



COURT  
WATCH  
REPORT

2023 - 2024

**Provided by:**

Domestic Abuse  
Intervention Services  
(DAIS)

**DAIS**

DOMESTIC ABUSE INTERVENTION SERVICES

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# DAIS MISSION:

*“Empower those affected by intimate partner violence and advocate for social change through support, education, and outreach.”*

The DAIS Legal Advocacy Program provides support, information, advocacy and court accompaniment to people who are experiencing intimate partner violence or stalking. DAIS legal services include assistance with restraining orders, family law, criminal law, immigration and other legal matters.

Legal Advocates work with people by phone, in individual meetings, in court, and assist victims with safety planning, information, and referrals to community partners.

Legal Advocates also provide information and referrals to victims of other types of abuse and concerned community members. Legal Advocates are not attorneys and cannot give legal advice.

## CONTACTING THE LEGAL ADVOCACY PROGRAM

To reach the DAIS Legal Advocacy Program, call the 24-Hour DAIS Help Line at [\(608\) 251-4445](tel:6082514445), or Text Line at [\(608\) 420-4638](tel:6084204638). A Help Line Advocate can offer support, resources, and general legal information, and can connect you to the Legal Advocate voice mail.

Please leave a detailed message, including a safe phone number, and a Legal Advocate will return your call between the hours of 8:30 a.m. to 4:30 p.m., Monday-Friday.

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# GLOSSARY OF TERMS

**Dismissal with prejudice:** When a lawsuit is dismissed with prejudice, the court has made a final determination on the merits of the case, and the plaintiff is therefore forbidden from filing another lawsuit based on the same grounds.

**Dismissal without prejudice:** When a case is dismissed without prejudice, the plaintiff is free to bring another suit based on the same grounds.

**Elder at Risk** (§46.90(1)(br)): An elder at risk is anyone age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

**Firearm Surrender:** Respondent must surrender any firearms they own or possess if firearm surrender order is issued. Domestic abuse and child abuse injunctions contain a mandated firearm surrender provision (§813.1285).

**Hearing:** A hearing is a proceeding before a court for the purpose of resolving disputed issues through presentation of testimony, offers of proof and argument.

**Individual at Risk** (§55.06): An individual at risk is any adult who has a physical or mental condition that substantially impairs his or her ability to care for their needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

**Injunction:** An injunction is a court order forbidding someone from committing an act.

**Petitioner:** A person who seeks a restraining order is called a petitioner because that individual “petitions” the court to order another person to stay away from them.

**Pro Se:** A person is *pro se* when they represent themselves during a legal action/proceeding without the assistance of an attorney.

**Respondent:** The person who receives the petition, which indicates that they are to stay away from the petitioner, is called the respondent because they have the opportunity “to respond” to the court regarding what is claimed in the petition.

**Restraining order:** A restraining order or protective order is a legal order issued by a state court that requires one person to stop harming, stalking or contacting another. In Wisconsin, there are restraining orders based on domestic abuse, child abuse, harassment, and for individuals at risk.

**Service:** Delivery of a legal document such as a writ, process, or summons, notifying a person that legal action is being taken against them<sup>[1]</sup>. Temporary restraining orders are served through the Dane County Sheriff’s Department.

**Service by Publication** (§813.12(2)(a)): When a legal action is initiated against a defendant, and that defendant cannot be found to accept personal service of legal documents, service by publication may be permitted by a judge’s order. This process refers to official notification published in the newspaper in the municipal area of the respondent’s residence.

**Service Representative** (§895.45(c)): An individual member of an organization or victim assistance program who provides counseling or support services to complainants or petitioners and charges no fee for the services provided.

**Stipulation:** An agreement between the parties.

**Temporary Restraining Order (TRO)** (§813.12(3)): A judge’s order forbidding some action on a temporary basis before an injunction hearing can be held to decide whether to grant a longer-term order.

[1] “GLOSSARY OF TERMS: RESTRAINING ORDERS CHAPTER 813”, END DOMESTIC ABUSE WISCONSIN LEGAL DEPARTMENT, 2018, [HTTP://WWW.WIDVLEGALMANUAL.ORG/WP-CONTENT/UPLOADS/2019/01/GLOSSARY-OF-TERMS-CHAPTER-813.PDF](http://www.widvlegalmanual.org/wp-content/uploads/2019/01/glossary-of-terms-chapter-813.pdf)

# TYPES OF RESTRAINING ORDERS

**Domestic Abuse** (§813.12): Intentional infliction of or threat to inflict physical pain, physical injury, or illness; impairment of physical condition; damage to personal property; stalking; or sexual contact or sexual intercourse without consent, or a threat to do any of the described behavior. There must be facts showing an imminent danger of physical harm before a temporary restraining order can be issued.

**Harassment** (§813.125): (a) Striking, shoving, kicking or otherwise subjecting the person to physical contact; or (b) Engaging in an act that would constitute child abuse under §48.02(1); or (c) Sexual assault under §940.225; or (d) Stalking under §940.32; or attempts or threats to do the same; or (e) Engaging in a course of conduct or repeatedly committing acts which harass or intimidate the person, and which serve no legitimate purpose.

**Child Abuse** (§813.122): (a) Physical injury inflicted on the child by other than accidental means; (b) Sexual intercourse or (c) sexual exploitation of the child; (d) Permitting, allowing, or encouraging the child to violate prostitution laws; (e) Intentionally causing the child to view sexual activity; (f) Exposing genitals or pubic area to the child; (g) Causing the child to expose genitals or pubic area; (h) Emotional damage to the child; (i) Manufacturing methamphetamine in the physical presence of the child, in the child's home, or where the child may see, smell or hear the drug being made.

**Individual at Risk** (§813.123): Interfered with, or based upon prior conduct of the respondent, may interfere with: 1) an investigation of the individual at risk; or 2) the delivery of protective services to the individual at risk; or 3) the delivery of protective placement to the individual at risk; or 4) the delivery of services to the elder at risk, and that the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, unreasonable confinement or restraint, financial exploitation, neglect, or self-neglect has occurred, is occurring, or may occur. OR engaged in or threatened to engage in with the individual at risk: physical abuse, emotional abuse, sexual abuse, treatment without consent, financial exploitation, unreasonable confinement or restraint, neglect or harassment.

# INTRODUCTION & OVERVIEW

The Domestic Abuse Intervention Services (DAIS) Court Watch Program observes Dane County injunction hearings to establish a data-driven analysis of the Circuit Court system's advancement of victim[2]safety and perpetrator accountability in intimate partner violence cases.

The Court Watch Program aims to:

- Improve the experience of survivors of intimate partner violence who seek restraining orders.
- Provide information to legal system stakeholders regarding trends in the court system's handling of Domestic Abuse and Harassment injunction cases.
- Identify recommendations for improved trauma-informed and victim-centric responses to Domestic Abuse and Harassment injunction cases.
- Further inform legal system stakeholders about the role of service representatives in the court process.

This report gives an overview of key observations from April 2023 to April 2024, observed best practices, observed areas of improvement, and recommendations for consideration.

## HISTORY

Court Watch programs exist throughout the United States. Some programs operate from community-based victim service agencies such as DAIS, while others exist as separate non-profit organizations. DAIS has maintained a Court Watch program on an intermittent basis since 2003. The program has been primarily staffed by DAIS Court Watch volunteers and DAIS Legal Advocacy Program staff. The most recent period of injunction hearing observations prior to the one summarized in this report occurred between 2021-2022. The Court Watch Report and findings are shared with the community including the Dane County Domestic Violence and Sexual Assault Community Coordinated Response Task Force of the Commission on Sensitive Crimes as well as the regular Dane County Circuit Court Judges' meeting and other community stakeholders.

[2] NOTE: THE TERMS "VICTIM" AND "SURVIVOR" WILL BE USED INTERCHANGEABLY THROUGHOUT THIS REPORT.

# 2023-2024 COURT WATCH SCOPE

The DAIS Court Watch program is specifically focused on Domestic Abuse and Harassment injunctions because the responsiveness of the court system in these hearings is so closely tied to victim safety. The Court Watch program does not have the capacity to observe hearings in other legal forums, such as criminal, family, and small claims courts because the DAIS Legal Advocacy Program does not have specific funding for an expansion of this nature.

## METHODS

During a twelve-month observation period between April 2023 and April 2024, DAIS Legal Advocacy Program volunteers and staff – hereafter referred to as *observers* – attended 814 injunction hearings. During this period, observers gathered both subjective and objective data. The objective information consisted of case demographics and outcomes while the subjective information spoke to observers' notes about judges' demeanors, courtroom safety, and trauma-informed, victim-centric best practices. Twenty-two Circuit Court judges were observed during the observation period, some of whom were substitute judges. The average number of injunction hearings per judge was thirty-seven hearings, with a range of four and seventy-two hearings per judge.

DAIS Legal Advocacy Program staff receive extensive and ongoing training regarding temporary restraining orders and injunctions, courtroom protocol, and trauma-informed advocacy.

Prior to beginning their observer roles, DAIS Court Watch Program volunteers also received training in these areas, which included:

- Completing the DAIS New Advocate Training (approx. twenty-six hours).
- Completing the DAIS Court Watch Training (approx. three hours), including an overview of important legal terms, types of restraining orders, and the process of obtaining an injunction.
- Completing at least six hours of practice observations with supervision from the DAIS Community Advocacy Manager.



The data collection tool (Appendix, pg. 52) that is used by observers was originally developed in 2003 and is derived from Wisconsin state statutes, Legal Advocates' concerns, and feedback from DAIS clients. The version used for observations during the 2023-2024 period included revisions made after the DAIS Legal Advocacy Program analyzed data from the 2021-2022 Court Watch period and presented the findings to community partners. Quantitative data and narrative comments from the forms were compiled and analyzed by the DAIS Community Advocacy Manager and DAIS Legal Advocates. Due to the program's limited capacity, observers did not review each temporary restraining order petition. However, retroactive review was conducted in certain cases to provide clarity on the demographics of the litigants, specific elements of the petition, or circumstances of a proceeding. Additionally, observers reviewed each granted injunction petition, to determine whether the petitioner requested a ten-year injunction. This additional information was collected from the Wisconsin Circuit Court Access database and from the Court Records room at the Dane County Courthouse. It is important to note that the names of the parties and their attorneys were not collected to ensure confidentiality and impartiality.

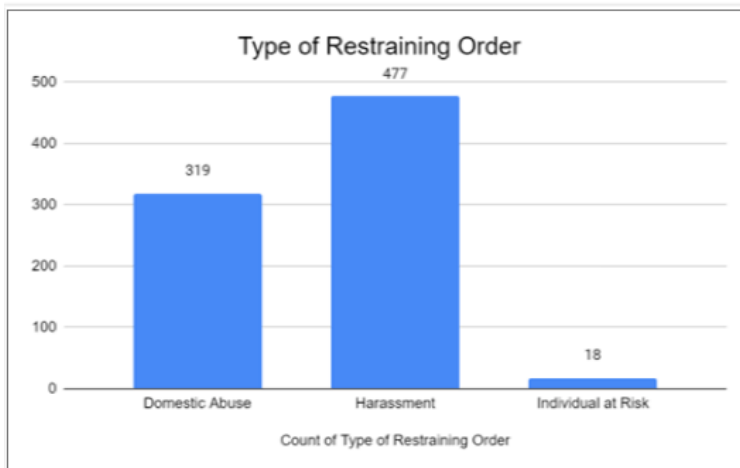
# FINDINGS

The key findings from the 2023-2024 Court Watch period include noted gender disparities between petitioners and respondents, an overwhelming majority of petitioners appearing pro se, the number of cases involving intimate partner violence, the impact on petitioners of having a service representative, and opportunities for future judicial training around the following issues: a) perpetuating myths about domestic violence, b) problematic judicial biases, c) inconsistencies around the handling of cases that involve children in common, d) greater understanding of lethality risk factors, and e) continued lack of consistency in courtroom protocols. The below section, **Objective Observations & Outcomes**, reflects an initial analysis of raw numerical data. In many instances, it is suggested that the reader reference **Best Practices, Observer Concerns, and Recommendations** for further discussion.

