



Sexual assault and the courts

By Dawn Dougherty, Court Monitoring Coordinator

For sexual assault survivors, the journey from assault to reporting to arrest and conviction is fraught with peril. If a victim reports an assault to the police, there is no guarantee her perpetrator will be prosecuted. National statistics show the case is more likely than not to be dropped for lack of evidence - among reported rapes, approximately half or more, depending on jurisdiction, are rejected for charging by prosecutors. Even if the case does make it to trial, the victim may be faced with jurors who feel she is responsible for the assault or who find it hard to believe the well-dressed, well-spoken defendant could be a rapist. According to a 1999 National Center for Policy Analysis report, the overall probability that a rapist will be sent to prison for his crime is a scant 16% and that rapist will serve on average just 128 days.

Given these facts, it is not surprising that many survivors express little confidence in the system and even ask whether it is worth reporting the crime at all. There has been progress in the past twenty years in the prosecution of rape cases thanks to new and innovative approaches in evidence collection and prosecution. Sexual Assault Nurse Examiner (SANE) programs employ RNs trained in sexual assault dynamics to conduct rape evidentiary exams, and Sexual Assault Resource Teams (SART) conduct multi-disciplinary case review and policy development in seven Minnesota counties.

Hennepin County data compares well with prosecution rates across the country. In 2004 WATCH reviewed 60 Hennepin County criminal sexual conduct cases and found a 79% conviction rate. Of these 60 cases 36% had charges reduced. In May 1998 the U.S. Department of Justice tracked rape charges in the nation's 75 largest counties and found 52% of the defendants in 586 cases were convicted of rape and 14% were convicted of some other crime, either at trial or through plea negotiations.

As both samples suggest, plea negotiations are a critical tool in the successful prosecution of rape cases. Many rape victims, especially children, are better served by plea bargains than by trials. An assailant's admission of guilt, even to a lesser charge, is helpful to many victims. In addition, pleas prevent painful recounting of the rape during trial and the possibility of acquittal by a jury.

In cases where substantial evidence of force exists, outcomes improve. Three cases WATCH has recently monitored are summarized below. They include assaults with witnesses present, assaults of minors that lead to pregnancy, and cases where extensive injuries were documented.

William Melvin Gordon

William Melvin Gordon was charged with first, second, and third degree criminal sexual conduct and first-degree burglary for breaking into his

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WHAT'S NEW

Farewell

WATCH bids a fond farewell to board members Karin Birkeland, Lois Bishop, and David Lucas. Cumulatively, the trio has provided 24 years of leadership for WATCH, particularly in the areas of organizational development and fundraising. Each has been a dedicated board member who helped to build WATCH into a strong and credible organization. Thanks Karin, Lois, and David.

Welcome

WATCH welcomes three new board members this spring. Anita Patel works in the Racial Justice Program at the Minneapolis YWCA and brings an expertise in nonprofit leadership and diversity. Harold Minor is an accountant with prior board experience who brings expertise in finance. And Claudia Wright, originally from Mexico, has a long-standing commitment to improving the lives of women and children, and works in finance. We are happy for the combination of passion and expertise the new members bring to WATCH.

Welcome to WATCH's new administrative assistant Debra DeRosa, who recently moved back to Minnesota from southern California. In addition to working at WATCH, Debra is enrolled in the Masters of Leadership Program at Augsburg College.

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High profile cases should not dominate policy discussions

By Marna Anderson

In the past two years, 109 Minnesota house and senate bills addressing sexual offenses have been introduced, most of which focus on predatory sex offenders. Forty-two bills alone would expand community notification laws and monitor offenders when released from prison.

According to the bills' various authors, we will all be safer if predatory sex offenders are photographed twice a year, submit to polygraph tests while on conditional release, have their drivers' licenses permanently revoked, wear GPS monitoring devices, do not live near schools or other offenders, and do not attend chemical dependency treatment groups where members are the same gender as their victims.

While these efforts, motivated by a few high-profile cases, are well intended, they are also misguided.

In spite of years of well-documented research to the contrary, many proposed public policies are based on the myth that most sexual assaults are committed by strangers and on the false hope that we can prevent offenders from re-offending through community notification, stringent restrictions, and constant surveillance.

It's time for a reality check.

