seldom given a second thought by those who regularly practice in Family Court. These same fresh perspectives quite often lead to common sense solutions.

## **OVERVIEW OF DUTCHESS COUNTY FAMILY COURT MONITORING PROJECT**

Dutchess County is situated in the Hudson Valley. The 2010 U.S. Census lists its total population at 297,488. The Dutchess County Family Court operates out of one courthouse, in Poughkeepsie, the county seat. At the time the monitoring took place Dutchess County had three Family Court judges; now as a result of the increase in judges in New York State, Dutchess County has an additional family court judge.

The American Association of University Women, Inc., Poughkeepsie Branch, and its Stand Up to Domestic Violence Court Monitoring Initiative has a well-established monitoring program operating since 2011 in Dutchess County.<sup>11</sup> In addition, Modern Courts recruited monitors from the League of Women Voters. In the past, the AAUW has offered the court and judges the results of its observations. This report extended the monitoring project with the AAUW and, additionally, seeks to ensure that the credible and thoughtful voices and observations of these monitors, as concerned citizens, continue to be taken seriously and are addressed by the Courts.

In Dutchess County Family Court, the Citizen Court Monitors made findings that speak to the need for some reform. Modern Courts has used these findings to develop the practical recommendations set forth in this report. While even the most effective judges and court personnel cannot fully overcome the present crisis facing Family Court, Modern Courts'

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<sup>10</sup> NYSBA Task Force on Family Court Final Report July 2013

<sup>11</sup> Attached to this Report is a description of the AAUW Court Watch program, Appendix A

recommendations can help Dutchess County Family Court to make better use of available resources in facing this challenge.

### *Orientation and Training*

Initially, Modern Courts held an orientation meeting for potential monitors. Poughkeepsie Library generously offered use of their facilities for this meeting. Denise Kronstadt, Modern Courts' Deputy Executive Director and Director of Advocacy, and Constance Lynch, Director of Court Monitoring, gave attendees an overview of the Citizen Court Monitoring Program and a brief explanation of monitors' responsibilities. Many monitors were familiar with court monitoring as part of the AAUW program.

Monitors then participated in training on Family Court proceedings and jurisdiction led by attorneys from Legal Services of the Hudson Valley. Denise Kronstadt also trained monitors on the specific forms used by Modern Courts in the project.

Monitors began visiting the courthouses shortly after completing training. Through regular phone calls and in-person meetings, Ms. Lynch maintained close contact with the monitors during the program. Modern Courts also held an additional mid-program meeting with monitors to review issues and concerns.

Monitors were community members with a keen dedication to children, families, and the court system, and included former teachers, social workers, writers, and physical therapists. Each monitor understood the demanding schedule of the program, the painful issues they were likely to encounter, and the serious nature of their task.

### *Monitoring Forms and Surveys*

The monitors used two separate questionnaires to create a comprehensive assessment of Dutchess County Family Court. Each of the questionnaires posed a series of specific questions which the monitors were asked to supplement with their own observations.<sup>12</sup>

The General Monitoring Form sought information on courthouse facilities, safety and security, maintenance, access to information, the availability of assistance for litigants, and accessibility. The Case Monitoring Form assessed individual cases, with an array of questions addressing how judges managed each case, the role of court officers, and the availability of attorneys, domestic violence proceedings, language access, and numerous other matters relevant to the proper conduct of judicial proceedings.

### *Concluding Meeting and Project Recap*

After all of the monitoring forms were submitted, Ms. Kronstadt and Dennis Hawkins, the Executive Director of Modern Courts met with monitors to listen to their experiences,

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<sup>12</sup> The surveys are attached as Appendix B.

concerns, and recommendations. Many of the monitors' insights have been incorporated into this report.

This report does not intend to point out any individual judge's strengths or weaknesses. However, the proceedings that were monitored represent a large enough sample to support this report's general observations on policies and procedures in Dutchess County Family Court.

## **COMMENDATIONS BASED ON COURT MONITORS' OBSERVATIONS**

Modern Courts commends Dutchess County Family Court for several areas in which the court performs particularly well. The professionalism and politeness of courthouse personnel and the judges' commitment in the face of large and emotionally demanding caseloads are laudable.