# OBJECTIVE OBSERVATIONS & OUTCOMES

814 injunction hearings were observed by the DAIS Court Watch Program. Of that number, 477 hearings (fifty-nine percent) were Harassment injunctions, 319 (thirty-nine percent) were Domestic Abuse injunctions, and eighteen (two percent) were Individual at Risk injunctions. It is worth noting that Individual at Risk and Child Abuse injunction hearings are often closed to the public due to the sensitive nature of these cases. Therefore, the DAIS Court Watch Program is unable to observe these types of restraining orders and report on their proceedings. However, Court Watch volunteers were permitted to stay in the court room for eighteen Individual at Risk injunction hearings, so the information gathered during those hearings is included in this report.

**CHART ONE: CASES OBSERVED BY TYPE OF RESTRAINING ORDER**



## LITIGANT DEMOGRAPHICS

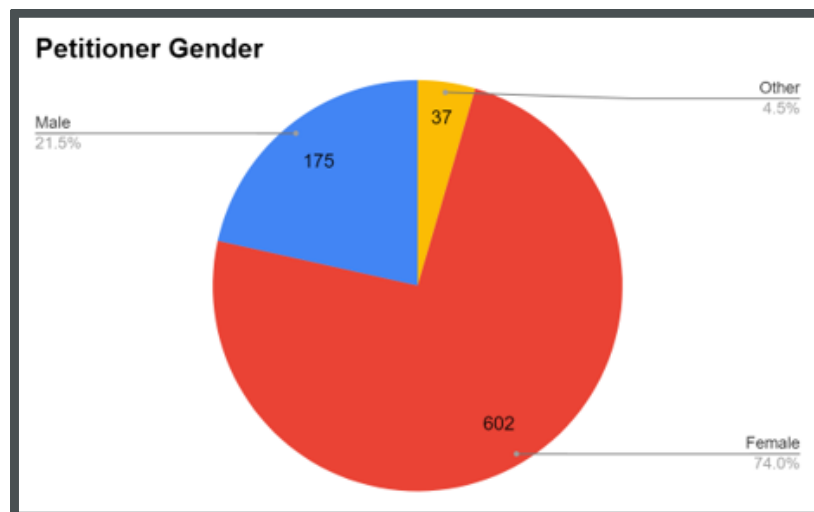
Of the 814 injunction hearings observed, seventy-four percent of petitioners were female [3] (602), twenty-two percent of petitioners were male (175), and in five percent of cases (thirty-seven cases), the petitioner identified as another gender identity, or the observer was unable to determine the gender identity of the petitioner. The gender demographics of the respondents in the observed hearings were sixty-seven percent male (548) and thirty-one percent female (254).

[1] THE DANE COUNTY COURTHOUSE ONLINE FILING SYSTEM ALLOWS PETITIONERS TO SELECT ONLY "MALE" OR "FEMALE" WHEN FILING RESTRAINING ORDER PETITIONS ELECTRONICALLY. SIMILARLY, THE WI CIRCUIT COURT SYSTEM DATABASE (CCAP) INCLUDES ONLY THE SAME TWO OPTIONS FOR GENDER. FOR THESE REASONS, IN THE DATA COLLECTION, OBSERVERS NOTED THE GENDER THAT IS IDENTIFIED ON THE COURT FORMS OR IN THE COURT ROOM, AND IN SOME CASES HAD TO ASSUME THE GENDER OF THE PARTIES BASED ON PRONOUNS, CLOTHING, SPEECH, NAMES, AND OTHER FACTORS. HOWEVER, THE DAIS LEGAL ADVOCACY PROGRAM RECOGNIZES THAT THERE ARE DIFFERENT GENDER IDENTITIES THAT ARE NOT REFLECTED IN THIS DATA.

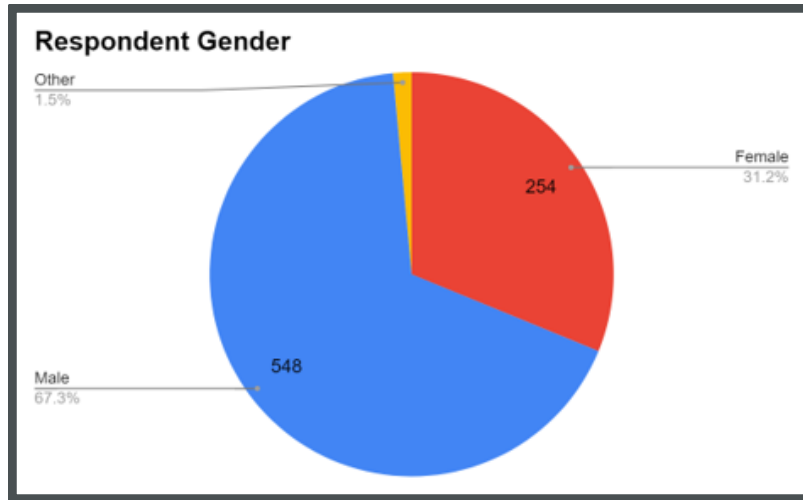
Sixty percent of petitioners (490) disclosed being in an intimate partner relationship with the respondent, and identified their relationship to the respondent as one of the following: 1) spouse or former spouse of the petitioner, 2) a person in a current or former live-in relationship with the petitioner, 3) a person with whom the petitioner has a child in common, or 4) a person with whom the petitioner has or had a dating relationship. Of the petitioners who were in an intimate partner relationship, thirty-three percent (131) were observed to have minor children in common with the respondent. This is the number of times children were explicitly discussed during the hearing; however, it is likely that the actual number of cases in which the parties shared a minor child is higher. Forty percent of cases (324) involved an individual with whom the petitioner was not in an intimate relationship currently or in the past.

Approximately eighty-seven percent of petitioners (708) were observed as self-represented or *pro se*. The number of *pro se* respondents was also eighty-seven percent (707). Thirteen percent of petitioners (106) had representation from an attorney and fifteen percent (125) were accompanied by a service representative/advocate (Wisconsin Statute §895.45) at the counsel table. Thirteen percent of respondents (107) had attorney representation.

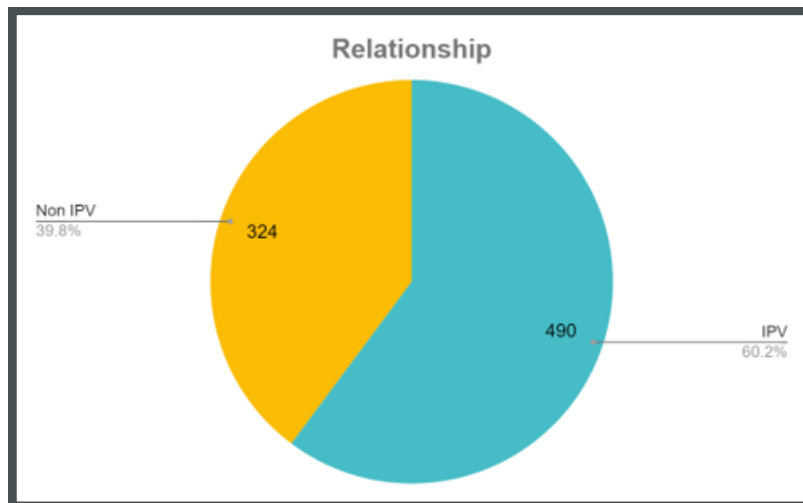
**CHART TWO: PETITIONER GENDER**



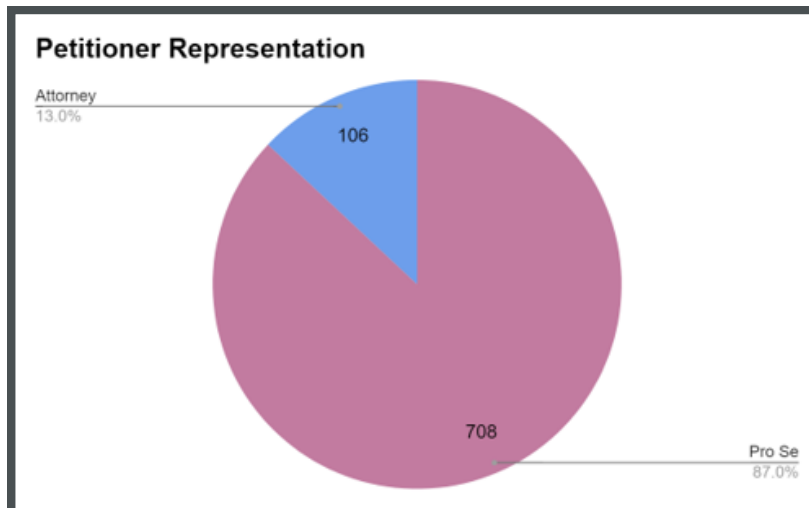
**CHART THREE: RESPONDENT GENDER**



**CHART FOUR: RELATIONSHIP BETWEEN PETITIONER AND RESPONDENT**



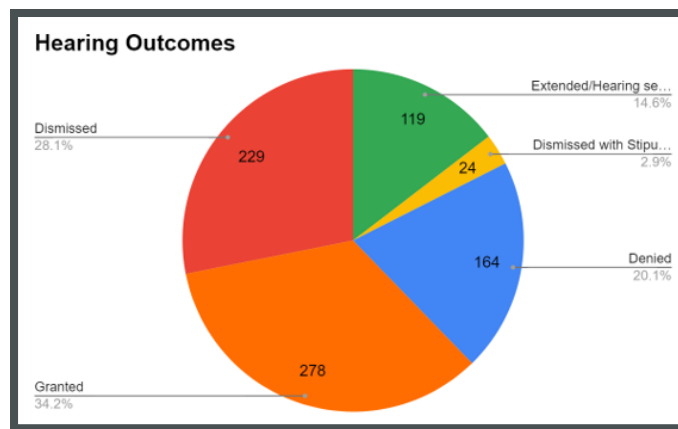
**CHART FIVE: PETITIONER REPRESENTATION**



## I. CASE OUTCOMES

Of the 814 hearings observed, thirty-four percent injunctions were granted (278), three percent (24) were dismissed by stipulation of the parties, twenty-eight percent (229) were dismissed, twenty percent (164) were denied, and fifteen percent (119) were extended.

**CHART SIX: HEARING OUTCOMES**



## II. CASES DISMISSED

Of the 228 cases that were dismissed, the judge clearly ordered the dismissal based on failure to prosecute in sixty-two percent (141) of the cases, meaning that the petitioner did not appear at the hearing. Twelve percent (twenty-eight) of the dismissed cases were due to lack of service, meaning the Sheriff's Department was unable to locate the respondent to personally serve them with the temporary restraining order and notice of injunction hearing. Eleven percent of cases (twenty-five) were dismissed at the petitioner's request. Three percent of cases (twenty-four) were dismissed by stipulation of the parties, meaning the parties came up with a written agreement to dismiss the injunction, typically with a no contact agreement.

## III. CASES DENIED

Twenty percent of cases (164) were denied by the judge for the following reasons: petitioner not meeting the requirements (seventy-five, or forty-six percent) failure to prove case (sixty-nine or forty-two percent), or for another reason (ten or six percent). In ten cases (six percent), the judge explicitly stated that they were denying the case with prejudice, meaning the court made a final determination on the merits of the case, and the petitioner may not file another petition on the same grounds. In the rest of denied cases, the judge did not indicate whether they were denying the injunction with or without prejudice. This information would be helpful for judges to state on the record, especially for *pro se* litigants, so they know whether they may refile with the same facts or not.

#### IV. CASES GRANTED

Thirty-four percent of injunctions (278) were granted. In seventy-one percent of granted cases (seventy-eight Domestic Abuse injunctions, 114 Harassment injunctions and six Individual at Risk injunctions), the judge granted the injunction for four years. Observers noted several times in both Domestic Abuse and Harassment injunctions that the order was granted for less than four years either due to the petitioner's request or at the judge's discretion. There were twelve Domestic Abuse cases and sixteen Harassment cases where the judge granted the injunction for two years.