It is estimated that only 16% of sexual assaults are ever reported to law enforcement. And the assaults least likely to be reported are those in which the offender is a family member or an acquaintance of the victim - a stunning 84% of all sexual assaults. Most such assaults occur in places where the victims believe they are safe, at friends' or their own homes.

Keeping this in mind, a look at the current proposals shows them to be ineffective in addressing the greatest percentage of sexual assaults. First, let's think through the proposal that restricts predatory offenders from living within 1,500 feet of a school or in the same neighborhood as other offenders except in certain circumstances.

In a 2003 report to the legislature, the Minnesota Department of Corrections pointed out that having restrictions on where offenders can live would likely force them "to move to more rural areas that would not contain nearby schools and parks but would pose other problems, such as [a] high concentration of offenders with no ties to the community; isolation; [and] lack of work, education and treatment options." Logically, offenders would also likely have to travel a significant distance to maintain contact with probation supervisors.

But what is to prevent an offender from making the trip to another school, another park? Oh, that's right, no driver's license.

But what about buses and taxis? Should we ban offenders from using public transportation? Can we prevent them from walking to another neighborhood or getting a ride from a friend?

Ah yes, that's where the GPS tracking device comes in.

Not only would the costs of such restrictions be enormous and place additional pressures on already over-worked community corrections officers, they are based on the belief that offenders target strangers and do not offend in their own homes.

If we enact laws that so narrowly restrict where offenders can live, how they get from one place to another, and where and with whom they can associate, then we are making it nearly impossible for them to successfully re-enter society. It is counter-productive for offenders to be cut off from families and jobs, the very things most likely to prevent them from re-offending.

We need only look to Iowa, where, according to the Iowa Coalition Against Sexual Assault, the number of sex offenders who are unaccounted for has doubled since residential restriction laws went into effect in 2004.

Minnesota should not spend millions of dollars on measures targeted at the relatively few offenders who are convicted if that means ignoring the much larger percentage of assaults that never go through the criminal justice system. That money would be better spent on education programs that encourage victim reporting, on increasing the capacity of law enforcement to conduct more thorough investigations of rapes that are reported, and on ensuring adequate funding for victim services, prosecution, defendant representation and judicial officers.

The intent of keeping the public, particularly children, safe is a good one, but these proposed restrictions do not address the truth about sexual assault. A sexual offender is far more often a relative, acquaintance, coach or pastor than a stranger.

Our public policies need to be based on this reality.

Sexual assault and native women

By Sarah Deer, staff attorney, Tribal Law and Policy Institute

American Indian and Alaska Native women are victimized at a much higher rate than any other group of women in the United States. Studies on the rate of sexual assault in the last ten years that considered race or ethnicity found that American Indian and Alaska Native women suffer a rate of sexual violence at least two to three times higher than any other group of women in the U.S.

Many theories about the reason for this high rate of sexual assault exist. Most experts tend to agree that sexual assault was extremely rare in tribal communities prior to contact with European cultures. When it occurred, tribal governments responded swiftly and appropriately to protect their female citizens. In contrast, rape was a common weapon of war used by colonial governments against Native women for hundreds of years. Today, it can be difficult for some Native survivors of sexual assault to separate the immediate experience of rape from the larger experience of colonization and forced assimilation. Sexual assault can actually be seen as a continuation of the colonization process, wherein identity and spirituality are fundamentally undermined.

One of the most misunderstood and confusing aspects of American law is the role of tribal governments as a "third sovereign" (in addition to the state and federal governments). For advocates working with Native survivors of sexual assault, it is extremely important to understand the role of tribal courts and Indian country jurisdiction. Persons assaulted in Indian country often face a maze of confusing laws and rules which can compound an already traumatic experience.

Originally, tribal governments, as sovereign nations, had full criminal and civil

authority over all matters arising within their territory. When violence against women occurred, the tribes had traditional ways of dealing with the crimes, such as banishing offenders. Over the last 120 years, however, tribal jurisdiction has been curtailed by a combination of federal laws and U.S. Supreme Court decisions. The following is a very brief summary of some of the most important aspects of criminal jurisdiction in Minnesota Indian country. Keep in mind that there are always exceptions and variables not fully reflected in this short summary.

Major Crimes Act and federal jurisdiction

The Major Crimes Act (18 U.S.C. 1153), passed by Congress in 1885, marked one of the first times that the United States federal government was given authority to prosecute crimes in Indian country. The Major Crimes Act provided for federal jurisdiction over seven listed crimes committed by Indian defendants, including rape and other sex crimes. Over the years, the Major Crimes Act has been amended numerous times and now covers more than 16 major crimes.