### *Lines to Enter Courthouses Are Short and Security Screenings Are Efficient*

Long lines outside courthouse entrances and slow security screenings are common throughout New York, but monitors found neither of these problems in Dutchess County Family Court. One hundred percent (100%) of monitors reported that they did not encounter long lines getting into the courthouse.

### *The Waiting Areas: Maintenance*

One hundred percent (100%) of the monitors found that the waiting areas were well maintained, orderly and quiet. However, bathrooms are often in need of repair and cleaning.

### *Judges Oversee Large, Complex, and Emotionally Demanding Dockets*

Monitors' observations in Dutchess County reflected the heavy burden that Family Court and its judges face.<sup>13</sup> Monitors noted that judges had large caseloads with significant difficult proceedings each day.<sup>14</sup> Family Court cases are often quite complex, can involve numerous proceedings and parties (many of whom are unrepresented), and often defy easy resolution, instead requiring ongoing court involvement. Furthermore, Family Court addresses a number of emotionally charged issues, and demands a greater degree of judicial empathy and patience than many other courts. New York's Family Court judges try cases of absolutely vital importance under unusually demanding conditions, and Modern Courts commends them for their efforts.

### *Court Personnel Were Courteous and Helpful*

The monitors found the court personnel to be professional, courteous and helpful.

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<sup>13</sup> Modern Courts has long advocated for the integration of New York's eleven courts of lesser jurisdiction into a single, unified court. Among the arguments for doing so is that Family Court currently bears a disproportionately large share of the judicial workload.

<sup>14</sup> Monitors also observed, however, that many of these proceedings were adjourned or postponed because attorneys or parties were not present or prepared.

## RECOMMENDATIONS BASED ON COURT MONITORS' OBSERVATIONS

### 1. Ensure Greater Focus on the Issue of Firearms and Domestic Violence and Public Safety

*“Judges did not regularly ask questions about whether respondents possessed firearms and, even when the judge asked, did not always require them to be surrendered.”*

The prevalence of firearms and domestic violence is a significant and dangerous concern throughout New York State but in Dutchess the monitors consistently observed that some judges did not ask about firearms, while others did and some judges required the removal of firearms, while others did not. Neither asking about firearms nor removing firearms puts the petitioner in significant danger.

More than half of women murdered with guns in the U.S. in 2011 — at least 53 percent — were killed by intimate partners or family members. Domestic violence in America is to a significant degree a problem of gun violence. Over the past 25 years, more intimate partner homicides in the U.S. have been committed with guns than with all other weapons combined. And people with a history of committing domestic violence are five times more likely to subsequently murder an intimate partner when a firearm is in the house.<sup>15</sup>

Following the issuance of this Court Monitoring Report, Modern Courts intends to broadly review the issues of firearms and domestic violence and the current state of federal and state laws, the mandatory and discretionary standards required to determine removal and the enforcement of the law, as well as the significance of recent studies and analyses on the impact of firearms on domestic violence and orders of protection.

### 2. Begin Each Proceeding by Clearly Explaining the Issue and Relevant Background

*“The failure to review the prior history might undermine the confidence of the litigant”*

Modern Courts recommends that Dutchess County Family Court judges begin each proceeding with a thorough, audible statement of the issue to be addressed and its relation to any relevant prior proceedings.

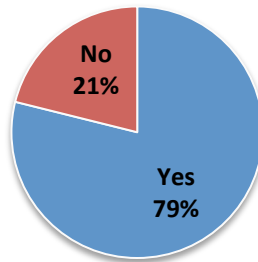
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<sup>15</sup> *Guns and Violence Against Women, America's Uniquely Lethal Domestic Violence Problem*, <http://everytownresearch.org/reports/guns-and-violence-against-women/>

*Observations*

Monitors did observe instances where judges moved so quickly into proceedings that it was not clear whether parties fully understood what was transpiring. Clearly stating the issues to be addressed in each case and the relevant background helps to make proceedings more efficient and inclusive. Monitors did observe that the tools of judicial temperament were not always used. Monitors understand that they might not always be aware of the repeated appearances of litigants or their counsel, or the failure of litigants to follow directions.