One judge was observed several times to grant injunctions for two years so that the parties could have a "cooling off period" (*See "Observer Concerns"*). In at least two of these cases, there were serious lethality concerns testified to in the hearing. For example, one observer noted, "respondent threatened to kill himself in front of the petitioner" and "threatened to shoot [the] petitioner if [her] mom left [him]." In another case, the judge granted the injunction for two years despite the petitioner requesting a ten-year injunction, stating, "Let's start off with two years to see if things cool off."

There were six injunctions (two Domestic Abuse, three Harassment and one Individual at Risk) that were granted for three years, rather than four years. In one of the Domestic Abuse injunctions, the petitioner requested a four-year injunction, but the judge granted it for three years, and "[asked petitioner] why she is asking for four years when that was longer than their two-year relationship."

There were several cases where the judges' reasoning for issuing a shorter-term injunction was unclear to observers. This information would be helpful to state on the record, particularly for pro se litigants to understand if they could ask for an extension later.

Wisconsin Statute [§813.12\(4\)\(aj\)](#) requires that a judge grant only what the petitioner is requesting in Domestic Abuse injunctions. However, observers noted in twenty cases of granted Domestic Abuse injunctions (eighteen percent) that a judge did not explicitly ask the petitioner what they wanted them to order.

Similarly, Wisconsin Statute [§813.12\(4\)\(c\)](#) requires that a Domestic Abuse injunction be granted for the amount of time that the petitioner requests. On the "*Petition for a Temporary Restraining Order*", which is the form a petitioner fills out to request a Temporary Restraining Order, the petitioner can indicate whether they are asking for an injunction shorter than four years. However, because the forms can be confusing for pro se litigants, and because situations can change in between a Temporary Restraining Order being granted and an injunction hearing, it is best practice for judges to explicitly ask the petitioner how long they are asking that the injunction be ordered for.

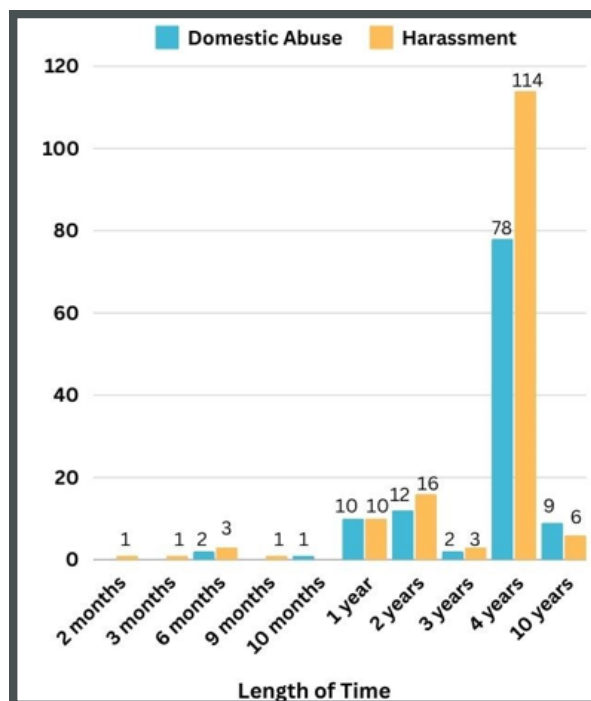
This statute was followed in most Domestic Abuse cases (eighty-seven percent or ninety-eight cases), however, there were fifteen cases (thirteen percent) in which observers noted the judge did not ask the petitioner how long they wanted their Domestic Abuse injunction to be in place, in contrast with WI Statute §813.12(4)(c). Granting the injunction for the time the petitioner requests is not statutorily required for Harassment cases, but judges followed this practice in 123 of the cases observed (eighty percent).

As previously mentioned, the overwhelming majority of petitioners (eighty-seven percent or 708 cases) appeared pro se at their injunction hearing. Only thirteen percent (106) had attorney representation. Similarly, only fifteen percent of petitioners (125) appeared with a service representative such as a DAIS Legal Advocate, compared to eighty-five percent (689) of petitioners appearing without the support of a service representative.

In observed cases where the petitioner had an attorney, injunctions were granted fifty-four percent of the time, meaning that in the observed cases, petitioners were seventy-four percent more likely to have their injunction granted when they had attorney representation.

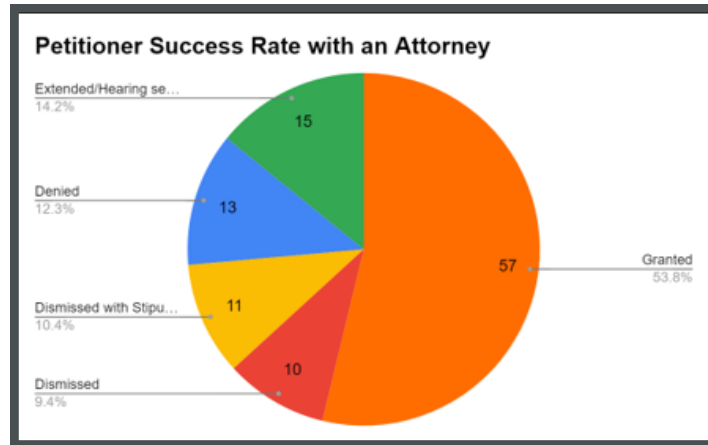
In observed cases where the petitioner had a service representative, injunctions were granted sixty-two percent of the time, compared to being granted twenty-nine percent without a service representative/advocate, meaning that of the hearings observed, petitioners were 114% more likely to have their injunction granted when they had a service representative with them.

**CHART SEVEN: LENGTH OF TIME FOR GRANTED INJUNCTIONS (DOMESTIC ABUSE AND HARASSMENT)**

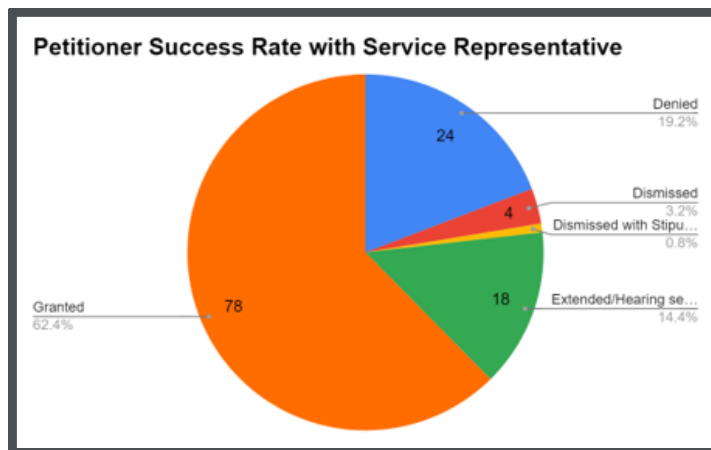




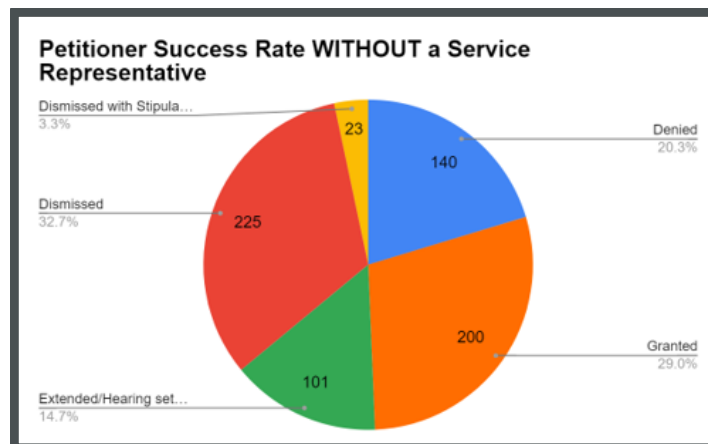
**CHART EIGHT: PETITIONER SUCCESS RATE WITH ATTORNEY**



**CHART NINE: PETITIONER SUCCESS RATE WITH A SERVICE REPRESENTATIVE**



**CHART TEN: PETITIONER SUCCESS RATE WITHOUT A SERVICE REPRESENTATIVE**



## V. TEN-YEAR INJUNCTIONS

Under Wisconsin Statute §813.12(4)(d)1, a judge may order an injunction be in place for up to ten years, if the court finds that there is a substantial risk that the respondent may commit 1st or 2nd degree intentional homicide or sexual assault against the petitioner. Court Watch volunteers retroactively collected data on whether petitioners checked the box on their “*Petition for Temporary Restraining Order*” indicating that they wanted their injunction granted for ten-years. Of the sixty-nine granted injunctions in which a petitioner requested a ten-year injunction, judges granted that request sixteen percent of the time (eleven cases). Additionally, there were four cases in which the petitioner did not originally ask for a ten-year injunction, but the judge felt it was warranted based on the facts presented during the hearing. Some of the noted reasons for granting the requested ten-year restraining order include, “Criminal complaint and petition show threats to kill [the petitioner]” and “Granted ten-year because petitioner testified about unwanted sexual text messages from respondent and risk of sexual assault.” In thirty-eight percent (twenty-six) of the cases, the petitioner asked for a ten-year injunction, but the judge did not mention it during the hearing (***See “Observer Concerns/Best Practices”***). There were also several cases in which the petitioner requested a ten-year injunction and the judge discussed it, however, they did not feel that the facts of the case warranted granting the request for a ten-year injunction. This took place forty-six percent of the time (thirty-two cases).

## VI. EXTENDED PETITIONS

In 119 hearings, the Temporary Restraining Order was extended in lieu of entering an injunction, often due to lack of service on the respondent (104 cases). In seventy-three percent of that subset of cases, the judge mentioned the option of service by publication, which means that in cases where all other service options have been exhausted, the petitioner publishes a notice in the major newspaper associated with the respondent’s residence to give the respondent adequate notice. There were also nine cases in which the judge mentioned a community resource, such as DAIS, in addition to discussing service by publication. In twenty-seven percent (twenty-eight) of the cases, the judge did not explicitly mention the option of service by publication, leaving twenty-seven percent of pro se petitioners with the question of how to proceed. There was one case in which the judge extended the Temporary Restraining Order out ninety days so that the parties could “work things out”, which is in direct contrast to Wisconsin Statute §813.12(3)(c), which prohibits a judge from extending a Temporary Restraining Order in lieu of ruling on the issuance of an injunction.

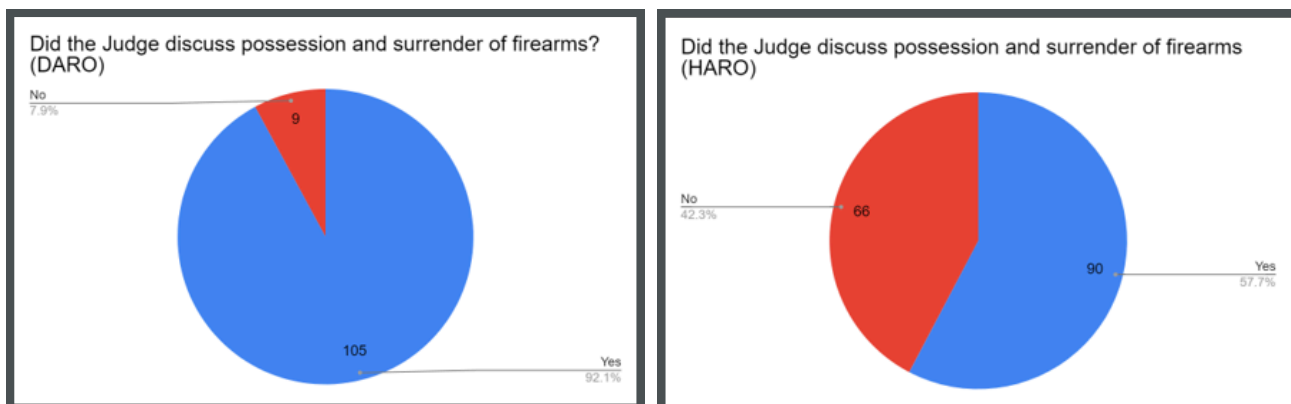
## VII. INTERPRETERS

Wisconsin Statute §885.38(3)(a) requires the court to appoint an interpreter if the court determines that a party to the case has limited English proficiency and needs an interpreter to understand the proceedings. Overall, the court was consistent in providing interpreters and allocated a similar amount of time to cases involving an interpreter. There were fifty-one cases where one or both of the parties spoke a language other than English and had an interpreter at the hearing that was provided by the court. For the most part, judges were very accommodating and made sure to speak clearly and slowly to ensure adequate space for accurate interpretation. There were no cases observed in which the court was unable to provide an interpreter.