It is important to note that the Major Crimes Act did not eliminate concurrent (simultaneous) tribal jurisdiction over the crimes listed. Therefore, a perpetrator of sexual assault in Indian country could theoretically face two separate prosecutions - one in federal court and one in tribal court.

In Minnesota today, the Major Crimes Act applies only to the Red Lake Reservation and the Bois Forte Reservation. Crimes such as homicide, sexual assault, and kidnapping occurring on either reservation are prosecuted by the United States Attorney using federal laws. The state of Minnesota has no jurisdiction over other crimes that occur at Red Lake or Bois Forte unless both the victim and the perpetrator are non-Indian.

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Volunteer notes

Against his attorney's advice, the defendant made a statement at his sentencing. He apologized to the family of the person he murdered, but said "I don't choose death, God chooses death." The judge addressed the victim's family, saying he was very disturbed by the defendant's statement, and thanked them for not responding to it.

I'm very interested in the disproportionate representation of black males in custody. Almost every time I've been to court it's been the same situation.

During the domestic violence court hearing, the defendant was asking the victim why she didn't want to see him. The judge stopped the defendant from speaking to the victim and reprimanded him for trying to have contact with her in the courtroom. The victim said before the court that she did not want contact with the defendant because she did not want him hitting her any more.

The defendant was being arraigned for fifth degree criminal sexual conduct. The defendant, who is Iranian, did not appear to understand English, but no interpreter was present in the courtroom. The defense attorney said it was okay to go ahead without an interpreter, but the defendant did not even seem to understand when the judge asked for his name. How could he understand the conditions of his release?

The defendant was being sentenced for felony assault and terroristic threats. During his sentencing, he mouthed "I love you" and "I'm going to get out" to a woman in the gallery, until told to stop it by a probation officer.

The defendant was on trial for first degree criminal sexual conduct. In closing statements, the defense attorney described the defendant as "the kind of person who keeps me employed. He is a recidivist, an annoyance, but to say he is a threat to public safety is a hefty thing."

neighbor's apartment and raping her. Other neighbors heard her screams and contacted the police. The victim's five-year old child witnessed the assault. Gordon pleaded guilty to second-degree criminal sexual conduct the day of his scheduled jury trial. Judge Kathryn Quaintance sentenced him to 60 months in prison followed by 30 months of supervised release. Gordon, who has a prior criminal sexual conduct conviction in another state, will be placed on conditional release for life pursuant to Minnesota statute 609.3455 (7b), which went into effect four days prior to the assault. The defense plans to appeal this mandatory provision. Martha Holton Dimick was the prosecutor and Chela Guzman was the defense attorney.

William Vereice Winfield

William Vereice Winfield was charged with two counts of first-degree criminal sexual conduct for the rape of his girlfriend's 12-year old daughter. The victim became pregnant by Winfield and kept the pregnancy a secret. After giving birth prematurely, she informed hospital personnel of the assaults, and Winfield was arrested. The victim's mother told authorities that Winfield had been living with her and her other children for the last seven years. Winfield plead guilty and was charged on one count of first-degree criminal sexual conduct. Judge Alexander sentenced Winfield to 228 months in prison stayed for 10 years and 365 days in the workhouse with 15 days credit for time served. Anita Jehl was the prosecutor and Christa Groshek was the defense attorney.

Abdulhai Ahmed Mohamed

Abdulhai Ahmed Mohamed was charged with first and third degree criminal sexual conduct for raping his wife. The victim had been staying in a non-patient room in the hospital while her infant child was receiving treatment. Mohamed entered the room and repeatedly raped the victim over a 14-hour period. Security was called after hospital personnel noticed injuries to the victim's face and arms. The victim reported to the police that Mohamed had raped her on prior occasions, including the day she delivered her

baby prematurely and in the weeks following the birth. The assaults caused an infection and rupturing of sutures and required medical intervention. Mohamed pleaded guilty to third degree criminal sexual conduct before Judge Patricia Kerr Karasov. Sentencing is set for May 24th. Caroline Lennon is the prosecutor and Kenneth Bottema is the defense attorney.