**Judge began the proceedings by clearly reviewing a brief history of the case**



### 3. Explain Orders of Protection More Clearly and Thoroughly, Provide Bi-Lingual Orders of Protection

*“Sometimes judge appeared to send domestic violence matters to mediation.”*

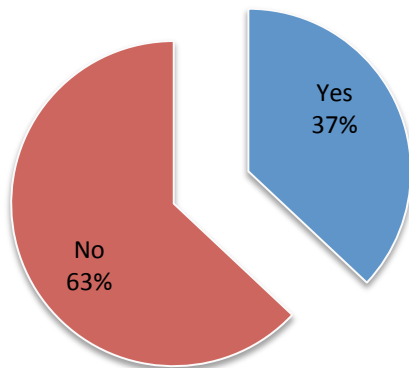
*“Judges rarely informed or recommended programs to victims.”*

Modern Courts recommends that Dutchess County Family Court judges read the provisions included in orders of protection aloud to the parties, remind parties of any procedural actions that must be taken before orders are fully effective, tell petitioners what steps to take if orders are violated, ask parties if they have any questions regarding orders, and provide information on supportive services available in the community. Modern Courts also recommends that bilingual orders of protection are made available in Dutchess County following the decision by the Office of Court Administration to do so in other parts of the State.

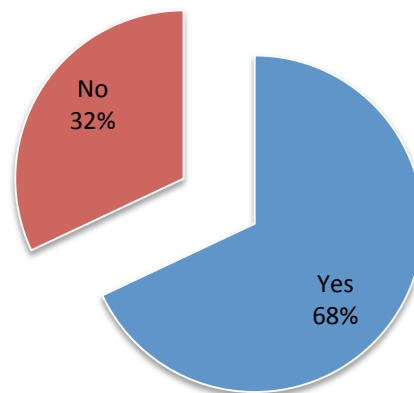
#### *Observations*

The Monitors observed numerous instances in which judges rushed through orders of protection that did not provide either the petitioner or the respondent an opportunity to fully understand the terms of the order. Monitors found that Orders of Protection are important enough to merit thorough explanations. Monitors also reported frequent confusion as to service of the orders. Monitors raised serious concerns when requests for orders of protection were withdrawn. Monitors noted and were concerned by the compounding impact of illiteracy.

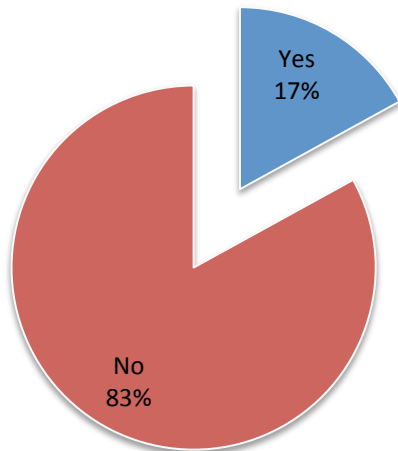
**Judge informed victim of domestic violence (petitioner) of the steps she must take if the order of protection is violated. (i.e. call the police)**



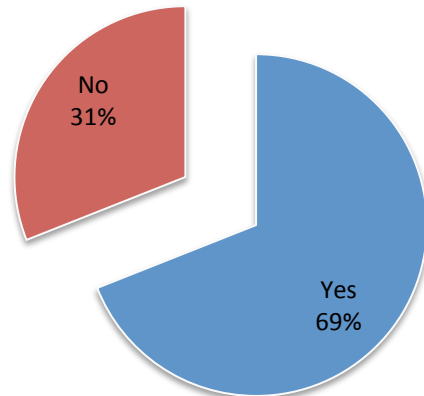
**Judge carefully read the terms of the order of protection to the victim (petitioner); Judge went over each part of the order**



**Judge tried to persuade/convince parties to settle domestic violence cases**



**Judge Clearly explained the expiration date of the order of protection**



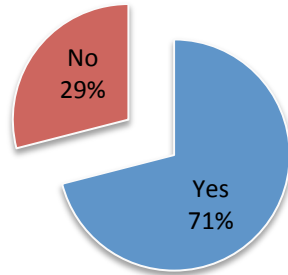
**4. Increase Emphasis on Interpretation and Translation Services for Population with Limited English Proficiency (LEP)**

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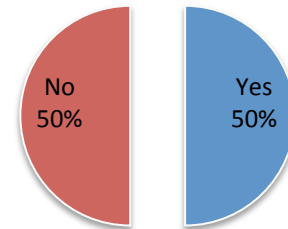