## VIII. FIREARMS SURRENDER PROTOCOLS AND COURTROOM PROCEDURE

Wisconsin Statute §813.1285 requires a mandatory surrender of firearms for Domestic Abuse injunctions. The law also requires a surrender of firearms for Harassment injunctions if the court finds clear and convincing evidence that the respondent may use a firearm to cause physical harm to another person or endanger physical safety. While filling out the “*Petition for a Temporary Restraining Order*,” the petitioner can denote whether they believe the respondent should surrender their firearms. Judges will often use this important piece of information to decide if they should order a firearm surrender hearing.

Judges discussed firearm possession in ninety-two percent (105) of Domestic Abuse injunction hearings, which is an improvement from last years’ findings, which were eighty-nine percent. Although there is a higher burden of proof needed to order a firearm surrender in a Harassment injunction, having a conversation about firearms can help judges understand the totality of the situation and lethality risk factors that may be involved. Judges discussed firearm surrender in fifty-eight percent (90) of Harassment injunction cases (*see “Observer Concerns/Best Practices”*).

**CHART THIRTEEN: DISCUSSION OF FIREARMS**

## IX. CHILDREN IN COMMON

In twenty-seven percent (131), it was explicitly brought up by either the parties or the judge that there were children in common. In fifteen percent of these cases (nineteen), the petitioner asked for an exception in the injunction for communication concerning the children and the judge wrote something into the order. In nineteen percent (twenty-five) of cases, the petitioner did not ask for an exception regarding children, but the judge made the decision to add an exception regarding the children anyway. In some cases, it appeared to observers that the judge's decision to deny the requested injunction was made because the parties had children in common. One observer noted that the judge stated that they "ha[ve] seen cases where women use a restraining order to gain an advantage in family court." In another case, the judge stated, "I am always really reluctant when there is a family action to tell the party that they can't be near the other party." There were also some cases where judges were reluctant to grant an injunction due to a pending divorce action. One judge stated, "This is a marriage breaking apart... [the respondent is] venting his emotions", despite there being alleged damage to property, physical restraint of the petitioner and threatening text messages. *(See "Observer Concerns")*

## X. COURTROOM SAFETY

In most cases, Dane County court officials ensured the parties were kept apart and maintained a safe court room. In ninety-seven percent of cases where both parties were present, two bailiffs were either in the courtroom or coming in and out (to check people in or manage the hallway). In ninety-six percent of cases, bailiffs allowed the petitioner to leave the courtroom first while the respondent was held back, regardless of whether the injunction was granted or denied. Observers also noted many instances of bailiffs helping to explain processes to *pro se* litigants.

# BEST PRACTICES, OBSERVER CONCERNS & RECOMMENDATIONS FOR FUTURE PRACTICE

An important component of the DAIS Court Watch program is the anecdotal information collected by the observers regarding judges' behavior and comments in the court room. This information includes whether statutory requirements that are meant to offer certain protections for survivors are being followed and efforts are being made to move towards a more trauma-informed judicial response to intimate partner violence.

As individuals in a position of power, judges can either empower a survivor through their words and actions or cause a survivor to feel retraumatized by the court system. For many victims, an injunction hearing is their first and only experience with the legal system, thus the experience they have in court may impact whether they choose to seek support through law enforcement and/or the legal system in the future. Throughout the observation period, observers noted many times that judges made affirming comments to survivors that very well may have made them feel validated and heard by the legal system. Observers also noted some potentially concerning practices that could have re-traumatized survivors of intimate partner violence. This report will highlight examples of excellent trauma-informed responses from Dane County judges as well as areas for improvement and recommendations for best practices.

## ROLE OF SERVICE REPRESENTATIVE

Wisconsin Statute [§895.45](#) allows an adult who alleges they have been the victim of abusive conduct or are a victim of a crime to select a service representative from an organization or victim assistance program to attend hearings, depositions and court proceedings (both civil and criminal) with them. DAIS Legal Advocates are considered service representatives; therefore, victims of abuse have the right to have a Legal Advocate with them at court proceedings. In this role, Legal Advocates provide emotional support before, during and after a court proceeding. They can also sit next to a petitioner/respondent at the counsel table if they are not represented by an attorney. Additionally, a client may consult orally or in writing with their Legal Advocate, and the Legal Advocate may address the court if permitted to do so. However, DAIS Legal Advocates are not attorneys, so they cannot give legal advice or speak on behalf of a victim in court.

As mentioned previously, of the hearings observed, petitioners were 114% more likely to have their injunction petition granted when they had the support of a service representative. The DAIS Legal Advocacy team often receives feedback from survivors that indicates survivors feel more supported having a service representative next to them at the hearing. One survivor told their DAIS Legal Advocate, “I can’t thank you enough for your support and help through this. I’m so happy and feel like a weight is lifted off my shoulders.” Another survivor said, “At the beginning of this, I didn’t know where to go or what resources there were. You guys have been a huge help to where I am now. I know how to access resources and how many there are and who to go to for what. It has made this process so much easier.” [4] Additionally, anonymous survey data that is collected by Legal Advocates and entered into the DAIS database indicates that in 2023, ninety-nine percent of clients that received in-person legal advocacy services felt an increased sense of safety and support.

## **TRAUMA AND COURTROOM TESTIMONY**

In *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma*, Bessel Van Der Kolk, M.D. details how after a traumatic experience in which an individual is unable to utilize their body’s fight, flight or freeze response to escape danger, “the brain will keep secreting stress chemicals, and the brain’s electrical circuits continue to fire in vain. Long after the actual event has passed, the brain may keep sending signals to the body to escape a threat that no longer exists”[5]. For this reason, even when a survivor is in a seemingly “safe” environment, their body can have a trauma response that feels like the traumatic event is happening all over again. An environment like a court hearing, in which a survivor is forced to testify in detail about the abuse they experienced can cause memories to resurface, “which often return with all the vividness and emotional force of the original event”[6].

Seventy percent of adults (223.4 million people)[7] in the U.S. have experienced trauma at some point in their lives. Trauma is referred to as “an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual’s functioning and physical, social, emotional, or spiritual well-being”[8]. Testifying in a court room in front of strangers as well as the person who caused them harm, can re-traumatize the survivor and cause them to experience trauma responses such as intrusion, hyperarousal or disassociation.

[4] NOTE: THESE QUOTES HAVE BEEN EDITED SO AS NOT TO REVEAL ANY IDENTIFYING INFORMATION.

[5] BESSEL VAN DER KOLK M.D., *THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA* (NEW YORK, NEW YORK: PENGUIN BOOKS, 2015), PG. 54.

[6] JUDITH HERMAN, M.D., *TRAUMA AND RECOVERY: THE AFTERMATH OF VIOLENCE – FROM DOMESTIC ABUSE TO POLITICAL TERROR* (NEW YORK: BASIC BOOKS/PERSEUS, 1992, 1997, 2015), PG. 37.

[7] “HOW TO MANAGE TRAUMA”, THE NATIONAL COUNCIL FOR BEHAVIORAL HEALTH, 2022, [HTTPS://WWW.THENATIONALCOUNCIL.ORG/WP-CONTENT/UPLOADS/2022/08/TRAUMA-INFOGRAPHIC.PDF?DAF=375ATETBD56](https://www.thenationalcouncil.org/wp-content/uploads/2022/08/TRAUMA-INFOGRAPHIC.PDF?DAF=375ATETBD56)

[8] SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, “SAMHSA’S WORKING DEFINITION OF TRAUMA AND GUIDANCE FOR TRAUMA-INFORMED APPROACH,” TRAUMA AND JUSTICE STRATEGIC INITIATIVE (2012).

Additionally, “confronting abusers can be frightening, and challenges and clarifying questions from judges and defense counsel can make traumatized witnesses feel that they are on trial rather than their tormentors.”[9] These experiences may look like an overreaction to simple questions from a judge or an attorney, or not being able to remember specific details of an event. Many trauma survivors recall memories “not as coherent legal narratives but in a fragmented sensory and emotional traces: images, sounds and physical sensations”[10]. These normal trauma responses in court can “impact survivor testimony and thus the efficiency and credibility of judicial proceedings.”[11] It is crucial that judges and other courtroom personnel recognize these behaviors as a response to trauma instead of interpreting the behavior as the person being difficult, avoidant or aggressive. This approach acknowledges both the profound and widespread impact of trauma, ensuring that the courtroom is a space where everyone, traumatized or not, feels understood and supported. By fostering such an environment, the legal system can better serve survivors, providing them a space to share their stories without fear of re-traumatization.

DAIS Legal Advocates are available as part of their role in advancing the mission of DAIS, which is to empower those affected by domestic violence and advocate for social change, to facilitate conversations and offer judicial training to further improve victims/survivors’ experiences in legal proceedings and to promote trauma-informed literacy for legal system stakeholders. Anyone interested can contact the Community Advocacy Manager, Kianna Hanson, at 608-251-1237 ext. 376 or [kiannah@abuseintervention.org](mailto:kiannah@abuseintervention.org).

[9] JOHN CIORCIARI AND ANNE HEINDEL, “TRAUMA IN THE COURTROOM”, CAMBODIA’S HIDDEN SCARS (2011): 123-147.

[10] BESSEL VAN DER KOLK, M.D., THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA (NEW YORK, NEW YORK: PENGUIN BOOKS, 2015) PG. 178

[11] JOHN CIORCIARI AND ANNE HEINDEL, “TRAUMA IN THE COURTROOM”, CAMBODIA’S HIDDEN SCARS (2011): 123-147.

# BEST PRACTICES

*“The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate” (Canon 3A (3), Code of Conduct for United States Judges).*

## I. COMPASSION AND VALIDATION FROM COURT OFFICIALS

A former DAIS client shared with their Legal Advocate the immense relief and comfort they felt from feeling validated in the courtroom by the judge, despite their injunction being denied. They had gone into the court hearing feeling intimidated about the idea of speaking in front of a judge and their abuser about their trauma. The judge took an open and kind approach to the hearing; validating their experience while respectfully explaining that unfortunately, their situation didn't rise to the level of a Domestic Abuse injunction, but that they were welcome to come back to court if anything changed. A few kind, trauma-informed, and compassionate words from the judge allowed the victim to feel acknowledged, understood, and validated in an emotionally charged and intimidating environment.

For many victims of intimate partner violence, an injunction hearing is the first time they publicly speak on the abuse they've endured, and often the first time they verbalize it at all. The act of testifying forces victims to relive their trauma in a courtroom with their abuser and strangers present, which can lead to dissociation, emotional shutdowns, or reactions that stray from societal expectations of how a victim “should” behave. In these moments, court officials have the unique opportunity to offer compassion and validation, significantly reducing the trauma of the experience while creating a safer environment for victims to share their stories. Observers have noted several trauma-informed phrases used by judges, including, “I believe you,” “I respect what you are doing and your courage for coming forward,” and “Your testimony is credible to me.” These statements provide crucial validation and support, reinforcing the victim's sense of being heard and respected during a deeply vulnerable time.



Moreover, such empathy has a profound impact on a victim's trust in the criminal justice system and process and their willingness to report further incidents of abuse. One observer recounted how a judge reassured a petitioner by saying, "I don't want you to suffer in silence or put yourself at risk; the courthouse is always open." This kind of supportive language can immensely influence a victim's sense of safety and healing. Another judge was noted saying, "I believe your story and I found you completely credible. I am really sorry this happened to you, but a one-time incident will not satisfy the requirement of the statute, so I am denying the injunction. But, if it does happen again, please come back and refile, okay?" Even when a petitioner does not meet the burden of proof for their injunction to be granted, it can still be validating for the judge to acknowledge that the abuse was unacceptable and to affirm their belief in the victim's story.