A number of innovative steps are being taken at programs around the U.S. to improve outcomes for rape victims. In Minnesota, the Sexual Violence Justice Institute (SVJI), a program of the Minnesota Coalition Against Sexual Assault, sponsors *Winning the Consent Defense* trainings throughout the state to train police and prosecutors on gathering evidence and prosecuting cases with little physical evidence. The focus of these well-attended trainings is on increasing the likelihood of prosecution of date and acquaintance rape cases (for more information visit www.mncasa.org). In addition, in 2005, SVJI worked to change the statutory definition of the term "coercion" as it applies in criminal sexual conduct cases (see *Statutory Language* page 7). This change is a small but important tool in helping prosecutors explain the role strength and size play in coercion.

In another approach the Pima County Attorney's Office in Arizona has teamed up with the University of Arizona to adjudicate cases using a restorative justice model (see *Innovative Program* this page) that, according to their research, reduces recidivism and the negative outcome for survivors in having their cases adjudicated.

We hope trainings and programs like these provide a catalyst for change in handling cases that have traditionally been viewed as difficult to prosecute and eventually close the gap between the actual number of rape cases reported and those that are successfully prosecuted. While we recognize the complexity of prosecuting rape cases and the importance in getting convictions through plea negotiations, we hope that in the future the criminal justice system will need to rely less on reduced charges in these serious crimes.

Innovative program

The Tucson City Attorney's Office in partnership with the Pima County Attorney's Office and the University of Arizona takes a bold and innovative approach to sexual violence with its RESTORE (Responsibility and Equity for Sexual Transgressions Offering a Restorative Experience) program. RESTORE replaces formal court proceedings with community conferencing to bring together survivors of some sexual offenses and those responsible for committing those offenses, along with their families and supporters. Survivors voice the harm done by the "responsible person" (offender) and the group develops a plan, including restitution, for repairing that harm.

Prosecutors determine eligibility for the program based on clearly defined criteria. Perpetrators eligible for RESTORE are first-time offenders of acquaintance rape committed with minimal force, or those committing non-perpetration offenses, such as indecent exposure. Perpetrators must acknowledge that a violating act occurred and that they alone are responsible. Survivors must be at least 18 years of age and choose to participate or the case will not be referred to RESTORE. "RESTORE seeks a solution that is healing for survivors, responsible persons, and the community," says principle investigator Mary Koss, University of Arizona. "Survivors avoid conventional justice's sometimes destructive adversarial process that can lead to blaming of survivors. Survivors are not asked to publicly retell intimate details of the offense nor are they examined by a defense attorney. Survivors are thus not humiliated through seeking justice."

According to RESTORE research, 74% of survivors received an apology, 81% of responsible persons completed their reparation agreements versus 58% with court-ordered restitution, 100% of responsible parties and 73% of victims felt the conference increased the offender's understanding of the offense, and overall survivors' distress over the crime and their fear of re-victimization decreased.

For more information visit <http://restore-program.publichealth.arizona.edu>.

Public Law 280 and state jurisdiction

In 1953, Congress passed Public Law 280 (P.L. 280), which transferred to certain named states (including Minnesota) federal jurisdiction over crimes, including sexual assault, occurring in Indian country within their borders.

Like the Major Crimes Act, P.L. 280 did not eliminate concurrent tribal jurisdiction over crimes. In Minnesota today, P.L. 280 applies to all Indian country within the state of Minnesota, with the exception of Red Lake and Bois Forte. Sexual assault which occurs on all other reservations is prosecuted by the state of Minnesota, and state laws will apply to the prosecution.

Tribal jurisdiction today

Today, significant limitations are placed on tribal courts in criminal matters. Because of these barriers and restrictions, many tribal governments do not actively prosecute sexual assault crimes.

- Tribal courts have no jurisdiction over non-Indians. The Supreme Court ruled in *Oliphant v. Suquamish* (1978) that tribal governments can only prosecute Indians for criminal violations. Therefore, if a non-Indian commits a sexual assault in Indian country, the case can only be prosecuted in state or federal court, depending on the reservation.
- Tribal courts are limited in their ability to sentence convicted offenders. The Indian Civil Rights Act, another federal law passed in 1968, limits penalties in tribal court to one year in jail and/or a \$5,000 fine for each offense. Thus, tribal courts are prevented from imposing more than 365 days of incarceration for a crime, even in cases of sexual assault.
- Many tribal courts have extremely limited resources for law enforcement, prosecution, and corrections. As a result, it can be difficult for tribal governments to adequately investigate and prosecute serious crimes that occur on tribal lands. Many tribal governments work in partnership with state and/or

federal officials to effectively respond to such crimes.