*Observations*

**A translator was provided by the court when it was clear the person could not understand the proceedings or when requested by party**



**A translator was a friend/family member or advocate for the party; not a professional translator**



**5. Increase Access to Written Information on Court Procedures and Local Resources**

*“There is a dearth of written information available in or around the courtroom.”*

*“There are some posters.” “Literature should be available.”*

Modern Courts recommends that Dutchess County Family Court keep its waiting rooms regularly supplied with a well-organized array of pamphlets, brochures, and other written materials on court procedures and community resources. While much written information was available and more so than has been noted in other court monitoring programs, monitors found information on topics pertinent to services for families but no information on family court procedures readily available unless requested from the clerk. Dutchess County Family Court has a computer with Do It Yourself (DIY) forms, which is valuable, as long as litigants understand its use and have assistance.

**6. Provide More “Upfront” Assistance, Particularly with Paperwork**

Modern Courts recommends that Dutchess County Family Court create staffed “help desks”. As noted above, Dutchess County Family Court has a computer with Do It Yourself (DIY) forms but there are no people outside the clerk’s office or nearby with staff or individuals at tables or other accessible space providing assistance to help people. Supportive organizations,

or utilizing an in-house or remote volunteer attorney program could enhance the availability of resources. At staffed help desks, petitioners could receive assistance and referrals could be offered for legal and social services. While help desks would ideally be staffed by full-time court employees, one (more affordable) alternative would involve partnering with local advocacy groups or other community organizations willing to furnish trained volunteer staff for this effort.

## 7. Improve Courtroom Scheduling and Decorum

*“Judge was dismissive, demeaning and confrontational,”*

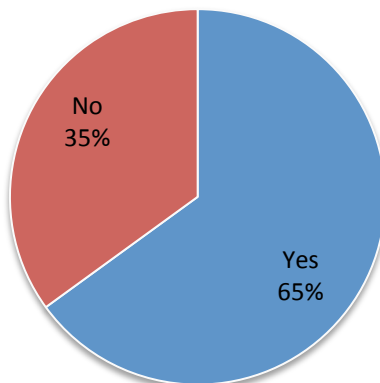
*“Many adjournments occur at the end of the day.”*

Family Court is one of the most overburdened courts within New York’s Unified Court System. Dockets are long, cases are complex, and parties frequently unrepresented. Under these circumstances, effective courtroom management can be difficult, but these same circumstances make it vital.

### *Observations*

Monitors found that delays in adjudication occurred due to: the absence or very late arrival of attorneys; failure to consult with established clients prior to the proceeding; lack of service of the Family Offense Petition; and the over scheduling of cases known to be complex. A lack of courtroom decorum appeared when there was noise from a radio playing and from a copy machine. At times, some of the judges seemed impatient. Monitors noted that in 89—99% of the cases observed, judges gave all parties an opportunity to speak, even when confronted with an aggressive party. Again, the monitors are fully aware of the difficulties of adjudicating the cases.

**Case was Adjourned**



## **CONCLUSION**

During the project, monitors identified several areas in which Dutchess County Family Court has the opportunity to make improvements which may help the court operate more efficiently and effectively. Monitors also observed hard-working, dedicated judges and courthouse personnel capable of making these changes happen.

# APPENDIX "A"

# Dutchess County Family Court Case by Case

## 1. Courtroom Proceedings

\* MONITORS, PLEASE COMPLETE THE FOLLOWING INFORMATION FOR EACH CASE YOU OBSERVE IN COURT TODAY

**MONITOR**

**JUDGE**

**DATE**

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 & ABUSE
- FAMILY OFFENSE
- PERSONS IN NEED OF SUPERVISION (PINS)
- CUSTODY/VISITATION
- OTHER, PLEASE EXPLAIN \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Other (please specify)

PLEASE INDICATE (AS BEST AS POSSIBLE) WHO APPEARED BEFORE THE COURT IN THE PROCEEDINGS

- Petitioner
- Respondent(s)
- Children
- Family Members
- Attorney for Petitioner
- Attorney for Respondent(s)
- Assigned Counsel (18B)
- Public Defender
- Private Attorney
- Legal Services
- Attorney for teh Child (Law Guardian(s))
- Advocate for Domestic Violence Victim
- Government Officials/Counsel
- County Attorney
- Attorney for Dept of Social Services
- Dept of Social Services
- Child Protective Services
- Probation
- Foster Care
- Other \_\_\_\_\_

Other (please specify)

**Dutchess County Family Court Case by Case**

**2. Overall Courtroom Management/Professional**

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

Other (please specify)

4. Judge began the proceedings by clearly presenting the specific issues before him/her on that day

Yes

No

5. Judge clearly read/explained the charges and fully explained the proceedings to the parties in an understandable manner.