Another way to practice compassion in the courtroom is by respecting pronouns and preferred names and ensuring that the court forms are more gender inclusive. According to the 2015 Transgender Survey, more than half (fifty-four percent) of transgender individuals experienced intimate partner violence in their lifetime[12]. Despite this statistic being greater than that of cis-gendered women (which, according to the Centers for Disease Control and Prevention is 1 in 3)[13], transgender and non-binary individuals may not be captured in the Dane County court forms. Due to a history of violence and oppression from the legal system, many transgender and gender non-conforming individuals are uncomfortable seeking support through the court system[14] and may be reluctant to file for a temporary restraining order. Some court officials may inadvertently assume a person's gender based on their appearance or legally given name during a hearing. To prevent misgendering and show respect to all individuals that come through the courthouse, court officials can ask for pronouns and preferred names at the start of the proceeding.

[12] SANDY JAMES, ET. AL., THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY, WASHINGTON D.C.: NATIONAL CENTER FOR TRANSGENDER EQUITY, 2015.

[13] "PREVENTING INTIMATE PARTNER VIOLENCE", CENTERS FOR DISEASE CONTROL AND PREVENTION, 2022, [HTTPS://WWW.CDC.GOV/VIOLENCEPREVENTION/PDF/IPV/IPV-FACTSHEET\\_2022.PDF](https://www.cdc.gov/violenceprevention/pdf/IPV/IPV-FACTSHEET_2022.PDF).

[14] REBECCA STOTZER, "LAW ENFORCEMENT AND CRIMINAL JUSTICE PERSONNEL INTERACTIONS WITH TRANSGENDER PEOPLE IN THE UNITED STATES: A LITERATURE REVIEW". AGGRESSION AND VIOLENT BEHAVIOR, VOL. 19, ISSUE 3 (2014): 263-277.

## II. UNDERSTANDING DYNAMICS OF DV (INCLUDING POWER AND CONTROL DYNAMICS)

The Duluth Model's Power and Control Wheel<sup>[15]</sup> and the Cycle of Domestic Abuse<sup>[16]</sup> (see Appendix) depict fundamental parts of understanding the complexities of domestic violence and intimate partner violence. While the Power and Control diagram describes tactics abusive partners use to keep survivors in a relationship, the Cycle of Domestic Abuse follows the life cycle of that relationship. By including these graphics, the DAIS Legal Advocacy Program intends to inform its readers and demonstrate the importance of understanding the dynamics of domestic violence in the courtroom. It is DAIS' belief that a clear understanding of the dynamics of domestic violence is crucial to executing justice and eradicating implicit and explicit bias in cases including injunctions.

Acts or threats of physical and sexual assaults are the most apparent forms of domestic violence and may be the first indication to a victim that there is a problem. However, regular use of more nuanced abusive behaviors such as coercion, intimidation, isolation, emotional abuse, and financial abuse makes up a larger system of abuse<sup>[17]</sup>. "Although physical assaults may occur only once or occasionally, they instill threat of future violent attacks and allow the abuser to take control of their partner's life and circumstances"<sup>[18]</sup>. Because the Power and Control diagram clearly depicts the patterns and tactics of abusive and violent behaviors, it is an essential model for identifying and understanding an abusive relationship, as well as the safety risk experienced by the victim. Only then, can we truly impart justice in restraining order cases.

These tactics of power and control ebb and flow throughout the different phases of an abusive relationship. As most relationships start, abusive relationships tend to begin with a "honeymoon phase". A victim is likely to be courted (romanced), fulfilled, and become attached, even entrenched in the relationship. Ultimately, the tension building phase ensues and the victim is put in a place of vulnerability and confusion. This phase may take quite a while, causing a number of survivors to reflect that they were in too deep before they even knew it. Finally, an explosive phase brings the ever-building tension to a head. This phase contains more explicit forms of violence and displays of power and control. Since it takes the average survivor seven attempts to successfully leave an abusive relationship<sup>[19]</sup>, the cycle usually repeats itself with a honeymoon phase filled with apologies, justification and/or minimization of their actions, and incentives for the survivor to stay.

[15] DOMESTIC ABUSE INTERVENTION PROJECT, POWER AND CONTROL WHEEL, ADAPTED BY DOMESTIC ABUSE INTERVENTION SERVICES (DAIS) AUGUST 2024.

[16] DOMESTIC ABUSE INTERVENTION SERVICES (DAIS), CYCLE OF VIOLENCE, 2024.

[17] DOMESTIC ABUSE INTERVENTION PROJECT, POWER AND CONTROL WHEEL, ADAPTED BY DOMESTIC ABUSE INTERVENTION SERVICES (DAIS) AUGUST 2024.

[18] DOMESTIC ABUSE INTERVENTION PROJECT, POWER AND CONTROL WHEEL, ADAPTED BY DOMESTIC ABUSE INTERVENTION SERVICES (DAIS) AUGUST 2024.

[19] SARAH LETRENT, "WHEN A FRIEND WON'T WALK AWAY FROM ABUSE", CNN, LAST MODIFIED JANUARY 10, 2013, [HTTPS://WWW.CNN.COM/2013/01/10/LIVING/FRIEND-DOMESTIC-ABUSE](https://www.cnn.com/2013/01/10/LIVING/FRIEND-DOMESTIC-ABUSE)

Because each person and their relationship are unique, the life cycle of abuse and tactics of control employed by the abuser will look different in each case. However, the preservation of power and control are universal. For example, these phases differ in length, meaning that honeymoon phases could last ten years or just mere months. Similarly, the explosion phase could eclipse one night or months at a time. It is likely that petitioners are pursuing restraining orders immediately after or during the explosion phase. While research shows that the most dangerous time for a victim begins upon leaving<sup>[20]</sup>, the strength of tactics used in the honeymoon phase proves to be very compelling. Wooing of the petitioner, making promises to change, scheduling appointments to meet with therapists, etc. are all examples of tactics employed to resolve a legal issue, manipulate the individual as well as parts of the system, and ultimately regain power and control over the victim.

There are many examples in this Court Watch cycle in which court officials employed best practices in restraining order hearings. The first and most broad example is when judges carefully examine testimony and evidence using the lens previously described. Taking the time to ask clarifying questions and screen for the existence of power and control should increase the accuracy of a restraining order decision. Furthermore, best practice would include bias checks that correct for initial judgements. For example, rather than denying a restraining order based on the perception that a pending divorce will be sufficient for the separation and de-escalation of an abusive relationship, best practice would be to grant an eligible restraining order with the understanding that the presence of power and control may lead to the continued cycle of abuse. One judge demonstrated an understanding of the power and control dynamics in domestic violence cases when they stated, "Control. It's an element of control and that leads me to grant [the injunction]".

Another best practice is recognizing and seriously considering singular instances of threats and acts of violence, especially when contextualized by a pattern of power and control. Survivors of domestic violence who have ongoing trauma from abuse, oftentimes do not tell their stories in a linear way and may testify about seemingly unimportant details while leaving out larger incidents that fit within the Domestic Abuse statute. Judges that understand the dynamics of domestic abuse and trauma responses will be able to ask questions to determine the context in which threats or violence occurred within the larger power and control dynamic.

[20] NATIONAL DOMESTIC VIOLENCE HOTLINE, "WHY PEOPLE STAY", 2024, [HTTPS://WWW.THEHOTLINE.ORG/SUPPORT-OTHERS/WHY-PEOPLE-STAY-IN-AN-ABUSIVE-RELATIONSHIP/](https://www.thehotline.org/support-others/why-people-stay-in-an-abusive-relationship/)  
[KH1]SOURCE? - CHANGE TO "OFTENTIMES/PERCENT OF TIME THAT PETITIONERS ARE PURSUING ROS"

Additionally, when judges have an understanding of how trauma responses can show up in court hearings, it demonstrates that they recognize that trauma impacts all areas of a survivor's life. Allowing a victim to take a break when they become overwhelmed, talk to their service representative if they have one, offering words of sympathy, rather than deeming them to be "less credible" for showing emotion in court, show that judges understand that trauma responses are normal in intimate partner violence relationships. A simple example is a judge that acknowledged that the questions that they were asking may be difficult to talk about, "I'm sorry to ask these tough questions but I need to have a record here". Another example is a judge who was very careful to explain their ruling and make sure that the petitioner was fully protected by the injunction saying, "I want to make sure your needs are being met".

When judges are familiar with the dynamics of domestic violence, they can be better equipped to determine credibility and unravel the complexities of an abusive relationship to make rulings that increase safety and empower survivors.

### **III. CLEAR AND CONSISTENT EXPECTATIONS AND EXPLANATIONS OF COURT PROCESSES AND PROCEDURES**

Clear and consistent practices are imperative for a trauma-informed court. There are two important factors in this conclusion. The former involves the fact that most petitioners and respondents in restraining orders are pro se. Since they do not have representation, this can lead to confusion of the court processes. The latter factor is how someone who has experienced trauma is impacted by a courtroom setting. If someone has been through a degree of trauma then the court processes can be a compounding factor that affects a) what they can understand about the process that day and in the future and b) how their testimony is delivered.

Clear and consistent practices involve explanation of court processes and procedures, allowing questions, validating survivors' experiences, explaining the court process in layman's terms, and ensuring that the survivors are being understood. Consistency also involves similar practices throughout all courtrooms. One example of this is that all judges have testimony taken at the same place (either from the counsel table or the witness stand) and cross examination is or is not an option for all courtrooms. That way service representatives, attorneys, petitioners, and respondents can be familiarized and prepared for the hearing regardless of whose courtroom they are in. Consistency in this regard is necessary to minimize re-traumatization for victims of IPV.[21]

[21] NEGAR KATIRAI, "RETRAUMATIZED "IN COURT," ARIZONA LAW REVIEW, VOL. 62. (2020): 88-120. [HTTPS://ARIZONALAWREVIEW.ORG/PDF/62-1/62ARIZLREV81.PDF](https://arizonalawreview.org/pdf/62-1/62ARIZLREV81.PDF)

A study in North Carolina documents the barriers survivors of intimate partner violence experience and explains that since judges only have a limited amount of time, the burden of proof is on the petitioner. Intimate partner violence is a pattern of behaviors and domestic violence restraining orders typically only prompt one. Judges typically use heuristics, part of which includes educated guesses. Judges who are better able to prompt petitioners and ask questions can retrieve more information to demonstrate a pattern of abuse rather than just one isolated incident.[22]

Some positive examples from the Dane County Circuit Court judges are as follows. One judge (without either party appearing) was still careful to cite statutes when explaining their decision to dismiss the injunction. Another example was a judge who carefully explained to a petitioner what service by publication was and what steps the petitioner would need to take to make sure that the respondent was served so the case could move forward. The last example was when a judge was patient and explained why they were making the ruling they were. They mentioned statutes and that they were dismissing the injunction without prejudice so if the petitioner wanted to file again, they could. They answered every question of the respondent as well who was also present. These are important examples of best practices that some judges exercised during these hearings.

#### **IV. SERVICE BY PUBLICATION AND DISCUSSING FIREARMS**

Petitioners in restraining order cases in which the respondent has not been personally served by the time of the injunction hearing have the option to request a fourteen-day extension of the temporary restraining order and set over of the injunction hearing to accomplish service. During this two-week time frame, a petitioner may utilize the appropriate Sheriff's Office to make additional personal service attempts. If due diligence toward personal service is unsuccessful and the petitioner submits to the court proof of service attempt(s), they may also pursue service by publication and mail, per Wisconsin Statute § 813.12(2)(a). Service by publication involves publishing a one-time legal notice containing information about the case proceedings in the newspaper that circulates in the city where the respondent was last known to reside. At the time of the set over injunction hearing, petitioners may then present proof of publication to the court, which may proceed with the hearing since the petitioner attempted to serve the respondent to satisfaction of the law.