- Health care resources, forensic exams, and emergency contraception are hard to come by in Indian country. The U.S. Civil Rights Commission has called the lack of resources in Indian country a “broken promise.”

How you can help

- Learn about how federal and state court systems interact with tribal courts when crimes are committed on reservations;
- Support efforts by tribal governments to assert their sovereignty and address sexual violence on their own terms
- Encourage legislators at the state and national level to enact laws that respect Native women and the authority of tribal nations;
- Educate others about the high rate of sexual violence in Indian country; and
- Promote Native women’s leadership in establishing court watch programs in Indian country.

Native American resource agencies

Sacred Circle is the National Resource Center to End Violence Against Native Women. Located in South Dakota, Sacred Circle offers training resources, technical assistance, and training. For more information, go to <http://www.sacred-circle.com> or call (605) 341-2050.

Mending the Sacred Hoop Technical Assistance Project is a Native American program in Duluth that provides training and technical assistance to American Indians and Alaskan Natives to eliminate violence in the lives of women and their children. For more information, go to <http://msh-ta.org> or call (888) 305-1650.

The Tribal Law and Policy Institute

The Tribal Law and Policy Institute (TLPI) is a Native American owned and operated non-profit corporation organized to “design and deliver education, research, training and technical assistance programs to promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples”. TLPI administers a variety of programs that assist tribal courts in adjudicating sexual assault in tribal justice systems, including:

Tribal Court Training and Technical Assistance Project: TLPI works under contracts with individual Indian Tribes and tribal justice systems to provide a broad range of training and technical assistance services, including on-site training sessions and tribal court and code development.

Indian Nations Conference: In 2002, TLPI sponsored the National Victims of Crime in Indian Country conference in Palm Springs, California.

Office on Violence Against Women (OVW) Technical Assistance: TLPI provides a Tribal Domestic Violence Legal Program for grant recipients of the Office on Violence Against Women, including regional trainings, on-site technical assistance, development of resource materials and workbooks, and internet-based reference materials.

National American Indian Court Judges Association (NAICJA) Administrator: As the former administrator, TLPI provided the lead role in all NAICJA activities including the development of the initial NAICJA website, the design and delivery of NAICJA’s annual conferences, and the design and delivery of the NAICJA Violence Against Women grants.

For more information about tribal issues and sexual assault, contact Sarah Deer at (651) 644-1125 or sarah@tribal-institute.org.

For additional information, including a vast clearinghouse on tribal law issues, visit their website at www.tribal-institute.org.

Family Court: A Response from the Hennepin County Court

By Lucy Wieland, Chief Judge and Tanja Manrique, Family Court Judge and Co-Chair, Family Violence Coordinating Council

In the most recent issue of the Watch Post, our Family Court was characterized as biased against women in Order for Protection (OFP) hearings and unconcerned about violence against women. We strongly disagree. For many years, the Hennepin County court has demonstrated an unwavering commitment to making our justice system more effective and responsive in handling cases of domestic violence. We have been active partners with WATCH and other organizations in the Family Violence Coordinating Council, the Fatality Review Board, and the Domestic Violence Court. To acknowledge the efforts of this court in a small paragraph titled “not all bad news” does a disservice to the work of this court, to the public who relies on this court for justice, and to the public whom you are trying to educate.

Indeed, much has been accomplished at the Family Justice Center during the 18 months since WATCH published the 2004 OFP Report:

- The Civil Committee of the Hennepin County Family Violence Coordinating Council elected to utilize the Report as its’ work plan, and meets monthly at the Family Justice Center.
- The monitored waiting rooms are now used by all Petitioners and Respondents, thus improving safety at the Family Justice Center; they include written and audio information about the OFP hearing process, available in over half a dozen languages.
- The bench has supported refinement of the clerking procedures so that waiting time is minimized for all parties.
- The bench invited the Domestic Abuse Project to present a training

session on the effects of domestic violence on children.