Yes

No

Other (please specify)

6. Judge spoke in "plain English" i.e. made the proceedings easy to follow while being thorough.

Yes

No

7. Judge informed parties of their right to an attorney and how to obtain assistance (limited cases)

Yes

No

N/A

8. Judge gave each party an opportunity to speak

Yes

No

9. Judge asked each party if they had any questions

Yes

No

10. Judge answered the questions presented by parties and/or attorney

Yes

No

11. Judge specifically went over the terms of the settlement or Court's order carefully with the parties.

Yes

No

12. Judge took time to hear the case.

Yes

No

13. Case was adjourned

Yes

No

Other (please specify)

14. Court personnel were helpful and courteous

Yes

No

15. Court Officer was present in the courtroom

Yes

No

Other (please specify)



Please add any comments for this section.

## Dutchess County Family Court Case by Case

### 3. Children: Juvenile Delinquency/PINS

16. Children were represented by an attorney.

Yes

No

17. Children appeared in Courtroom in handcuffs or prison uniform (please specify)

Yes

No

18. Children were clearly explained their rights by the judge.

Yes

No

19. Children were given an opportunity to ask questions.

Yes

No

## Dutchess County Family Court Case by Case

### 4. Children: Custody/Visitation/Abuse and Neglect

20. Children were in the courtroom

Yes

No

21. Supervised visitation was ordered (or continued).

Yes

No

22. Judge ordered/allowed visits in a public place because supervisor was not available.

Yes

No

23. Judge asked children questions in open court.

Yes

No

## Dutchess County Family Court Case by Case

### 5. Domestic Violence (Family Offenses)

**Please Note: "Petitioner is the victim of domestic violence - "Respondent" is the alleged batterer. Sometimes only the victim is in the court -- this is usually the case when the matter is on for the first time on an ex parte order of protection. A domestic violence matter (O) can also be part of another proceeding(s).**

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 of the terms of the order (if present in the courtroom).

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 ex parte 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 for both parties

Yes

No

31. A translator was provided by the court when it was clear person could not understand the proceedings or when requested by party.

Yes

No

32. A translator was a friend/family member or advocate for the party.

Yes

No

33. Judge took the issue of domestic violence seriously into account when determining all the proceedings before him/her. (This refers to other proceedings whereby the presence of domestic violence is important in determining issues, e.g., custody and visitation)

Yes

No

34. Judge informed victim about resources for assistance with domestic violence.

Yes

No

Please check box that applies, if any:

	Discussed	Ordered
35. Mediation	<input type="checkbox"/>	<input type="checkbox"/>
36. Family or Marital Counseling	<input type="checkbox"/>	<input type="checkbox"/>
37. Substance Abuse Treatment	<input type="checkbox"/>	<input type="checkbox"/>
38. Mental Health Treatment	<input type="checkbox"/>	<input type="checkbox"/>
39. Counseling or treatment of the victim	<input type="checkbox"/>	<input type="checkbox"/>

Other (please specify)

## Dutchess County Family Court Case by Case

### 6. ATTORNEYS AND COUNSEL

**When providing you comments about the attorneys (see below) consider the following important issues.**

**\* Did it appear or was it made apparent that the attorney ad met with his/her client before the court date.**

**\* Did it appear or was it made apparent that the first meeting with his/her client was the same day as the court proceeding.**

**\* Did it appear or was it apparent that the attorney was or was not familiar with the facts of the case.**

**\* Did the attorney offer a settlement to the judge that the client understood. And if not, what occurred.**

**Dutchess County Family Court Case by Case**

**7. ATTORNEY FOR THE CHILD**

40. Please comment on any particular issues/concerns/questions you may have had with the representation of any party in the case.

**Dutchess County Family Court Case by Case**

**8. GOVERNMENT ATTORNEYS AND REPRESENTATIVES**

41. Please comment on any particular issues/concerns/questions you may have had with government worker or representative (attorney).