[22] CHRISTINE AGNEW-BRUNE, KATHRYN MORACCO, ET. AL. "DOMESTIC VIOLENCE PROTECTIVE ORDERS: A QUALITATIVE EXAMINATION OF JUDGES' DECISION-MAKING PROCESSES", J INTERPERS VIOLENCE (2017).

While this process may seem relatively straightforward, it requires taking several steps and utilizing court forms that most *pro se* petitioners are unfamiliar with and often find overwhelming. Additionally, some judges explain this process to petitioners in detail while others merely mention it or describe it only minimally. For example, not all judges inform petitioners that instructions for this process are available in the Dane County Law Library inside the courthouse. Discrepancies in how judges present the service by publication option result in many petitioners not understanding how to utilize the process. This may result in the two-week TRO extension time frame passing without petitioners having completed the necessary steps for service by publication, which includes requesting proof of publication from the newspaper and submitting this proof to the court. If petitioners have not completed all steps, their TRO petition will be dismissed at the setover hearing due to lack of service. However, when judges take a moment to explain the service by publication option to *pro se* petitioners and inform them of available resources, such as the Law Library and DAIS, which can assist them with this process, petitioners have a better chance of proceeding with a setover hearing and having their injunction granted.

Observations in the 2023-24 court watch period revealed improvements compared to courtroom practices observed during the previous two observation periods. In the 2023-24 observation period, judges mentioned service by publication in seventy-three percent of cases extended due to lack of service, whereas in the 2021-22 observation period judges mentioned service by publication in sixty-nine percent of such hearings and in 2017-18 judges mentioned it in fifty-one percent of such hearings. One judge regularly explained service by publication in detail, making clear to the petitioner that the law allowed only a one-time TRO extension and hearing postponement, and stressed the importance of pursuing service by publication in a timely manner.

In cases where injunctions were granted, observers noted that many judges discussed the element of firearm surrender. When a judge grants a Domestic Abuse injunction, the respondent is prohibited from owning or possessing any firearms for the duration of the injunction, which is typically between one to four years, or up to ten years. The firearm restriction provision is discretionary for the court in harassment injunctions, and petitioners may request it if they discuss with the court their concerns regarding the respondent's possession of firearms. In the 2023-24 observation period, judges discussed firearm surrender in ninety-two percent of granted Domestic Abuse injunction cases, which was a slight improvement from ninety-one percent of such cases in the 2021-22 observation period. When judges discuss this provision, they ensure the measure of firearm surrender is in place for the petitioner, and DAIS recommends all judges continue this practice.

The judicial best practices of sharing instructions and resources for pursuing service by publication and discussing firearm surrender with both petitioners and respondents increase safety for survivors. Judges can greatly minimize confusion about the process of service by publication through the simple but effective practice of explaining that petitioners may seek assistance at the Dane County Law Library or, when appropriate, through service organizations such as DAIS. Firearm surrender is an injunction provision that has significant safety implications for IPV victims. Research shows that firearm surrenders decrease rates of IPV homicide by fourteen percent[23]. Improvements in judicial practices in these elements of injunction hearing proceedings have observable positive effects and are central to increasing overall survivor safety.

[23] CAROLINA DÍAZ, RACHEL KURLAND, ET. AL. "STATE INTIMATE PARTNER VIOLENCE-RELATED FIREARM LAWS AND INTIMATE PARTNER HOMICIDE RATES IN THE UNITED STATES, 1991 TO 2015", ANN INTERN MED, (2017).

# OBSERVER CONCERNS/ AREAS OF IMPROVEMENT

## I. PERPETUATING MYTHS ABOUT DOMESTIC VIOLENCE

As previously discussed, many of the Dane County judges did an excellent job ensuring survivors felt heard and validated in their courtroom. However, the DAIS Court Watch Program consistently observes certain judges who perpetuate myths about the dynamics of domestic violence. One such myth is the idea that there is a “cooling off period” in domestic violence cases, which starts when the survivor ends the relationship. This idea is problematic because it downplays the increased danger a survivor is in when they choose to leave their abusive partner. Leaving an abusive relationship is the most dangerous time for a victim/survivor: according to the National Institute of Justice Journal, seventy-five percent of homicide victims and eighty-five percent of women who had experienced severe but nonfatal violence had left or tried to leave in the past year[24]. Additionally, the idea of a “cooling off period” suggests that domestic violence is a consequence of poor anger management skills rather than an intentional choice to harm one’s partner using power and control tactics. When judges normalize violence and fail to recognize the increased danger a survivor is in when they leave a relationship, they may inadvertently put a victim’s safety or even life at risk.

Court Watch observers noted an additional concerning trend, namely the normalization of abuse during divorce proceedings. Although most divorces are difficult by any standard, the fact that a couple is ending their marriage does not excuse abusive behavior, such as physical, emotional or verbal abuse. In one hearing, despite hearing testimony about the respondent damaging the petitioner’s property, physically restraining the petitioner and sending text messages threatening the petitioner’s family, the judge stated, “this is a marriage breaking apart” ... “[the respondent] is venting his emotions” ... “[the parties] just can’t get along any longer.” This language dismisses a survivor’s experience of abuse and sends the message to the perpetrator that this kind of behavior is acceptable and understandable. Additionally, it fails to adhere to the Wisconsin statute which includes damage to personal property and impairment of physical condition in its definition of domestic abuse.

[24]CAROLYN REBECCA BLOCK, “HOW CAN PRACTITIONERS HELP AN ABUSED WOMAN LOWER HER RISK OF DEATH?”, NATIONAL INSTITUTE OF JUSTICE JOURNAL, ISSUE NO. 250 (2003): PG. 6.



## II. PROBLEMATIC JUDICIAL BIASES

At times during court observations, observers noted concerning statements and behaviors from judges that seemed to indicate bias. One such example is a case involving a Black female petitioner and a Black male respondent. When a party interrupted the other party to correct a detail of the testimony, the judge interjected stating, “Stop speaking if you are not spoken to. Someone is going through that door right there to jail if you speak out of turn.” The observer who witnessed this exchange noted that this was the only case involving a Black petitioner and respondent, and it was also the only time the judge threatened to send any parties to jail, despite there being other hearings in which parties interrupted each other. Wisconsin has the highest Black incarceration rate in the country[25], making this threat from a judge to send a Black male to jail for an interruption in a court hearing extremely concerning.

Another example of racial bias observers noted was the interpretation of African American Vernacular English (AAVE) when presented as evidence in cases. In one case, a petitioner, who was Black, presented text messages to show the abuse she had experienced. The judge became frustrated when she didn’t understand the language used in the text messages, but when the petitioner tried to explain the meaning, the judge said, “I’m not doing that. We’re done here. I read it and that’s not what I’m interpreting it as.” These text messages could have had key evidence to support the issuance of an injunction, but because the judge felt uncomfortable with AAVE, they decided to disregard the evidence being presented to them.

Additionally, there were cases in which judges minimized survivors’ experiences of abuse and made rulings that were in direct contrast of what the Wisconsin statute defines as Domestic Abuse or Harassment. For example, a judge denied a harassment injunction, stating, “I am denying the injunction because unwanted touching, kissing, or harassing text messages demanding explicit photos is not sexual assault.” This statement is not consistent with how Wisconsin Statute [§813.125](#) defines harassment.

[25] ASHLEY NELLIS PH.D. "THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS", THE SENTENCING PROJECT (2021): PG. 7

One factor under the Harassment statute is “sexual assault under §940.225”, which lists the different degrees of sexual assault under Wisconsin law, including third degree sexual assault, which includes sexual contact, which in its definition states, “Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant” (§940.225(5)(b)). The judge in this case explicitly stated behavior (unwanted touching, kissing, etc.) as their basis for denying the injunction, when this kind of behavior clearly falls under the Wisconsin statute’s definition of sexual assault. Statements such as these can be greatly retraumatizing for a survivor of abuse who, likely for the first time, had the courage to speak about what they had experienced, only to have it minimized and dismissed by an individual in a position of great power.

### III. HANDLING OF CASES WITH CHILDREN IN COMMON

Observers noted that judges in some hearings perpetuated another harmful myth about domestic violence: the idea that survivors, especially women, use restraining orders to gain an advantage in family court proceedings. One judge stated precisely that idea, saying “[I] have seen cases where women use a restraining order to gain an advantage in family court,” and because of this, chose to deny the injunction. Another judge stated, “I am always really reluctant when there is a family action to tell the party that they can’t be near the other party.” These theories are reminiscent of the myth of “parental alienation,” which are claims alleging that one parent, usually the mother, strategically displays “unjustified negativity aimed at the other parent. The purpose of this strategy is to damage the child’s relationship with the other parent and to turn the child’s emotions against that other parent.”[26] These claims are commonly used to discredit a mother alleging that the father has been abusive or is unsafe for the children. In reality, research shows that, “mothers’ claims of abuse, especially child physical or sexual abuse, increase their risk of losing custody, and that fathers’ cross-claims of alienation virtually double that risk.”[27]

This reality, along with the fallacy of false reporting, which only occurs between two to ten percent of the time,[28] suggests that survivors seek injunctions as a safety measure, not to gain any sort of advantage in family court. Additionally, under Wisconsin Statute §813.12(4)(aj), Judges may not dismiss or deny granting an injunction because of the existence of a pending action.

[26] KEN LEWIS, “PARENTAL ALIENATION CAN BE EMOTIONAL CHILD ABUSE.” NATIONAL CENTER FOR STATE COURTS TRENDS IN STATE COURTS (2020): PG. 46-51

[27] JOAN S. MEIER, “US CHILD CUSTODY OUTCOMES IN CASES INVOLVING PARENTAL ALIENATION AND ABUSE ALLEGATIONS: WHAT DO THE DATA SHOW?” JOURNAL OF SOCIAL WELFARE AND FAMILY LAW, VOLUME 42 (2020): PGS. 92-105

[28] DAVID LISAK, LORI GARDINIER, ET. AL. “FALSE ALLEGATIONS OF SEXUAL ASSAULT: AN ANALYSIS OF TEN YEARS OF REPORTED CASES”, VIOLENCE AGAINST WOMEN 16(12) (2010): PGS. 1318-1334

Another myth that observers noted when there are children in common, is that having a restraining order creates an unworkable barrier to co-parenting relationships. This is false – although a restraining order may complicate a family court order, many Dane County Judges write in exceptions to an injunction order, allowing for contact as permitted in the family court order. Many DAIS clients successfully obtain family court orders that align with their restraining order provisions, such as having exchanges occur through a third-party or at a police station, and urgent communication about the children to occur through a co-parenting app, such as “Our Family Wizard.”

#### IV. LETHALITY RISK FACTORS

Another area of improvement is the need for a greater understanding of risk factors that put victims at a higher risk for domestic violence homicide, particularly when deciding whether to grant ten-year injunctions. Wisconsin Statute [§813.12\(4\)\(d\)1](#) allows an injunction to be granted for a period of ten-years if the court finds that there is a substantial risk that the respondent may commit homicide or sexual assault against the petitioner. A restraining order is an important tool that a victim can use to achieve a greater sense of safety and security. For many victims of intimate partner violence, restraining orders are effective in reducing violence. For half of the women in a 2011 study, a restraining order stopped the violence completely, and for the other half, the restraining order significantly reduced violence and abuse.[29] Another study found that restraining orders are associated with reduced police incidents and emergency department visits during the duration of the order.[30] For these reasons, many victims who have experienced severe violence request their injunction to be in place for the maximum amount of time and request a ten-year injunction. There are many risk factors that put an individual at a higher risk of being killed by their intimate partner, including stalking, previous police contact, respondent’s threats to kill the petitioner or commit suicide, access to firearms, and strangulation.[31] Pregnant people are also at an increased risk of homicide. A 2022 study found that homicide is the leading cause of death for pregnant women in the United States.[32] Unfortunately, observers noted many times in which judges denied petitioner’s requested ten-year injunction, despite testimony and evidence of lethality risk factors. One observer noted,

[29] TK LOGAN AND ROBERT WALKER, “CIVIL PROTECTIVE ORDERS EFFECTIVE IN STOPPING OR REDUCING PARTNER VIOLENCE”, CARSEY INSTITUTE, UNIVERSITY OF NEW HAMPSHIRE (2011).