- The bench approved a proposal to have one judge adjudicate all Petitions seeking Ex Parte Orders for Protection, thereby improving consistency at the temporary issuance stage.
- The bench worked to develop and implement a procedure that ensures a Guardian ad Litem is present at all OFP hearings in cases filed on behalf of minor children.
- A family court judge worked with the Chiefs of Police throughout the County to persuade them to take into property inventory all weapons that must be surrendered pursuant to Orders for Protection and criminal court no-contact orders.
- The Chief Judge resolved a long-standing logistical problem so that in-custody felons are transported to the Family Justice Center for OFP hearings, eliminating the need for Petitioners and advocates to travel to the Government Center.

As these ten examples illustrate, the bench is committed to continually improving the administration of justice for Petitioners, Respondents, and all stakeholders within the Order for Protection process.

Concerning the statement that there is a “culture of disbelief” in OFP hearings, the facts belie that statement. The bench grants the vast majority of Petitioners’ requests. As noted in the 2004 OFP Report published by WATCH, judges issue Orders for Protection nearly 85% of the time. Although your column contends that there are “systematic problems rooted in the generalized doubt of petitioners’ allegations,” the issuance rate reveals a different reality.

The Hennepin County court handled 2,676 Orders for Protection in 2005. Each of these cases had a unique set of

facts to which a judge had to apply the law. Cases involving children are particularly complicated because the net effect of the OFP can be to sever the parent-child relationship for a year – a very long time in the eyes of a child. We understand that WATCH takes issue with the court addressing child-related matters during OFP proceedings. We suggest, however, that this practice is based on a concern for the well-being of children, not on an anti-petitioner attitude. Our family court has a national reputation as a child-centered family court. We can have a reasonable discussion about how to best ensure children’s safety when domestic violence has occurred between the parents. For example, we support the availability of supervised visitation services at community based agencies. We are always eager to respond to constructive suggestions for change, and we look forward to continued dialogue and fact-based reflection on how to improve the system of justice for all citizens of Hennepin County.

WATCH responds

Our last newsletter issue, which focused on the order for protection proceedings in family court, received a great deal of responses, both positive and negative. Chief Judge Lucy Wieland requested a meeting with WATCH’s executive director and a board member to personally voice her concerns. She followed up with a letter to the board and requested that it, along with a letter from Judge Tanja Manrique, be printed in this issue of the Post. After thorough discussion the WATCH board agreed to offer Judge Wieland space in the WATCH Post to respond, and to post both letters in their entirety on our website at www.watchmn.org

WATCH recognizes the many improvements that Hennepin County has made over the past years and hopes that our newsletter promotes further discussion and dialogue.

Debra previously coordinated community programs for the city of La Mirada and directed a variety of programs for a senior center in Corona. She brings a wealth of program and administrative experience to WATCH.

Welcome also to Maurice Solarin, who is joining WATCH as a paid intern in June. Maurice is a senior at the University of Minnesota majoring in sociology with an emphasis in law, criminology, and deviance and a minor in urban studies.

Diverse leadership strengthens programs

To increase the racial and ethnic diversity of its board of directors, WATCH is participating in the Minneapolis YWCA's Leadership Registry Program. This program grew out of a study the YWCA and The Urban Coalition conducted in 2003. Compared to the population demographics of the Twin Cities metropolitan area, people of color and women are proportionally underrepresented on nonprofit and government boards. Almost one third, or 28% of 383 organizations surveyed had no board members of color, and of the 5,986 board members surveyed, only 43% were women.

To change this, the YWCA is partnering with the nonprofit Management Assistance Project to recruit, train, and place women and people of color on boards of Twin Cities area nonprofit organizations. The project goals state that.

By reflecting the communities in which they serve, organizations with diverse boards are better able to represent and maintain accountability to the entire community, make more thoughtful and informed decisions about programming and strategic planning, and broaden the base of donors and volunteers.

With the recent addition of Anita Patel and Claudia Wright, who joined the organization through the registry, WATCH's 18-member board now includes six people of color. We look forward to expanding diversity through an ongoing relationship with the YWCA and other outreach efforts.

Statutory language change assists prosecutors

By Sexual Violence Justice Institute Staff

In 2005, the Sexual Violence Justice Institute (SVJI), a program of the Minnesota Coalition Against Sexual Assault, received suggestions that the statutory definition of the term "coercion" as it applies in criminal sexual conduct cases should be modified to help prosecutors convey the meaning to juries. Prosecutors believed the definition was too similar to the definition of "force," and also failed to convey the true nature of many common sexual assault cases: that one individual intimidates the other with size and strength. Based on this input, the SVJI worked with its legal resources team to propose a change in the definition. The resulting language added the phrase "the use by the actor of . . . superior size or strength" to the previous definition of "coercion."