**Dutchess County Family Court Case by Case**

**9. ATTORNEYS FOR PETITIONER and/or RESPONDER**

42. Please comment on any particular issues/concerns/questions you may have had with any attorneys representing either the petitioner or the respondent.

**Dutchess County Family Court Case by Case**

**10. OVERALL RECOMMENDATIONS/COMMENTS**

**PLEASE MAKE SUGGESTIONS OR REPORT CONCERNS**

Please comment on any aspect of the case, courtroom activity, case management, this is an open space for your comments:

51. ID Number

# APPENDIX “B”



**STAND UP TO DOMESTIC VIOLENCE**



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**COURT MONITORING INITIATIVE**

AAUW Poughkeepsie Court Watch Program

By Ann Pinna

Mission & Purpose

AAUW firmly believes that the prevention of violence towards women and children and the fair and thoughtful treatment of victims within the court system are integral to our mission to promote gender equity. For this reason, The “Stand Up to Domestic Violence Initiative” was created. The purpose of this program is to document systemic issues in the local justice system that result in the re-victimization of women and children who have suffered domestic abuse. AAUW seeks to promote greater accountability by observing judges, prosecutors, law enforcement, and other justice system personnel in civil, criminal and IDV courts. The ultimate goal of the Court Watch Program is to share these findings with members of the judicial system and the community in order to keep victims safe, bring about improvements in the courts, and to promote fair and equal justice for all.

Background & Procedures

Mary Lou Heissenbuttel was instrumental in the creation of the Court watch Program in the Fall of 2011 and a call went out for all volunteers who were interested in domestic violence issues to join the cause and assemble for training in February 2011. Following 4 sessions of training, volunteers were then disseminated to Dutchess County Family Court as well as town courts in Wappingers Falls, Poughkeepsie, and Hyde Park. Monitors were given forms to keep track of a numbers of issues related to the courtroom and court procedures. Issues of concern revolved around demeanor in the courtroom, accommodations for special needs, victim safety, clarity of proceedings, parental alienation syndrome, strangulation, firearms, clear delineation of items in Orders of Protection, as well as other issues.

Data Collection & Sharing of Information



Monitors filled out forms corresponding to selected issues of concern. Over 258 Family Court cases and 61 Criminal Court cases were monitored. The data was then collected and analyzed. On April 5, Mary Lou Heissenbuttel and Karen Gomba presented their findings to interested judges, court clerks and officers at a brown-bag lunch in the Poughkeepsie Court Building. AAUW findings were reviewed in a spirit of collaboration and a desire to seek adjustments in key areas.

#### Court Monitoring Newsletter

Recently, a Court-Monitoring Newsletter was sent to all monitors in the program as well as others who expressed an interest in knowing more about the Court Monitoring Initiative. The newsletter discussed the Restructuring and reorganization of the Court Monitoring Initiative in order to update and improve the program. The newsletter also announced the creation of a new staff of leadership which consists of AAUW members Karen Gomba, Carol Foy, and Ann Pinna, as well as experts Leah Feldman, Director of Domestic Violence Services of Dutchess County, a program of Family Services, and Judy Lombardi, Director of Outreach and Support Services at Grace Smith House. Other team members include Elaine Andersen who will continue to act as Communications Director and Joanne Dyson, who will continue with Data collection and analysis.

#### Invitation to Join the Court Watch Program

If you feel you would like to be a part of this worthwhile program and can contribute one day per month on a consistent basis, please contact Ann Pinna at 845-462-3140 or e-mail at [ajpinna@aol.com](mailto:ajpinna@aol.com). Training sessions will occur later this year with a possible added emphasis on *criminal court operations* and more involvement in monitoring town and city courts. We invite you to join us and participate in this very worthwhile cause.

If you wish to learn more about the program or view the entire Court Monitoring Newsletter, please contact Ann Pinna.