[30] CATHERINE KOTHARI, KARIN RHODES, ET. AL. “PROTECTION ORDERS PROTECT AGAINST ASSAULT AND INJURY: A LONGITUDINAL STUDY OF POLICE-INVOLVED WOMEN VICTIMS OF INTIMATE PARTNER VIOLENCE”, J INTERPERS VIOLENCE, (2012).

[31] JACQUELINE CAMPBELL, DANIEL WEBSTER, JANE KOZIOL-MCLAIN, ET AL, “RISK FACTORS FOR FEMICIDE IN ABUSIVE RELATIONSHIPS: RESULTS FROM A MULTISITE CASE CONTROL STUDY,” AMERICAN JOURNAL OF PUBLIC HEALTH, 2003;93(7):1089-1097.

[32] REBECCA LAWN, KARESTAN KOENEN, “HOMICIDE IS A LEADING CAUSE OF DEATH FOR PREGNANT WOMEN IN US”, BMJ, 2022: 379

“Petitioner stated that respondent had pulled knives out on her many times and threatened to kill her and her unborn baby (she is pregnant). He’s stalking her by tracking her without her consent and has access to firearms. Despite these lethality risks, the judge did not discuss the ten-year, even though it was checked in the petition.”

Another observer noted, “Past strangulation, threats to kill, and the petitioner requested a ten-year injunction in her petition, however, [the] judge did not discuss [the] ten-year.” It is unclear why many Dane County judges are reluctant to grant ten-year injunctions, but the DAIS Legal Advocacy Program would recommend judges familiarizing themselves with the Danger Assessment tool created by Jacqueline Campbell[33], which can be found in the appendix of this report and use this tool when determining whether there is a risk of homicide present.

## **V. LACK OF CONSISTENCY**

An ongoing concern noted by observers is the lack of consistency in how injunction hearings are conducted. For trauma survivors, knowing what to expect at court proceedings can improve their experience during an injunction hearing, which as discussed, is often re-traumatizing. DAIS Legal Advocates work hard in their role to ensure that survivors are as prepared for their hearing as possible, by explaining the order that their testimony will be heard, how to submit evidence, what kind of evidence is admissible, etc. However, this can be a challenge when the seventeen circuit court judges in Dane County all handle cases slightly differently. While this is to be expected to a certain extent, there are several inconsistencies noted by observers that may be harmful to victims/survivors of intimate partner violence.

Some examples of inconsistencies include whether the parties are required to testify from the witness stand or are permitted to stay at the counsel table. Having a standard requirement for testimony would be helpful when preparing victims for court. Additionally, some judges do not require testimony from petitioners in cases where the respondent does not appear at the hearing and consider the statement of facts in the petition for a temporary restraining order to be sufficient, whereas others do require additional testimony. Another inconsistency is the formality with which the hearing is conducted – some judges frame the injunction hearing as an informal discussion with the parties, whereas others expect formal legal arguments and presentation of evidence even from pro se litigants. The DAIS Legal Advocacy Program does not recommend one way of conducting hearings over another, however, having a consistent process that is routinely followed is helpful for victims/survivors of domestic violence, particularly if they don’t have counsel.

[33] JACQUELINE CAMPBELL, DANIEL WEBSTER, JANE KOZIOL-MCLAIN, ET AL, “RISK FACTORS FOR FEMICIDE IN ABUSIVE RELATIONSHIPS: RESULTS FROM A MULTISITE CASE CONTROL STUDY,” AMERICAN JOURNAL OF PUBLIC HEALTH, 2003;93(7):1089-1097.

## FIREARM SURRENDER SPECIFIC RECOMMENDATIONS

In the next observation period, the DAIS Court Watch Program will look closer at firearm surrender hearings. This new focus is based on anecdotal information from DAIS Legal Advocates and DAIS clients about how firearm surrender laws work in practice. Under Wisconsin Statute §813.1285(3)(a)1.c., a respondent who has been ordered to surrender their firearms, may turn them over to the Sheriff's Department, or a third-party, which is any person who is not prohibited from owning firearms and who appears at the firearm surrender hearing. Unfortunately, there are some loopholes in firearm surrender laws, and because of this the DAIS Legal Advocacy Program conducted research to see how these laws are practiced in other Wisconsin Counties.

There was a pilot program studying the implementation of firearm surrender programs in Outagamie, Sauk, Waushara, and Winnebago counties in 2010 and 2011. Research shows that firearm surrenders decrease rates of intimate partner violence homicide, and it should be considered that some strategies may be more effective than others. In this study, it was reported that ninety-seven percent of Domestic Abuse restraining orders included a court mandated firearm surrender. Surrenders to a third party also occurred frequently. In these counties, the third party consistently showed up to the hearing as required by statute and background checks were frequently ordered to be conducted by the Sheriff's department.[34] According to information gathered by the DAIS Legal Advocacy Program from the Dane County Sheriff's Office, the Sheriff's Office conducts background checks for third parties when it is ordered by the judge as part of the firearm surrender, however, they rarely receive court orders for these background checks. Additionally, under Wisconsin Statute §813.1285(4), if a respondent decides to surrender their firearms to a third party, rather than the Sheriff's Office, that third party must be present at the hearing. Despite this statutory requirement, DAIS Legal Advocates have observed firearm surrender hearings in which the judge did not require the third party to be present.

The DAIS Legal Advocacy Program recommends the following based off observations in Dane County and the pilot program study conducted in other Wisconsin counties:

- 1) Consistency in practice should be utilized throughout the circuit court. This involves consistently scheduling firearm surrender hearings when there is concern of gun ownership by the respondent.
- 2) Consistently ordering background checks for third parties in cases where firearms are surrendered to a third party. Additionally, the third party must also be present at these hearings. Consistency in practices involving the third party is necessary for thorough and accurate practices.

[34] STEVEN G. BRANDL PH.D. "AN EVALUATION OF THE FIREARM SURRENDER PILOT PROJECT IN WISCONSIN: FINAL REPORT." UNIVERSITY OF WISCONSIN-MILWAUKEE (2012).

# FUTURE GOALS

The next observation cycle of the DAIS Court Watch Program starts in October of 2024. The Legal Advocacy Program, with consultation of an advisory group consisting of other victim service representatives (Freedom Inc., Project Respect, RCC Sexual Violence Resource Center and UNIDOS WI), has identified future research goals which will be incorporated into the next observation period. The first goal is to evaluate racial bias in the courtroom. Anecdotal information gathered from advocates and clients, as well as state and nationwide data, suggest that there are vast racial disparities across all aspects of the US legal system. Because of this concern, the DAIS Legal Advocacy Program will track data from a small sample size of injunction hearings that are attended with a service representative from the advisory group organizations to identify whether there is a correlation between the race of the petitioner and the result of the injunction hearing. The reason the DAIS Legal Advocacy Program has decided to have service representatives track this information rather than Court Watch observers, is because observers would have to make assumptions about petitioners' race, because that information is not documented on court forms.

Additionally, the DAIS Legal Advocacy team has found that there are discrepancies across firearm surrender hearings, specifically whether judges order background checks for third parties, or require that third parties appear at firearm surrender hearings, therefore the Court Watch Program will be observing a number of firearm surrender hearings to obtain data in this regard.

The final change to the DAIS Court Watch Program is that **in the next report (2025), judges' names will be associated with the quotes stated in the Court Watch Report.** Historically, DAIS has named the judges in the report but saw retaliatory practices on clients as a result. However, starting in the next court watch cycle, judges' names will be included. This decision is based on feedback from the DAIS Court Watch Advisory Group as well as other legal stakeholders expressing the need for accountability when there are judges causing harm to survivors of sensitive crimes. It is also important to praise the judges who consistently make an effort to support survivors through their words, actions and demeanor. Anyone that has questions or concerns about this change is welcome to reach out to the DAIS Community Advocacy Manager, Kianna Hanson, at [kiannah@abuseintervention.org](mailto:kiannah@abuseintervention.org) or (608) 251-1237 ext. 376.

# CONCLUSIONS AND RECOMMENDATIONS

In summary, the 2023-2024 DAIS Court Watch period identified the following key findings:

- Noted **gender disparities** among petitioners and respondents. Seventy-four percent of petitioners were female, and sixty-seven percent of respondents were male.
- An overwhelming majority of petitioners were *pro se* (eighty-seven percent), meaning they did not have attorney representation.
- **Sixty percent** of injunction hearings were between parties who were in an intimate partner relationship.
- Petitioners who had accompaniment from a **service representative** were **114%** more likely to have their injunction granted.
- Opportunities for **future training** and understanding around the following issues: a) perpetuating myths about domestic violence, b) problematic judicial biases, c) inconsistencies around the handling of cases that involve children in common, d) greater understanding of lethality risk factors, and e) continued lack of consistency in courtroom protocols.

The 2023-2024 Court Watch report makes the following recommendations:

1. Ongoing training of all judges and court personnel regarding the dynamics of intimate partner violence and trauma-informed practices. Supreme Court Rule 32.04 requires that judges complete 60 credits of Judicial Education programs in each 6-year period, many of which offer topics related to domestic violence. The DAIS Legal Advocacy Program would recommend that judges take advantage of these training programs, as well as engage with domestic abuse advocates to increase their understanding of intimate partner violence.
2. Follow consistent procedures for injunction hearings, including but not limited to, how evidence is expected to be submitted and presented, the order in which hearings will be called, the handling of ten-year injunctions and service by publication, and cross-examination procedures.
3. Increased understanding of lethality risk factors when making decisions about the ten-year injunction by familiarizing with the Jacquelyn Campbell Danger Assessment<sup>[35]</sup>, which can be found in the appendix of this report.
4. Improved firearm surrender practices, including ordering background checks for third party surrenders and requiring third parties be present at firearm surrender hearings.

[35] JACQUELINE CAMPBELL, DANIEL WEBSTER, JANE KOZIOL-MCLAIN, ET AL, "RISK FACTORS FOR FEMICIDE IN ABUSIVE RELATIONSHIPS: RESULTS FROM A MULTISITE CASE CONTROL STUDY," AMERICAN JOURNAL OF PUBLIC HEALTH, 2003;93(7):1089-1097.

The DAIS Legal Advocacy Program would like to commend the judges who demonstrated exemplary conduct and made the voices of victims/survivors heard in their court rooms. For the Dane County Court system to provide an effective, meaningful response to victims/survivors, it is important that judges have a strong understanding of and do ongoing continued education on the dynamics of domestic violence and its effects. The primary objective of the DAIS Court Watch Program and the Legal Advocacy Program is to improve the experience of victims of intimate partner violence who seek protection in the judicial systems, therefore the DAIS Legal Advocacy Program is committed to continuing to advocate for the voices of victims/survivors in the courtroom.

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## ACKNOWLEDGEMENTS

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# APPENDIX

<b>DATA COLLECTION TOOL.....</b>	<b>43</b>
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**2023-2024 Court Watch**

**Date:** \_\_\_\_\_ **Observer:** \_\_\_\_\_  
**Judge:** \_\_\_\_\_ **Case Number: 20** \_\_\_\_ **CV** \_\_\_\_\_  
**Time spent on case: start** \_\_\_\_ **end** \_\_\_\_ **Min** \_\_\_\_

**PETITIONER**

Present  Absent  
 In Custody  
 Via Zoom/Telephone

Male  Female  
 Other \_\_\_\_\_

Adult at Risk

Represented  
 Yes  No  
 Service Representative

Interpreter  
 Language \_\_\_\_\_

**Type of TRO**

Domestic Abuse  
 Harassment  
 Individual at Risk

**RELATIONSHIP\***

IPV  
 IPV with children  
 Non IPV

*\*An intimate partner is any of the following: a) spouse, b) former spouse, c) person in a current or former dating relationship, d) current or former live-in relationship, e) a person with whom the petitioner has a child in common*

**RESPONDENT**

Present  Absent  
 In Custody  
 Via Zoom/Telephone

Male  Female  
 Other \_\_\_\_\_

Adult at Risk

Represented  
 Yes  No  
 Service Representative

Interpreter  
 Language \_\_\_\_\_

**Was the injunction:**

- Dismissed**
- with prejudice  without prejudice
- petitioner's request
- lack of service
- no petitioner/failure to prosecute
- stipulation

- Denied**
- with prejudice  without prejudice
- doesn't meet requirements
- failure to prove case
- other \_\_\_\_\_

- Extended** (lack of service) or other: \_\_\_\_\_
- Did judge mention service by publication?
- Did judge mention service by mail?
- Did judge mention a community resource?