Lisa Swenson, Senior Assistant Olmsted County Attorney had this to say about the change: Last month I had a chance to use the new definition of coercion in a trial where a boyfriend was charged with sexually assaulting his girlfriend of seven years. The victim initially fought back, but then testified that she "gave up" against her boyfriend's weight and size. This type of case is always difficult, but I found my ability to argue that the defendant used his "superior strength and size" to get the victim to submit made it easier to argue that force/coercion was used. I was pleasantly surprised when the jury only took an hour to find the defendant guilty of criminal sexual conduct in the third degree.

Swenson's co-worker Karen Arthurs had a court trial where a juvenile football player was charged with criminal sexual conduct in the third degree – force & coercion where the victim willingly went into the bedroom with the juvenile, but then tried to stop short of intercourse and was overcome by the juvenile's size. Arthurs believes the new definition of coercion was critical in convincing the court of the juvenile's guilt.

Katy Cowgill Harding,
December 15, 1924 - February 5, 2006

WATCH lost a dear friend this winter with the death of long-time volunteer Katy Cowgill Harding. Katy was among the charter group of volunteers who entered the courts nearly 15 years ago, bravely taking red clipboard in hand and sitting tight through long and often bewildering, if not downright boring, court proceedings. As most of you know, it's not like it is on television - which is a good thing.

Katy brought a keen mind to her observations and gave our staff terrific feedback, not only on what she saw in court, but on how the organization could improve. When she was troubled by what she saw she would express her concerns with articulate precision, a well-developed skill from her years as a psychiatric social worker at the Yale School of Medicine, and later as a family therapist in private practice.

If Katy had one frustration with WATCH, it was our policy of restricting volunteers from giving immediate feedback directly to a judge. If she thought a judge had done a particularly good (or bad) job she wanted to say so, right then and there, and she assured us she'd do so in a polite way. Of that we had no doubt.

Katy participated in just about every WATCH event - volunteer meetings, Gold WATCH awards and the fall fundraisers - until her health slowed her down. Even then it wasn't unusual to get a hand written note from Katy, cheering us on. A self-described "tough cookie" in a lovely refined shell, she will be greatly missed.

Thumbs up / thumbs down
will return in the summer
issue.

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Gold WATCH

This year's Gold WATCH celebration took place on Wednesday, May 10, 2006 at Café Lurcat in Minneapolis. WATCH and over 100 supporters honored two outstanding community members, Lonna Stevens and Lois Bishop.

Stevens, Public Policy and Legislative Coordinator for the Minnesota Coalition for Battered Women, was recognized for her work to improve the criminal justice system's response to domestic violence, particularly for her efforts to pass the new felony strangulation law in Minnesota last year. Praising Stevens' accomplishments, Senator Jane Ranum stated, "What's needed to be successful at the legislature is preparation, perseverance, and passion and Lonna has all three."

Lonna recently accepted the position as Executive Director of the Sheila Wellstone Institute. We wish her much success in her new position.

Bishop, departing WATCH board member and long-time supporter of women's rights in Minnesota, was recognized as a gifted and tireless leader on behalf of organizations dedicated to improving the lives of women and girls.

Describing the wide reach of Bishop's contributions, Marion Etzweiler, who has served with her on a number of local boards of directors, noted, "Everywhere where it's important for people to support women, Lois is there."

WATCH established a paid internship in Lois' name, honoring her long commitment to encouraging others to become involved with non-profit organizations. Maurice Solarin has been selected as the first student to benefit from this internship; he starts with WATCH in June.

Volunteer with WATCH

Looking for a way to get involved with WATCH? Want to become a volunteer court monitor? WATCH provides training, which will take place on Saturday, June 10 from 10 a.m to 4 p.m. For more information, contact Shahidah Maayif at (612) 341-2747, ext. 2 or smaayif@watchmn.org.

It's never too late...

For those of you who haven't gotten around to making a contribution to WATCH, (or would like to make another!) our fiscal year does not end until June 30 and we welcome any gift you can give. If you can't remember when or if you gave, please call Debra at 612-341-2747, ext. 1. And while we're at it, a belated thanks to Sam and Sylvia Kaplan for their generous on-going support.