# APPENDIX "C"

The Dutchess County Family Court Judges and the Court Attorney Referee met to discuss the Fund for Modern Courts Citizen's Court Monitoring Report of the Dutchess County Family Court dated May 2016 and offers the following comments:

**#1: Ensure Greater Focus on the Issue of Firearms and Domestic Violence and Public Safety**

*"Judges did not regularly ask questions about whether respondents possessed firearms and, even when the judge asked, did not always require them to be surrendered"*

The initial application for an order of protection is typically heard by the Court Attorney Referee. She does address the issue of firearms in every ex parte application before her and weapons are ordered surrendered if appropriate (there are times when no order of protection is issued). In instances where the military or law enforcement exception applies, the temporary order of protection limits possession of any firearm to working hours and such weapons must be surrendered at end of an officer's shift.

Also, at the arraignment, the Family Court Judges question the respondents about weapons and the status of any surrender that may have been directed in the Temporary Order of Protection. The Court has developed a weapons surrender form that is sent to the police with every order directing the surrender of firearms.

It should also be noted that the orders of protection contain the Federal language prohibiting respondents from possessing, purchasing ...etc of firearms while the order is in effect.

**#2: Begin Each Proceeding by Clearly Explaining the Issue and Relevant Background**

*"The failure to review the prior history might undermine the confidence of the litigant"*

The Family Court utilizes the Individual Assignment System which means that a family is assigned to one Judge who hears various case-types filed by that family. This assignment system is specifically designed to promote a foundation for familiarity with the parties and their prior history.

Given the time constraints, the often lengthy court history and high volume of cases, the suggestion to review the history at every appearance is impractical and unnecessary. Doing so would cause further calendar delays. Because monitors did not follow particular cases, as the case progress through the Court, but rather, came on random days, the monitors were not as familiar with the cases and the parties, their attorneys and the Court.

The Judges suggest that in the future, perhaps following particular cases from inception to conclusion might provide better insight of the Court process. Further, the Judges believe that it is an important role of the attorneys for the litigants to prepare his/her client for each Court appearance, which includes explaining the purpose of each appearance and what might be expected to happen.

It is just not practical for Judges to do this at each appearance.

Judges do understand and take into consideration a pro-se litigants limited understanding of proceedings and they do try to explain in simplified terms what is transpiring.

### **#3: Explain Orders of Protection More Clearly and Thoroughly, provide Bi-lingual Orders of Protection**

*“Sometimes judge appeared to send domestic violence matters to mediation”*

The Judges are aware that when there is a full stay away order of protection, the case may not be referred to mediation.

However, the Dutchess County Mediation Center program has developed and implemented a nationally recognized protocol allowing custody/visitation cases to be mediated, even when there is a history of domestic violence. This protocol was developed over a period of 18 months with the partnership and participation of the domestic violence agencies. It was developed because domestic violence victims wanted to be able to utilize mediation in appropriate cases and in a safe manner.

The Court would be more than willing to provide information and guidelines for this program protocol that allow mediation in cases with a domestic violence history. The Judges also note that no case can be ordered to mediation.

*“Judges rarely informed or recommended programs to victims”*

Except in a rare instance, or in the case of an attorney filed petition, litigants filing family offense petitions are assisted in the preparation of the petition by an intake worker in the Courthouse, affiliated with the Grace Smith House, one of the Dutchess County domestic violence advocacy agencies. As part of the intake process, a safety assessment is conducted and a safety plan is developed with the petitioner. That same intake worker actually prepares the petition to be filed and the domestic violence agencies provides in-court advocacy during the initial ex-parte appearance and further appearances. Also during this intake process the victim is provided with information, including written pamphlets about available services.

In mid-November 2015, the ability to create bi-lingual orders of protection was expanded to courts other than pilot courts (Dutchess County was not a pilot court). Unfortunately this feature was not available during the majority of monitoring period covered in this report. Since that time our Court has utilized this feature and had implemented the issuance of bi-lingual orders of protection.

The petitioner is provided with a copy of the signed order of protection outside of the courtroom, at which time the clerical staff explains the procedure for service of the papers upon respondent. It should be noted that unless weapons are being surrendered or the respondent is being vacated from the home the Court arranges for service of any orders of protection. The Judges agreed that they will try to more clearly explain the terms of each order of protection, but reading every provision to the parties is also not practical in light of the Court’s time constraints.

#### **#4: Increase Emphasis on Interpretation and Translation Services for Population with Limited English proficiency (LEP)**

Currently Dutchess County Family Court has a part-time staff Spanish language Court Interpreter. This position is shared with Poughkeepsie City Court, with the interpreter assigned to Family Court 60% of the time. The days she is assigned to city court she remains on-call for family court emergencies and scheduling of cases is coordinated. On the days she is unavailable for scheduled cases, a per diem interpreter is hired.