- Granted** (length of time: \_\_\_\_)
- Granted by default:**
- Respondent was served but did not appear
- Petitioner filed proof of service by publication

**If the injunction was granted, did the petitioner request a 10-year restraining order in their petition?**  
**Please check the courthouse computers**  Yes  No  NA

- Converted from Domestic to Harassment Injunction**
- At the request of the parties (stipulation)  At the suggestion of the respondent
- At the suggestion of the judge

**STATUTE & LAW: Did the Judge:**

Y/N/NA

- deny the petition base decision on amount of time since last incident of abuse
- dismiss an injunction because of another court action
- extend the TRO in lieu of issuing an injunction (for a reason other than lack of service)
- discuss issuing the injunction for 10 years. If so, was it granted?  Yes  No
- discuss possession and surrender of firearms

**\*\*If granted,**

Did the Judge ask the petitioner what they wanted the injunction to order?  Yes  No  N/A

Did the Judge ask the length of time they would like the injunction to last?  Yes  No  N/A

Did the Judge grant only what the petitioner asked for?  Yes  No  N/A

Did the Judge explicitly explain the order to the parties?  Yes  No  N/A

*\*\*Only select "N/A" if the injunction was not granted*

**CHILDREN IN COMMON:**

**Did P ask the Judge for an exception to the injunction for communications concerning the children?**

Yes  No  N/A If no, did the Judge write an exception anyway?  Yes  No

**How did the Judge deal w/ the issue of children in common? (Check all that apply)**

Didn't write anything about it in the order

Wrote "except as ordered by family court" or something similar

Talked to the parties about how to set up communication (3<sup>rd</sup> party, email, etc)

Wrote in a specific placement order

**JUDGE'S BEHAVIOR AND STATEMENTS:**

Findings: reason given by Judge to dismiss/grant the injunction:

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**\*\*\*Courtroom Safety:**

Were two bailiffs present in the courtroom at the time of the hearing?  Yes  They were in and out  No  N/A

Was the petitioner allowed to leave the courtroom first?  Yes  No  N/A

*\*\*\*Only select "N/A" if the hearing did not happen or if only one party attended the hearing.*

Additional Comments/Best Practices/Judicial Manner/Quotes:

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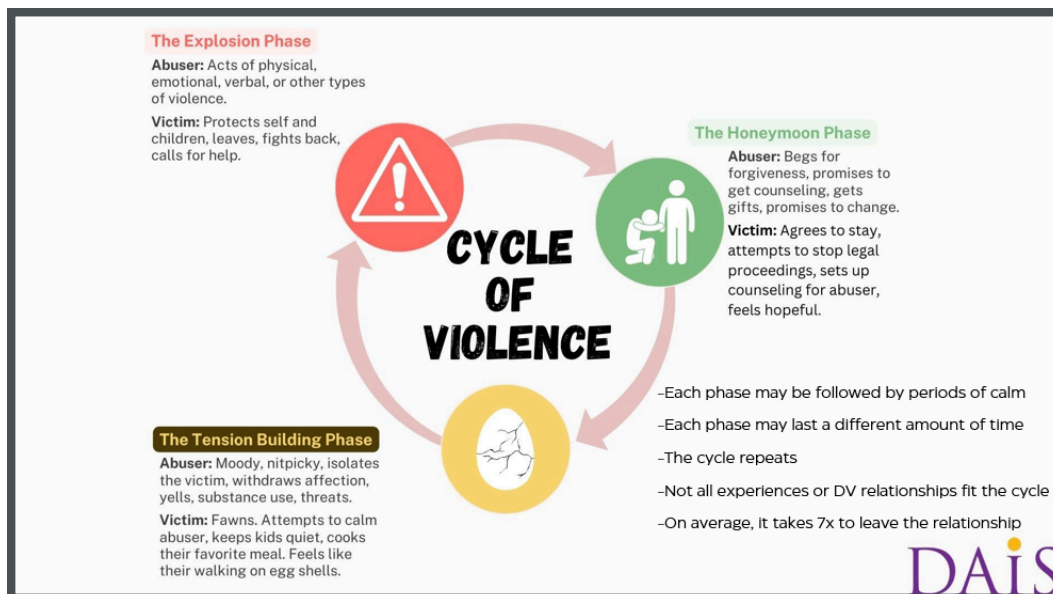
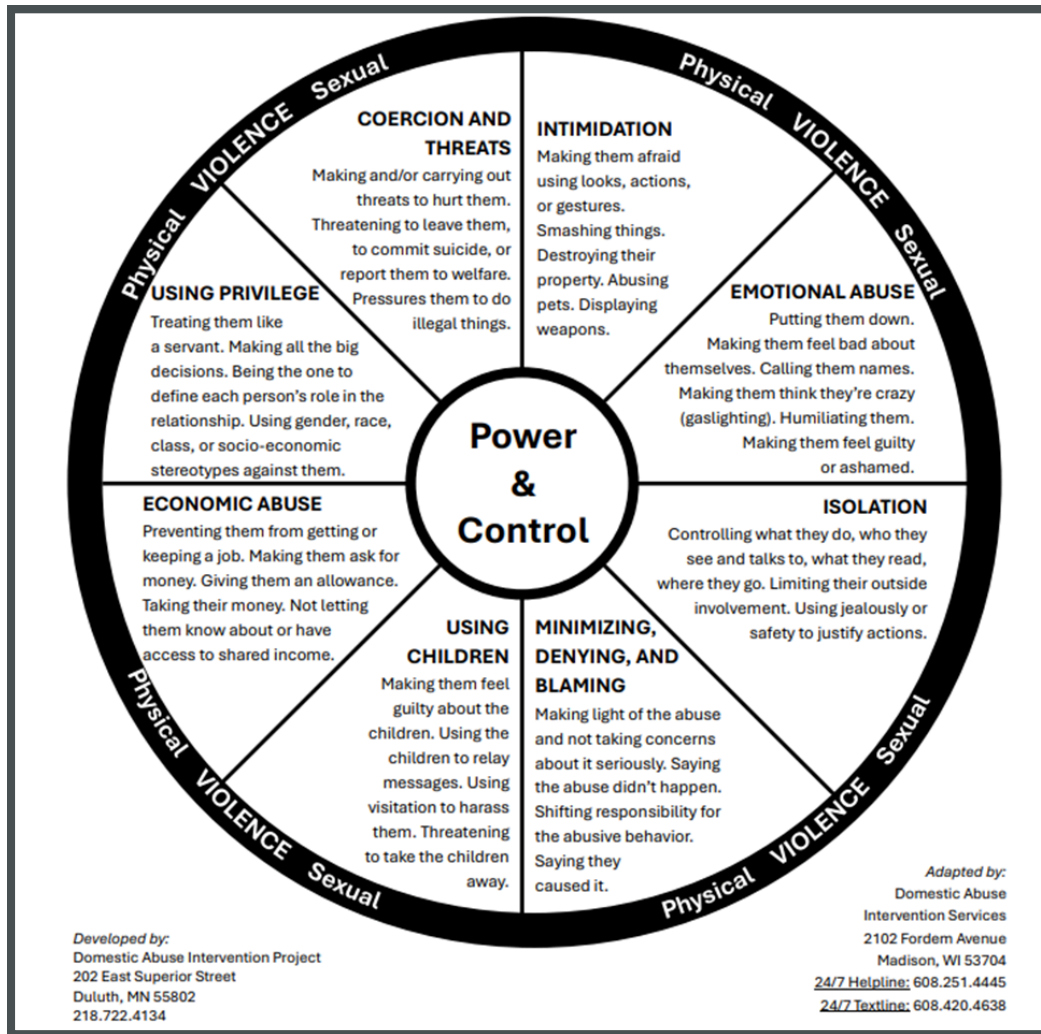
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## DANGER ASSESSMENT

Jacquelyn C. Campbell, PhD, RN  
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 www.dangerassessment.com

Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation.

Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones, miscarriage
4. Threat to use weapon; head injury, internal injury, permanent injury, miscarriage
5. Use of weapon; wounds from weapon

(If any of the descriptions for the higher number apply, use the higher number.)

Mark **Yes** or **No** for each of the following.

("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

Yes	No		
		1.	Has the physical violence increased in severity or frequency over the past year?
		2.	Does he own a gun?
		3.	Have you left him after living together during the past year?
		3a.	(If have <i>never</i> lived with him, check here ____)
		4.	Is he unemployed?
		5.	Has he ever used a weapon against you or threatened you with a lethal weapon?
		5a.	(If yes, was the weapon a gun? ____)
		6.	Does he threaten to kill you?
		7.	Has he avoided being arrested for domestic violence?
		8.	Do you have a child that is not his?
		9.	Has he ever forced you to have sex when you did not wish to do so?
		10.	Does he ever try to choke you?
		11.	Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, "meth", speed, angel dust, cocaine, "crack", street drugs or mixtures.
		12.	Is he an alcoholic or problem drinker?
		13.	Does he control most or all of your daily activities? (For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car?
			(If he tries, but you do not let him, check here: ____)
		14.	Is he violently and constantly jealous of you?
			(For instance, does he say "If I can't have you, no one can.")
		15.	Have you ever been beaten by him while you were pregnant?
			(If you have never been pregnant by him, check here: ____)
		16.	Has he ever threatened or tried to commit suicide?
		17.	Does he threaten to harm your children?
		18.	Do you believe he is capable of killing you?
		19.	Does he follow or spy on you, leave threatening notes or messages on answering machine, destroy your property, or call you when you don't want him to?
		20.	Have you ever threatened or tried to commit suicide?
		Total "Yes" Answers	

**Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.**

## INSTRUCTIONS FOR SERVICE BY PUBLICATION RESTRAINING ORDERS

WI §813.12(2)(a) allows a petitioner to serve the respondent by publication if a judge reschedules an injunction hearing and an affidavit is filed stating that service by the sheriff was unsuccessful. The petitioner must publish the petition as a class 1 notice (meaning one time in the newspaper) in the newspaper where the respondent is most likely to be living. The petitioner must also mail or fax a copy of the petition if the mailing address or fax number is known.

The steps for Service by Publication are as follows:

1. The petitioner is given CV-408 “Order Extending Time for Hearing” at the end of a hearing. This form is signed by the judge and states the day and time for the next hearing (usually in 14 days).
2. The petitioner must complete CV-417 “Publication Notice – Domestic Abuse” OR CV-505 “Publication Notice – Harassment” depending on the type of temporary restraining order. This form should be filled out and given to the newspaper who publishes in the county where the petitioner believes the respondent to be living.
3. If the respondent lives in Dane County, the petitioner can email the Publication Notice to the WI State Journal at [legalmni@madison.com](mailto:legalmni@madison.com). There is a fee associated with service by publication. The WI State Journal accepts an approved “Petition for Waiver of Fees and Costs” if the petitioner cannot afford the publication fee, however not all newspapers do.
4. The petitioner must mail the “Petition for a Temporary Restraining Order” to the respondent’s last known address and complete form CV-506 “Publication Affidavit of Mailing or Facsimile”. This form must be notarized and filed with the court.
5. The newspaper will email or mail “Proof of Publication”, which must be filed with the court prior to the next hearing.

DAIS Legal Advocates are available to assist petitioners with service by publication and can be reached at (608) 251-4445.