While the Judges do not agree that 29% of the time a translator was not provided when clearly needed, they will be more cognizant of this issue in the future. Further, the Judges do notice that it is not unusual that the interpreter is present and the party elects not to utilize the interpreter during the appearance.

When the Court identifies the need for an interpreter or one is requested, it makes all attempts to secure an interpreter by utilizing the statewide protocol. In instances where it is necessary to hear a case immediately the Court requests and coordinates the use of video/telephonic interpreters through the statewide Office of Language Access for remote interpreting.

In May 2016 the Court received the Language Line Services equipment which can be easily installed for use with the Courts IP phone system when needed. This provides both the Court's reception desk and the intake unit with the ability to communicate with the litigant assisted by a language line interpreter on a 3-way call. This allows the intake worker and front desk personnel to provide general information to a language challenged litigant.

#### **#5: Increase Access to Written Information on Court Procedures and Local resources**

*“There is a dearth of written information available in or around the courtroom”*

*“There are some posters”      “Literature should be available”*

The Court will make every effort to obtain and make available to litigants written information on court proceedings and appropriate community resources materials. Judges do routinely provide litigants and counsel with informational pamphlets regarding programs and service providers to which litigants are directed, including parenting classes, anger management and substance abuse providers.

#### **#6: Provide More “Upfront” Assistance, particularly with Paperwork**

Dutchess County Family Court has two full-time clerks assigned to the “Do-It-Yourself” or “D-I-Y” petitions, in addition to their other responsibilities. There is a D-I-Y computer desk located adjacent to the second floor reception window. The Court will provide additional signs to advise litigants of the availability of assistance by the clerks. Volunteers are not permissible to utilize as suggested.

Dutchess County Family Court does have limited intake assistance services in addition to the Family Offense intake provided. Dutchess County Probation Department provides limited assistance for

petition intake on an appointment basis two days per week for cases other than family offenses.

## **#7: Improve Courtroom Scheduling and Decorum**

*“Judge was dismissive, demeaning and confrontational”*

*“Many Adjournments occur at the end of the day”*

Overtime constraints have unfortunately led to a mandate that Judges conclude court calendars by 4:45PM every day absent an emergency application and exigent circumstances. The Administrative Judge must be notified before 4:30 PM as to what is pending.

This mandate, as well as significant court congestion, along with emergency applications, attorney caused delays and delays in getting the case into the Courtroom, cases taking longer than expected, waiting for a caseworker or outside agency representative - may lead to scheduled cases being adjourned. Judges make every effort to avoid this, including utilizing their court attorneys to conference the matters outside of the courtroom to address any issues which do not require a court appearance and to narrow those issues which must be addressed in Court.

The Court’s caseload justified the addition of a fourth Family Court Judge for Dutchess County. The addition of a fourth judge in January 2016 has reduced the caseloads of each Judge from those observed by the court monitors in 2014-2015. This has resulted in fewer cases being adjourned at the end of the day. However, it should be noted, that even with the fourth Judge, given the complexity of the cases, there may still be times when a calendar cannot be completed by 4:45 PM and cases have to be adjourned.

In addition, the Judges and the Court’s Administrative staff have an annual meeting with the attorneys who regularly appear before the Court to try to discuss general issues which impact the Court’s ability to hear cases promptly, such as attorney or parties appearing on time, attorney caseload management and communication. In an effort to avoid attorney conflicts resulting from multiple appearances before different judges at the same time, the Judges coordinate with each other as to which attorneys will be available for assignment by a particular judge. When an attorney does have an unavoidable conflict and must appear in another part of the Family Court, the Judges/Referee and Support Magistrates cooperate with each other to manage the impacted cases and the effect on the calendars.

The court monitors primarily observed proceedings on a Judges’ duty day. A small percentage of cases settle on a duty day, due to the nature of Family Court litigation. Usually, a case requires several appearance and the exchange of settlement proposals before an agreement is reached. Therefore, cases average several appearances before it is settled or scheduled for trial.

The Judges and Court personnel are committed to treating all persons who appear in the Family Court with respect, patience and courtesy.